



712076

LEGISLATIVE ACTION

Senate

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House

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The Committee on Banking and Insurance (Brandes) recommended the following:

1           **Senate Substitute for Amendment (454254) (with title**  
2 **amendment)**

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4           Delete lines 342 - 345  
5 and insert:

6           Section 9. Subsection (4) of section 626.914, Florida  
7 Statutes, is amended to read:

8           626.914 Definitions.—As used in this Surplus Lines Law, the  
9 term:

10           (4) "Diligent effort" means seeking coverage from and



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11 having been rejected by at least three authorized insurers  
12 currently writing this type of coverage and documenting these  
13 rejections. However, if the residential structure has a dwelling  
14 replacement cost of \$700,000 ~~\$1 million~~ or more, the term means  
15 seeking coverage from and having been rejected by at least one  
16 authorized insurer currently writing this type of coverage and  
17 documenting this rejection.

18 Section 10. Paragraph (d) of subsection (3) of section  
19 627.062, Florida Statutes, is amended to read:

20 627.062 Rate standards.—

21 (3)

22 (d)1. Personal lines residential property insurance with a  
23 dwelling replacement limit of \$700,000 or more which is written  
24 or renewed pursuant to s. 627.1711 and the following categories  
25 or kinds of insurance and types of commercial lines risks are  
26 not subject to paragraph (2) (a) or paragraph (2) (f):

27 a. Excess or umbrella.

28 b. Surety and fidelity.

29 c. Boiler and machinery and leakage and fire extinguishing  
30 equipment.

31 d. Errors and omissions.

32 e. Directors and officers, employment practices, fiduciary  
33 liability, and management liability.

34 f. Intellectual property and patent infringement liability.

35 g. Advertising injury and Internet liability insurance.

36 h. Property risks rated under a highly protected risks  
37 rating plan.

38 i. General liability.

39 j. Nonresidential property, except for collateral



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40 protection insurance as defined in s. 624.6085.

41 k. Nonresidential multiperil.

42 l. Excess property.

43 m. Burglary and theft.

44 n. Travel insurance, if issued as a master group policy  
45 with a situs in another state where each certificateholder pays  
46 less than \$30 in premium for each covered trip and where the  
47 insurer has written less than \$1 million in annual written  
48 premiums in the travel insurance product in this state during  
49 the most recent calendar year.

50 o. Medical malpractice for a facility that is not a  
51 hospital licensed under chapter 395, a nursing home licensed  
52 under part II of chapter 400, or an assisted living facility  
53 licensed under part I of chapter 429.

54 p. Medical malpractice for a health care practitioner who  
55 is not a dentist licensed under chapter 466, a physician  
56 licensed under chapter 458, an osteopathic physician licensed  
57 under chapter 459, a chiropractic physician licensed under  
58 chapter 460, a podiatric physician licensed under chapter 461, a  
59 pharmacist licensed under chapter 465, or a pharmacy technician  
60 registered under chapter 465.

61 q. Any other commercial lines categories or kinds of  
62 insurance or types of commercial lines risks that the office  
63 determines should not be subject to paragraph (2) (a) or  
64 paragraph (2) (f) because of the existence of a competitive  
65 market for such insurance or similarity of such insurance to  
66 other categories or kinds of insurance not subject to paragraph  
67 (2) (a) or paragraph (2) (f), or to improve the general  
68 operational efficiency of the office.



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69           2. Insurers or rating organizations shall establish and use  
70 rates, rating schedules, or rating manuals to allow the insurer  
71 a reasonable rate of return on insurance and risks described in  
72 subparagraph 1. which are written in this state.

73           3. An insurer shall notify the office of any changes to  
74 rates for insurance and risks described in subparagraph 1.  
75 within 30 days after the effective date of the change. The  
76 notice must include the name of the insurer, the type or kind of  
77 insurance subject to rate change, and the average statewide  
78 percentage change in rates. Actuarial data with regard to rates  
79 for such risks must be maintained by the insurer for 2 years  
80 after the effective date of changes to those rates and are  
81 subject to examination by the office. The office may require the  
82 insurer to incur the costs associated with an examination. Upon  
83 examination, the office, in accordance with generally accepted  
84 and reasonable actuarial techniques, shall consider the rate  
85 factors in paragraphs (2) (b), (c), and (d) and the standards in  
86 paragraph (2) (e) to determine if the rate is excessive,  
87 inadequate, or unfairly discriminatory.

