



912494

LEGISLATIVE ACTION

Senate

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House

Senator Martin moved the following:

Senate Amendment (with title amendment)

Delete lines 735 - 945

and insert:

Section 10. Subsection (1) of section 626.9373, Florida Statutes, is amended to read:

626.9373 Attorney fees.—

(1) Except as provided in subsection (3), upon the rendition of a judgment or decree by any court of this state in favor of either party to any action ~~against a surplus lines insurer in favor of any named or omnibus insured or the named~~



912494

12 ~~beneficiary~~ under a policy or contract executed by a surplus
13 lines ~~the insurer on or after the effective date of this act,~~
14 the trial court or, if either party ~~the insured or beneficiary~~
15 prevails on appeal, the appellate court, shall adjudge or decree
16 ~~against the insurer~~ in favor of the prevailing party ~~insured or~~
17 ~~beneficiary~~ a reasonable sum as fees or compensation for the
18 ~~insured's or beneficiary's~~ attorney prosecuting or defending the
19 lawsuit ~~for which recovery is awarded.~~

20 Section 11. Subsection (1) of section 627.428, Florida
21 Statutes, is amended to read:

22 627.428 Attorney fees.—

23 (1) Except as provided in subsection (4), upon the
24 rendition of a judgment or decree by any of the courts of this
25 state in favor of either party to any action ~~against an insurer~~
26 ~~and in favor of any named or omnibus insured or the named~~
27 ~~beneficiary~~ under a policy or contract executed by an ~~the~~
28 insurer, the trial court or, in the event of an appeal in which
29 either party ~~the insured or beneficiary~~ prevails, the appellate
30 court shall adjudge or decree ~~against the insurer and~~ in favor
31 of the prevailing party ~~insured or beneficiary~~ a reasonable sum
32 as fees or compensation for the ~~insured's or beneficiary's~~
33 attorney prosecuting or defending the suit ~~in which the recovery~~
34 ~~is had.~~

35 Section 12. Paragraphs (a) and (j) of subsection (1) of
36 section 475.01, Florida Statutes, are amended to read:

37 475.01 Definitions.—

38 (1) As used in this part:

39 (a) "Broker" means a person who, for another, and for a
40 compensation or valuable consideration directly or indirectly



912494

41 paid or promised, expressly or impliedly, or with an intent to
42 collect or receive a compensation or valuable consideration
43 therefor, appraises, auctions, sells, exchanges, buys, rents, or
44 offers, attempts or agrees to appraise, auction, or negotiate
45 the sale, exchange, purchase, or rental of business enterprises
46 or business opportunities or any real property or any interest
47 in or concerning the same, including mineral rights or leases,
48 or who advertises or holds out to the public by any oral or
49 printed solicitation or representation that she or he is engaged
50 in the business of appraising, auctioning, buying, selling,
51 exchanging, leasing, or renting business enterprises or business
52 opportunities or real property of others or interests therein,
53 including mineral rights, or who takes any part in the procuring
54 of sellers, purchasers, lessors, or lessees of business
55 enterprises or business opportunities or the real property of
56 another, or leases, or interest therein, including mineral
57 rights, or who directs or assists in the procuring of prospects
58 or in the negotiation or closing of any transaction which does,
59 or is calculated to, result in a sale, exchange, or leasing
60 thereof, and who receives, expects, or is promised any
61 compensation or valuable consideration, directly or indirectly
62 therefor; and all persons who advertise rental property
63 information or lists. A broker renders a professional service
64 and is a professional within the meaning of s. 95.11(4)(b) ~~s.~~
65 ~~95.11(4)(a)~~. Where the term "appraise" or "appraising" appears
66 in the definition of the term "broker," it specifically excludes
67 those appraisal services which must be performed only by a
68 state-licensed or state-certified appraiser, and those appraisal
69 services which may be performed by a registered trainee



912494

70 appraiser as defined in part II. The term "broker" also includes
71 any person who is a general partner, officer, or director of a
72 partnership or corporation which acts as a broker. The term
73 "broker" also includes any person or entity who undertakes to
74 list or sell one or more timeshare periods per year in one or
75 more timeshare plans on behalf of any number of persons, except
76 as provided in ss. 475.011 and 721.20.

77 (j) "Sales associate" means a person who performs any act
78 specified in the definition of "broker," but who performs such
79 act under the direction, control, or management of another
80 person. A sales associate renders a professional service and is
81 a professional within the meaning of s. 95.11(4)(b) ~~s.~~
82 ~~95.11(4)(a)~~.

83 Section 13. Paragraph (h) of subsection (1) of section
84 475.611, Florida Statutes, is amended to read:

85 475.611 Definitions.—

86 (1) As used in this part, the term:

87 (h) "Appraiser" means any person who is a registered
88 trainee real estate appraiser, a licensed real estate appraiser,
89 or a certified real estate appraiser. An appraiser renders a
90 professional service and is a professional within the meaning of
91 s. 95.11(4)(b) ~~s. 95.11(4)(a)~~.

92 Section 14. Subsection (7) of section 517.191, Florida
93 Statutes, is amended to read:

94 517.191 Injunction to restrain violations; civil penalties;
95 enforcement by Attorney General.—

96 (7) Notwithstanding s. 95.11(4)(f) ~~s. 95.11(4)(e)~~, an
97 enforcement action brought under this section based on a
98 violation of any provision of this chapter or any rule or order



912494

99 issued under this chapter shall be brought within 6 years after
100 the facts giving rise to the cause of action were discovered or
101 should have been discovered with the exercise of due diligence,
102 but not more than 8 years after the date such violation
103 occurred.

104 Section 15. Subsection (2) of section 627.441, Florida
105 Statutes, is amended to read:

106 627.441 Commercial general liability policies; coverage to
107 contractors for completed operations.—

108 (2) A liability insurer must offer coverage at an
109 appropriate additional premium for liability arising out of
110 current or completed operations under an owner-controlled
111 insurance program for any period beyond the period for which the
112 program provides liability coverage, as specified in s.
113 255.0517(2)(b). The period of such coverage must be sufficient
114 to protect against liability arising out of an action brought
115 within the time limits provided in s. 95.11(3)(b) ~~s.~~
116 ~~95.11(3)(c)~~.

117
118 ===== T I T L E A M E N D M E N T =====

119 And the title is amended as follows:

120 Delete lines 45 - 55

121 and insert:

122 applicability; amending ss. 626.9373 and 627.428,
123 F.S.; providing that, in actions under a policy or
124 contract executed by a surplus lines insurer or an
125 insurer, respectively, attorney fees must be awarded
126 to the prevailing party rather than to a prevailing
127 insured or beneficiary; amending ss. 475.01, 475.611,



912494

128 517.191, and 627.441, F.S.; conforming cross-
129 references;