

1                   A bill to be entitled  
2           An act relating to surplus lines insurance; amending s.  
3           626.931, F.S.; requiring a surplus lines agent to file  
4           quarterly on or before a specified time an affidavit  
5           stating that all surplus lines insurance transacted during  
6           the preceding quarter has been submitted to the Florida  
7           Surplus Lines Service Office; amending s. 626.932, F.S.;  
8           requiring the premium tax due on a surplus lines policy to  
9           be computed on the gross premium under certain  
10          circumstances; amending s. 626.9325, F.S.; revising  
11          payment dates for the service fee; requiring the service  
12          fee on a surplus lines policy to be computed on the gross  
13          premium under certain circumstances; creating s. 626.9362,  
14          F.S.; authorizing the Department of Financial Services and  
15          the Office of Insurance Regulation to enter into a  
16          specified type of agreement with other states pursuant to  
17          federal law for the collection and allocation of certain  
18          nonadmitted insurance taxes; providing terms that may be  
19          included in the agreement; requiring the Florida Surplus  
20          Lines Service Office to implement an agreement entered  
21          into by the department and the Office of Insurance  
22          Regulation; authorizing the department to adopt rules;  
23          providing for application; amending s. 626.938, F.S.;  
24          requiring certain insureds or self-insurers engaging in  
25          specified insurance transactions with a foreign or alien  
26          insurer to compute the premium tax and service fees based  
27          on the gross premium under certain circumstances;  
28          requiring such insureds or self-insurers to pay the

29 applicable premium tax to the department and the service  
 30 fee to the Florida Surplus Lines Service Office on or  
 31 before a specified time; providing an effective date.

32  
 33 WHEREAS, the 111th Congress passed the Nonadmitted and  
 34 Reinsurance Reform Act of 2010 (NRRA), and

35 WHEREAS, the NRRA provides that no state other than the  
 36 home state of an insured may require any premium tax payment for  
 37 nonadmitted insurance and defines "home state" as the state in  
 38 which an insured maintains its principal place of business [15  
 39 U.S.C. s. 8206], and

40 WHEREAS, as a result of the NRRA, premium tax payments that  
 41 would otherwise be paid to Florida will be paid to other states,  
 42 and

43 WHEREAS, the NRRA allows states to enter into a compact or  
 44 otherwise establish procedures to allocate among the states the  
 45 premium taxes paid to an insured's home state, and

46 WHEREAS, the National Association of Insurance  
 47 Commissioners has adopted an agreement for states to use for  
 48 that purpose, and

49 WHEREAS, state agreements must be entered into before the  
 50 expiration of a 330-day period that began on July 21, 2010, to  
 51 prevent the payment of taxes to such other states pursuant to  
 52 the NRRA [15 U.S.C. s. 8201], NOW, THEREFORE,

53  
 54 Be It Enacted by the Legislature of the State of Florida:  
 55

56 Section 1. Subsection (1) of section 626.931, Florida  
 57 Statutes, is amended to read:

58 626.931 Agent affidavit and insurer reporting  
 59 requirements.—

60 (1) Each surplus lines agent shall on or before the 45th  
 61 day ~~the end of the month next~~ following each calendar quarter  
 62 file with the Florida Surplus Lines Service Office an affidavit,  
 63 on forms as prescribed and furnished by the Florida Surplus  
 64 Lines Service Office, stating that all surplus lines insurance  
 65 transacted by him or her during such calendar quarter has been  
 66 submitted to the Florida Surplus Lines Service Office as  
 67 required.

68 Section 2. Subsection (3) of section 626.932, Florida  
 69 Statutes, is amended to read:

70 626.932 Surplus lines tax.—

71 (3) If a surplus lines policy covers risks or exposures  
 72 only partially in this state and the state is the home state as  
 73 defined in the federal Nonadmitted and Reinsurance Reform Act of  
 74 2010 (NRRA), the tax payable shall be computed on the gross  
 75 ~~portion of the premium which is properly allocable to the risks~~  
 76 ~~or exposures located in this state.~~

77 Section 3. Subsections (2) and (3) of section 626.9325,  
 78 Florida Statutes, are amended to read:

79 626.9325 Service fee.—

80 (2) (a) The surplus lines agent shall pay on or before the  
 81 45th day following each calendar quarter ~~monthly~~ to the Florida  
 82 Surplus Lines Service Office the fees related to all policies  
 83 reported during the previous calendar quarter ~~month~~ in

84 accordance with the plan of operation of the Florida Surplus  
 85 Lines Service Office.