88           4. A rating organization shall notify the office of any  
89 changes to loss cost for insurance and risks described in  
90 subparagraph 1. within 30 days after the effective date of the  
91 change. The notice must include the name of the rating  
92 organization, the type or kind of insurance subject to a loss  
93 cost change, loss costs during the immediately preceding year  
94 for the type or kind of insurance subject to the loss cost  
95 change, and the average statewide percentage change in loss  
96 cost. Actuarial data with regard to changes to loss cost for  
97 risks not subject to paragraph (2) (a) or paragraph (2) (f) must



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98 be maintained by the rating organization for 2 years after the  
99 effective date of the change and are subject to examination by  
100 the office. The office may require the rating organization to  
101 incur the costs associated with an examination. Upon  
102 examination, the office, in accordance with generally accepted  
103 and reasonable actuarial techniques, shall consider the rate  
104 factors in paragraphs (2) (b)-(d) and the standards in paragraph  
105 (2) (e) to determine if the rate is excessive, inadequate, or  
106 unfairly discriminatory.

107 Section 11. Section 627.1711, Florida Statutes, is created  
108 to read:

109 627.1711 Alternative personal lines residential property  
110 insurance rates.—In each calendar year, the sum of personal  
111 lines residential property insurance policies issued or renewed  
112 by an insurer using rates established under s. 627.062(3) (d)  
113 plus personal lines residential property insurance policies  
114 issued or renewed using rates established under s. 627.171 may  
115 not exceed 5 percent of all personal lines residential insurance  
116 policies written or renewed by the insurer.

117 Section 12. Subsection (1) of section 627.4102, Florida  
118 Statutes, is amended to read:

119 627.4102 Informational filing of forms.—

120 (1) Property and casualty forms, excluding ~~except~~ workers'  
121 compensation and personal lines forms, but including residential  
122 property insurance with rates established pursuant to s.

123 627.062(3) (d), are exempt from the approval process required  
124 under s. 627.410 if:

125 (a) The form has been electronically submitted to the  
126 office in an informational filing made through I-File 30 days



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127 before the delivery or issuance for delivery of the form within  
128 this state; and

129 (b) At the time the informational filing is made, a  
130 notarized certification is attached to the filing that certifies  
131 that each form within the filing is in compliance with all  
132 applicable state laws and rules. The certification must be on  
133 the insurer's letterhead and signed and dated by the insurer's  
134 president, chief executive officer, general counsel, or an  
135 employee of the insurer responsible for the filing on behalf of  
136 the insurer. The certification must contain the following  
137 statement, and no other language: "I, ...(name)..., as  
138 ...(title)... of ...(insurer name)..., do hereby certify that  
139 this form filing has been thoroughly and diligently reviewed by  
140 me and by all appropriate company personnel, as well as company  
141 consultants, if applicable, and certify that each form contained  
142 within the filing is in compliance with all applicable Florida  
143 laws and rules. Should a form be found not to be in compliance  
144 with Florida laws and rules, I acknowledge that the Office of  
145 Insurance Regulation shall disapprove the form."

146 Section 13. Paragraph (b) of subsection (3) and subsection  
147 (4) of section 626.916, Florida Statutes, are amended, and  
148 subsection (5) is added to that section, to read:

149 626.916 Eligibility for export.—

150 (3)

151 (b) Except for personal lines insurance covering a  
152 residential structure that has a dwelling replacement cost of  
153 \$700,000 or more, paragraphs (1) (a)-(d) do not apply to classes  
154 of insurance which are subject to s. 627.062(3) (d)1. These  
155 classes may be exportable under the following conditions:



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156           1. The insurance must be placed only by or through a  
157 surplus lines agent licensed in this state;  
158           2. The insurer must be made eligible under s. 626.918; and  
159           3. The insured must sign a disclosure that substantially  
160 provides the following: "You are agreeing to place coverage in  
161 the surplus lines market. Superior coverage may be available in  
162 the admitted market and at a lesser cost. Persons insured by  
163 surplus lines carriers are not protected under the Florida  
164 Insurance Guaranty Act with respect to any right of recovery for  
165 the obligation of an insolvent unlicensed insurer." If the  
166 notice is signed by the insured, the insured is presumed to have  
167 been informed and to know that other coverage may be available,  
168 and, with respect to the diligent-effort requirement under  
169 subsection (1), there is no liability on the part of, and no  
170 cause of action arises against, the retail agent presenting the  
171 form.

172  
173 ===== T I T L E   A M E N D M E N T =====

174 And the title is amended as follows:

175           Delete line 42

176 and insert:

177           service organizations; amending s. 626.914, F.S.;

178           revising the definition of the term "diligent effort"

179           as used in the Surplus Lines Law; amending s. 627.062,

180           F.S.; specifying applicable rate standards and

181           requirements for certain personal lines residential

182           property insurance; creating s. 627.1711, F.S.;

183           providing a limitation on certain personal lines

184           residential property insurance policies that may be



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185 written or renewed by an insurer each calendar year;  
186 amending s. 627.4102, F.S.; providing an exemption, if  
187 certain conditions are met, from a form approval  
188 process for certain personal lines residential  
189 property insurance forms; amending s. 626.916, F.S.;  
190 specifying applicable requirements before certain  
191 personal lines residential property insurance may be  
192 exported;