

By the Committees on Judiciary; and Banking and Insurance; and
Senator Smith

590-03270-15

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1 A bill to be entitled
2 An act relating to insurance; amending s. 624.425,
3 F.S.; providing that the absence of a countersignature
4 does not affect the validity of a policy or contract
5 of insurance; amending s. 626.916, F.S.; revising the
6 required conditions for the export of insurance
7 coverage to delete a provision specifying how
8 reasonableness shall be assessed under certain
9 circumstances; amending s. 626.931, F.S.; deleting
10 provisions that require surplus lines agents to file a
11 quarterly affidavit with the Florida Surplus Lines
12 Office; amending s. 627.971, F.S.; providing that the
13 term "financial guaranty insurance" does not include
14 guarantees of higher education loans unless written by
15 a financial guaranty insurance corporation; amending
16 ss. 626.932, 626.935, and 626.936, F.S.; conforming
17 provisions to changes made by the act; providing an
18 effective date.

19
20 Be It Enacted by the Legislature of the State of Florida:

21
22 Section 1. Subsection (6) is added to section 624.425,
23 Florida Statutes, to read:

24 624.425 Agent countersignature required, property,
25 casualty, surety insurance.—

26 (6) The absence of a countersignature required under this
27 section does not affect the validity of a policy or contract of
28 insurance.

29 Section 2. Paragraph (a) of subsection (1) of section

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30 626.916, Florida Statutes, is amended to read:

31 626.916 Eligibility for export.—

32 (1) No insurance coverage shall be eligible for export
33 unless it meets all of the following conditions:

34 (a) The full amount of insurance required must not be
35 procurable, after a diligent effort has been made by the
36 producing agent to do so, from among the insurers authorized to
37 transact and actually writing that kind and class of insurance
38 in this state, and the amount of insurance exported shall be
39 only the excess over the amount so procurable from authorized
40 insurers. Surplus lines agents must verify that a diligent
41 effort has been made by requiring a properly documented
42 statement of diligent effort from the retail or producing agent.
43 However, to be in compliance with the diligent effort
44 requirement, the surplus lines agent's reliance must be
45 reasonable under the particular circumstances surrounding the
46 export of that particular risk. ~~Reasonableness shall be assessed
47 by taking into account factors which include, but are not
48 limited to, a regularly conducted program of verification of the
49 information provided by the retail or producing agent.~~
50 Declinations must be documented on a risk-by-risk basis. If it
51 is not possible to obtain the full amount of insurance required
52 by layering the risk, it is permissible to export the full
53 amount.

54 Section 3. Section 626.931, Florida Statutes, is amended to
55 read:

56 626.931 ~~Agent affidavit and~~ Insurer reporting
57 requirements.—

58 ~~(1) Each surplus lines agent shall on or before the 45th~~

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59 ~~day following each calendar quarter file with the Florida~~
60 ~~Surplus Lines Service Office an affidavit, on forms as~~
61 ~~prescribed and furnished by the Florida Surplus Lines Service~~
62 ~~Office, stating that all surplus lines insurance transacted by~~
63 ~~him or her during such calendar quarter has been submitted to~~
64 ~~the Florida Surplus Lines Service Office as required.~~

65 ~~(2) The affidavit of the surplus lines agent shall include~~
66 ~~efforts made to place coverages with authorized insurers and the~~
67 ~~results thereof.~~

68 ~~(1)~~(3) Each foreign insurer accepting premiums shall, on or
69 before the end of the month following each calendar quarter,
70 file with the Florida Surplus Lines Service Office a verified
71 report of all surplus lines insurance transacted by such insurer
72 for insurance risks located in this state during such calendar
73 quarter.

74 ~~(2)~~(4) Each alien insurer accepting premiums shall, on or
75 before June 30 of each year, file with the Florida Surplus Lines
76 Service Office a verified report of all surplus lines insurance
77 transacted by such insurer for insurance risks located in this
78 state during the preceding calendar year.

79 ~~(3)~~(5) The department may waive the filing requirements
80 described in subsections (1) and (2) ~~(3)~~ and ~~(4)~~.

81 ~~(4)~~(6) Each insurer's report and supporting information
82 shall be in a computer-readable format as determined by the
83 Florida Surplus Lines Service Office or shall be submitted on
84 forms prescribed by the Florida Surplus Lines Service Office and
85 shall show for each applicable agent:

86 (a) A listing of all policies, certificates, cover notes,
87 or other forms of confirmation of insurance coverage or any

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88 substitutions thereof or endorsements thereto and the
89 identifying number; and

90 (b) Any additional information required by the department
91 or Florida Surplus Lines Service Office.