86 (b) The agent shall pay interest on the amount of any  
 87 delinquent fees due, at the rate of 9 percent per year,  
 88 compounded annually, beginning the day the amount becomes  
 89 delinquent.

90 (3) If a surplus lines policy covers risks or exposures  
 91 only partially in this state and the state is the home state as  
 92 defined in the federal Nonadmitted and Reinsurance Reform Act of  
 93 2010 (NRRA), the fee payable shall be computed on the gross  
 94 ~~portion of the premium which is properly allocable to the risks~~  
 95 ~~or exposures located in this state.~~

96 Section 4. Section 626.9362, Florida Statutes, is created  
 97 to read:

98 626.9362 Cooperative reciprocal agreement authorized for  
 99 collection and allocation of certain nonadmitted insurance  
 100 taxes.-

101 (1) The Department of Financial Services and the Office of  
 102 Insurance Regulation may enter into a cooperative reciprocal  
 103 agreement with another state or group of states for the purpose  
 104 of, but not limited to, the collection and allocation of  
 105 nonadmitted insurance taxes for multistate risks pursuant to the  
 106 federal Nonadmitted and Reinsurance Reform Act of 2010 (NRRA)  
 107 which was incorporated into the Dodd-Frank Wall Street Reform  
 108 and Consumer Protection Act, Pub. L. No. 111-203, July 21, 2010.

109 (2) The terms of the agreement may include, but are not  
 110 limited to, the following:

- 111        (a) Creating a clearinghouse for the purpose of  
 112 facilitating the receipt and disbursement of nonadmitted  
 113 insurance taxes.
- 114        (b) Specifying requirements and time periods for  
 115 reporting.
- 116        (c) Determining methods for the collection and forwarding  
 117 of nonadmitted insurance taxes to another state.
- 118        (d) Specifying a premium tax allocation formula for multi-  
 119 state risk nonadmitted insurance.
- 120        (e) Providing for audits and the exchange of information.
- 121        (f) Facilitating the administration of the cooperative  
 122 reciprocal agreement in a reasonable manner.
- 123        (3) The Florida Surplus Lines Service Office must  
 124 implement any cooperative reciprocal agreement entered into by  
 125 the Department Of Financial Services and the Office of Insurance  
 126 Regulation under this section and has the authority to collect  
 127 the total tax imposed on a multi-state risk nonadmitted  
 128 insurance premium.
- 129        (4) The department may adopt rules for the administration  
 130 and enforcement of a cooperative reciprocal agreement entered  
 131 into with another state or group of states under this section.
- 132        (5) Notwithstanding any other provision of law to the  
 133 contrary, this section and any cooperative reciprocal agreement  
 134 entered into with another state or group of states under this  
 135 section control the collection and allocation of nonadmitted  
 136 insurance taxes for multistate risks.

137        Section 5. Subsection (3) of section 626.938, Florida  
 138 Statutes, is amended to read:

CS/HB 1227

2011

139           626.938 Report and tax of independently procured  
140 coverages.—

141           (3) For the general support of the government of this  
142 state, there is levied upon the obligation, chose in action, or  
143 right represented by the premium charged for such insurance a  
144 tax at the rate of 5 percent of the gross amount of such premium  
145 and a 0.3 percent service fee pursuant to s. 626.9325. If the  
146 policy covers risks or exposures only partially in this state  
147 and this state is the home state as defined by the federal  
148 Nonadmitted and Reinsurance Reform Act of 2010 (NRRA), the tax  
149 and service fee payable shall be computed on the gross premium.  
150 The insured shall withhold the amount of the tax and service fee  
151 from the amount of premium charged by and otherwise payable to  
152 the insurer for such insurance. On or before the 45th day  
153 following each calendar quarter ~~Within 30 days~~ after the  
154 insurance is procured, continued, or renewed, ~~and simultaneously~~  
155 ~~with the filing of the report provided for in subsection (1)~~  
156 ~~with the Florida Surplus Lines Service Office,~~ the insured shall  
157 make payable to the department the amount of the tax and make  
158 payable to the Florida Surplus Lines Service Office the amount  
159 of the service fee. The insured shall remit the tax and the  
160 service fee to the Florida Surplus Lines Service Office. The  
161 Florida Surplus Lines Service Office shall forward to the  
162 department the taxes, and any interest collected pursuant to  
163 subsection (5), within 10 days after receipt.

164           Section 6. This act shall take effect upon becoming a law.