

By Senator Brandes

24-00535A-19

2019538__

1 A bill to be entitled
2 An act relating to nonadmitted insurance market
3 reform; amending s. 626.916, F.S.; deleting a
4 limitation on per-policy fees charged by surplus lines
5 agents for exporting certified policies; requiring
6 that such fees be itemized separately for the customer
7 before purchase and enumerated in the policy; amending
8 s. 626.931, F.S.; deleting a requirement for surplus
9 lines agents to quarterly file a certain affidavit
10 with the Florida Surplus Lines Service Office;
11 amending s. 626.932, F.S.; conforming a provision to
12 changes made by the act; revising the determination of
13 the surplus lines tax on certain policies as of a
14 specified date; amending ss. 626.935 and 629.401,
15 F.S.; conforming provisions to changes made by the
16 act; amending s. 627.715, F.S.; extending the
17 expiration date of a provision authorizing surplus
18 lines agents to export contracts or endorsements
19 providing flood coverage to eligible surplus lines
20 insurers without making a certain diligent effort to
21 seek coverage from authorized insurers; providing
22 effective dates.

23
24 Be It Enacted by the Legislature of the State of Florida:

25
26 Section 1. Subsection (4) of section 626.916, Florida
27 Statutes, is amended to read:

28 626.916 Eligibility for export.—

29 (4) A reasonable per-policy fee, ~~not to exceed \$35,~~ may be

24-00535A-19

2019538__

30 charged by the filing surplus lines agent for each policy
31 certified for export. The fee must be itemized separately for
32 the customer before purchase and enumerated in the policy.

33 Section 2. Section 626.931, Florida Statutes, is amended to
34 read:

35 626.931 ~~Agent affidavit and Insurer reporting~~
36 requirements.-

37 ~~(1) Each surplus lines agent that has transacted business~~
38 ~~during a calendar quarter shall on or before the 45th day~~
39 ~~following the calendar quarter file with the Florida Surplus~~
40 ~~Lines Service Office an affidavit, on forms as prescribed and~~
41 ~~furnished by the Florida Surplus Lines Service Office, stating~~
42 ~~that all surplus lines insurance transacted by him or her during~~
43 ~~such calendar quarter has been submitted to the Florida Surplus~~
44 ~~Lines Service Office as required.~~

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

48 (1)~~(3)~~ Each foreign insurer accepting premiums shall, on or
49 before the end of the month following each calendar quarter,
50 file with the Florida Surplus Lines Service Office a verified
51 report of all surplus lines insurance transacted by such insurer
52 for insurance risks located in this state during such calendar
53 quarter.

54 (2)~~(4)~~ Each alien insurer accepting premiums shall, on or
55 before June 30 of each year, file with the Florida Surplus Lines
56 Service Office a verified report of all surplus lines insurance
57 transacted by such insurer for insurance risks located in this
58 state during the preceding calendar year.

24-00535A-19

2019538__

59 ~~(3)(5)~~ The department may waive the filing requirements
60 described in subsections (1) ~~(3)~~ and (2) ~~(4)~~.

61 ~~(4)(6)~~ Each insurer's report and supporting information
62 shall be in a computer-readable format as determined by the
63 Florida Surplus Lines Service Office or shall be submitted on
64 forms prescribed by the Florida Surplus Lines Service Office and
65 shall show for each applicable agent:

66 (a) A listing of all policies, certificates, cover notes,
67 or other forms of confirmation of insurance coverage or any
68 substitutions thereof or endorsements thereto and the
69 identifying number; and

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

72 Section 3. Paragraph (a) of subsection (2) of section
73 626.932, Florida Statutes, is amended to read:

74 626.932 Surplus lines tax.—

75 (2) (a) The surplus lines agent shall make payable to the
76 department the tax related to each calendar quarter's business
77 as reported to the Florida Surplus Lines Service Office, and
78 remit the tax to the Florida Surplus Lines Service Office at the
79 same time as the remittance required under s. 626.9325 ~~provided~~
80 ~~for the filing of the quarterly affidavit, under s. 626.931~~. The
81 Florida Surplus Lines Service Office shall forward to the
82 department the taxes and any interest collected pursuant to
83 paragraph (b), within 10 days of receipt.

