

By the Committee on Banking and Insurance; and Senator Smith

597-01934-15

2015252c1

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.; requiring the
6 statement of diligent effort from a retail or
7 producing agent be in a specified form; amending s.
8 626.931, F.S.; deleting provisions that require
9 surplus lines agents to file a quarterly affidavit
10 with the Florida Surplus Lines Office; amending ss.
11 626.932, 626.935, and 626.936, F.S.; conforming
12 provisions to changes made by act; providing an
13 effective date.

14
15 Be It Enacted by the Legislature of the State of Florida:

16
17 Section 1. Subsection (6) is added to section 624.425,
18 Florida Statutes, to read:

19 624.425 Agent countersignature required, property,
20 casualty, surety insurance.—

21 (6) The absence of a countersignature required under this
22 section does not affect the validity of a policy or contract of
23 insurance.

24 Section 2. Paragraph (a) of subsection (1) of section
25 626.916, Florida Statutes, is amended to read:

26 626.916 Eligibility for export.—

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

29 (a) The full amount of insurance required must not be

597-01934-15

2015252c1

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

51 Section 3. Section 626.931, Florida Statutes, is amended to
52 read:

53 626.931 ~~Agent affidavit and~~ Insurer reporting
54 requirements.-

55 ~~(1) Each surplus lines agent shall on or before the 45th~~
56 ~~day following each calendar quarter file with the Florida~~
57 ~~Surplus Lines Service Office an affidavit, on forms as~~
58 ~~prescribed and furnished by the Florida Surplus Lines Service~~

597-01934-15

2015252c1

59 Office, stating that all surplus lines insurance transacted by
60 him or her during such calendar quarter has been submitted to
61 the Florida Surplus Lines Service Office as required.

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

65 (1)~~(3)~~ Each foreign insurer accepting premiums shall, on or
66 before the end of the month following each calendar quarter,
67 file with the Florida Surplus Lines Service Office a verified
68 report of all surplus lines insurance transacted by such insurer
69 for insurance risks located in this state during such calendar
70 quarter.

71 (2)~~(4)~~ Each alien insurer accepting premiums shall, on or
72 before June 30 of each year, file with the Florida Surplus Lines
73 Service Office a verified report of all surplus lines insurance
74 transacted by such insurer for insurance risks located in this
75 state during the preceding calendar year.

76 (3)~~(5)~~ The department may waive the filing requirements
77 described in subsections (1) and (2) ~~(3)~~ and ~~(4)~~.

78 (4)~~(6)~~ Each insurer's report and supporting information
79 shall be in a computer-readable format as determined by the
80 Florida Surplus Lines Service Office or shall be submitted on
81 forms prescribed by the Florida Surplus Lines Service Office and
82 shall show for each applicable agent:

83 (a) A listing of all policies, certificates, cover notes,
84 or other forms of confirmation of insurance coverage or any
85 substitutions thereof or endorsements thereto and the
86 identifying number; and

87 (b) Any additional information required by the department

597-01934-15

2015252c1

88 or Florida Surplus Lines Service Office.

89 Section 4. Paragraph (a) of subsection (2) of section
90 626.932, Florida Statutes, is amended to read:

91 626.932 Surplus lines tax.—

92 (2) (a) The surplus lines agent shall make payable to the
93 department the tax related to each calendar quarter's business
94 as reported to the Florida Surplus Lines Service Office, and
95 remit the tax to the Florida Surplus Lines Service Office on or
96 before the 45th day following each calendar quarter ~~at the same~~
97 ~~time as provided for the filing of the quarterly affidavit,~~
98 ~~under s. 626.931.~~ The Florida Surplus Lines Service Office shall
99 forward to the department the taxes and any interest collected
100 pursuant to paragraph (b), within 10 days of receipt.

101 Section 5. Paragraph (d) of subsection (1) of section
102 626.935, Florida Statutes, is amended to read:

103 626.935 Suspension, revocation, or refusal of surplus lines
104 agent's license.—

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

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

111 Section 6. Subsection (1) of section 626.936, Florida
112 Statutes, is amended to read:

113 626.936 Failure to file reports or pay tax or service fee;
114 administrative penalty.—

115 (1) Any licensed surplus lines agent who neglects to file a
116 report ~~or an affidavit~~ in the form and within the time required

597-01934-15

2015252c1

117 or provided for in the Surplus Lines Law may be fined up to \$50
118 per day for each day the neglect continues, beginning the day
119 after the report ~~or affidavit~~ was due until the date the report
120 ~~or affidavit~~ is received. All sums collected under this section
121 shall be deposited into the Insurance Regulatory Trust Fund.

122 Section 7. This act shall take effect July 1, 2015.