92 Section 4. Paragraph (b) of subsection (1) of section
93 627.971, Florida Statutes, is amended to read

94 627.971 Definitions.—As used in this part:

95 (1)

96 (b) However, "financial guaranty insurance" does not
97 include:

98 1. Insurance of a loss resulting from an event described in
99 paragraph (a), if the loss is payable only upon the occurrence
100 of any of the following, as specified in a surety bond,
101 insurance policy, or indemnity contract:

102 a. A fortuitous physical event;

103 b. A failure of or deficiency in the operation of
104 equipment; or

105 c. An inability to extract or recover a natural resource;

106 2. An individual or schedule public official bond;

107 3. A court bond required in connection with judicial,
108 probate, bankruptcy, or equity proceedings, including a waiver,
109 probate, open estate, or life tenant bond;

110 4. A bond running to a federal, state, county, municipal
111 government, or other political subdivision, as a condition
112 precedent to the granting of a license to engage in a particular
113 business or of a permit to exercise a particular privilege;

114 5. A loss security bond or utility payment indemnity bond
115 running to a governmental unit, railroad, or charitable
116 organization;

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117 6. A lease, purchase and sale, or concessionaire surety
118 bond;

119 7. Credit unemployment insurance on a debtor in connection
120 with a specific loan or other credit transaction, to provide
121 payments to a creditor in the event of unemployment of the
122 debtor for the installments or other periodic payments becoming
123 due while a debtor is unemployed;

124 8. Credit insurance indemnifying a manufacturer, merchant,
125 or educational institution which extends credit against loss or
126 damage resulting from nonpayment of debts owed to her or him for
127 goods or services provided in the normal course of her or his
128 business;

129 9. Guaranteed investment contracts that are issued by life
130 insurance companies and that provide that the life insurer will
131 make specified payments in exchange for specific premiums or
132 contributions;

133 10. Mortgage guaranty insurance as defined in s. 635.011(1)
134 or s. 635.021;

135 11. Indemnity contracts or similar guaranties, to the
136 extent that they are not otherwise limited or proscribed by this
137 part, in which a life insurer guarantees:

138 a. Its obligations or indebtedness or the obligations or
139 indebtedness of a subsidiary of which it owns more than 50
140 percent, other than a financial guaranty insurance corporation,
141 if:

142 (I) For any such obligations or indebtedness that are
143 backed by specific assets, such assets are at all times owned by
144 the insurer or the subsidiary; and

145 (II) For the obligations or indebtedness of the subsidiary

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146 that are not backed by specific assets of the life insurer, the
147 guaranty terminates once the subsidiary ceases to be a
148 subsidiary; or

149 b. The obligations or indebtedness, including the
150 obligation to substitute assets where appropriate, with respect
151 to specific assets acquired by a life insurer in the course of
152 normal investment activities and not for the purpose of resale
153 with credit enhancement, or guarantees obligations or
154 indebtedness acquired by its subsidiary, provided that the
155 assets so acquired have been:

156 (I) Acquired by a special purpose entity where the sole
157 purpose is to acquire specific assets of the life insurer or the
158 subsidiary and issue securities or participation certificates
159 backed by such assets; or

160 (II) Sold to an independent third party; or

161 c. The obligations or indebtedness of an employee or agent
162 of the life insurer;

163 12. Any form of surety insurance as defined in s. 624.606;

164 13. Guarantees of higher education loans, unless written by
165 a financial guaranty insurance corporation; or

166 14.13. Any other form of insurance covering risks which the
167 office determines to be substantially similar to any of the
168 foregoing.

169 Section 5. Paragraph (a) of subsection (2) of section
170 626.932, Florida Statutes, is amended to read:

171 626.932 Surplus lines tax.—

172 (2) (a) The surplus lines agent shall make payable to the
173 department the tax related to each calendar quarter's business
174 as reported to the Florida Surplus Lines Service Office, and

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175 remit the tax to the Florida Surplus Lines Service Office on or
176 before the 45th day following each calendar quarter ~~at the same~~
177 ~~time as provided for the filing of the quarterly affidavit,~~
178 ~~under s. 626.931.~~ The Florida Surplus Lines Service Office shall
179 forward to the department the taxes and any interest collected
180 pursuant to paragraph (b), within 10 days of receipt.

181 Section 6. Paragraph (d) of subsection (1) of section
182 626.935, Florida Statutes, is amended to read:

183 626.935 Suspension, revocation, or refusal of surplus lines
184 agent's license.—

185 (1) The department shall deny an application for, suspend,
186 revoke, or refuse to renew the appointment of a surplus lines
187 agent and all other licenses and appointments held by the
188 licensee under this code, on any of the following grounds:

189 ~~(d) Failure to make and file his or her affidavit or~~
190 ~~reports when due as required by s. 626.931.~~

191 Section 7. Subsection (1) of section 626.936, Florida
192 Statutes, is amended to read:

193 626.936 Failure to file reports or pay tax or service fee;
194 administrative penalty.—

195 (1) Any licensed surplus lines agent who neglects to file a
196 report ~~or an affidavit~~ in the form and within the time required
197 or provided for in the Surplus Lines Law may be fined up to \$50
198 per day for each day the neglect continues, beginning the day
199 after the report ~~or affidavit~~ was due until the date the report
200 ~~or affidavit~~ is received. All sums collected under this section
201 shall be deposited into the Insurance Regulatory Trust Fund.

202 Section 8. This act shall take effect July 1, 2015.