84 Section 4. Effective January 1, 2020, subsection (3) of
85 section 626.932, Florida Statutes, is amended, and subsection
86 (1) of that section is republished, to read:

87 626.932 Surplus lines tax.—

24-00535A-19

2019538__

88 (1) The premiums charged for surplus lines coverages are
89 subject to a premium receipts tax of 5 percent of all gross
90 premiums charged for such insurance. The surplus lines agent
91 shall collect from the insured the amount of the tax at the time
92 of the delivery of the cover note, certificate of insurance,
93 policy, or other initial confirmation of insurance, in addition
94 to the full amount of the gross premium charged by the insurer
95 for the insurance. The surplus lines agent is prohibited from
96 absorbing such tax or, as an inducement for insurance or for any
97 other reason, rebating all or any part of such tax or of his or
98 her commission.

99 (3) If a surplus lines policy covers risks or exposures
100 only partially in this state and the state is the home state as
101 defined in the federal Nonadmitted and Reinsurance Reform Act of
102 2010 (NRRA), the tax payable must ~~shall~~ be computed on the gross
103 premium. The surplus lines policy must be taxed in accordance
104 with subsection (1) unless the policyholder elects to be taxed
105 at the tax must not exceed the tax rate where the risk or
106 exposure is located.

107 Section 5. Paragraph (d) of subsection (1) of section
108 626.935, Florida Statutes, is amended, and present paragraphs
109 (e) through (i) of subsection (1) of that section are
110 redesignated as paragraphs (d) through (h), respectively, to
111 read:

112 626.935 Suspension, revocation, or refusal of surplus lines
113 agent's license.—

114 (1) The department shall deny an application for, suspend,
115 revoke, or refuse to renew the appointment of a surplus lines
116 agent and all other licenses and appointments held by the

24-00535A-19

2019538__

117 licensee under this code, on any of the following grounds:

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

120 Section 6. Paragraph (a) of subsection (1) of section
121 629.401, Florida Statutes, is amended to read:

122 629.401 Insurance exchange.—

123 (1) There may be created one or more insurance exchanges,
124 with one or more offices each, subject to such rules as are
125 adopted by the commission. For the purposes of this section, the
126 term "exchange" applies to any such insurance exchange proposed
127 or created under this section. The purposes of the exchange are:

128 (a) To provide a facility for the underwriting of:

129 1. Reinsurance of all kinds of insurance.

130 2. Direct insurance of all kinds on risks located entirely
131 outside the United States.

132 3. Surplus lines insurance for risks located in this state
133 eligible for export under s. 626.916 or s. 626.917 and placed
134 through a licensed Florida surplus lines agent subject to
135 compliance with ~~the provisions of~~ ss. 626.921, 626.922, 626.923,
136 626.924, 626.929, 626.9295, and 626.930, ~~and 626.931~~. With
137 respect to compliance with s. 626.924, the required legend may
138 refer to any coverage provided for by a security fund
139 established under paragraph (3) (d).

140 4. Surplus lines insurance in any other state subject to
141 the applicable surplus lines laws of such other state for risks
142 located entirely outside of this state.

143 Section 7. Subsection (4) of section 627.715, Florida
144 Statutes, is amended to read:

145 627.715 Flood insurance.—An authorized insurer may issue an

24-00535A-19

2019538__

146 insurance policy, contract, or endorsement providing personal
147 lines residential coverage for the peril of flood or excess
148 coverage for the peril of flood on any structure or the contents
149 of personal property contained therein, subject to this section.
150 This section does not apply to commercial lines residential or
151 commercial lines nonresidential coverage for the peril of flood.
152 An insurer may issue flood insurance policies, contracts,
153 endorsements, or excess coverage on a standard, preferred,
154 customized, flexible, or supplemental basis.

155 (4) A surplus lines agent may export a contract or
156 endorsement providing flood coverage to an eligible surplus
157 lines insurer without making a diligent effort to seek such
158 coverage from three or more authorized insurers under s.
159 626.916(1)(a). This subsection expires July 1, 2025 ~~2019~~, or on
160 the date on which the Commissioner of Insurance Regulation
161 determines in writing that there is an adequate admitted market
162 to provide coverage for the peril of flood consistent with this
163 section, whichever date occurs first. If there are fewer than
164 three admitted insurers on the date this subsection expires, the
165 number of declinations necessary to meet the diligent-effort
166 requirement shall be no fewer than the number of authorized
167 insurers providing flood coverage.

168 Section 8. Except as otherwise expressly provided in this
169 act, this act shall take effect July 1, 2019.