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

**Senate Amendment (with title amendment)**

Delete lines 342 - 345

and insert:

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

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

(4) "Diligent effort" means seeking coverage from and having been rejected by at least three authorized insurers
currently writing this type of coverage and documenting these rejections. However, if the residential structure has a dwelling replacement cost of $700,000 or more, the term means seeking coverage from and having been rejected by at least one authorized insurer currently writing this type of coverage and documenting this rejection.

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

627.062 Rate standards.—

(3)

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

   a. Excess or umbrella.
   b. Surety and fidelity.
   c. Boiler and machinery and leakage and fire extinguishing equipment.
   d. Errors and omissions.
   e. Directors and officers, employment practices, fiduciary liability, and management liability.
   f. Intellectual property and patent infringement liability.
   g. Advertising injury and Internet liability insurance.
   h. Property risks rated under a highly protected risks rating plan.
   i. General liability.
   j. Nonresidential property, except for collateral protection insurance as defined in s. 624.6085.
k. Nonresidential multiperil.

l. Excess property.

m. Burglary and theft.

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

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

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

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

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

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

4. A rating organization shall notify the office of any changes to loss cost for insurance and risks described in subparagraph 1. within 30 days after the effective date of the change. The notice must include the name of the rating organization, the type or kind of insurance subject to a loss cost change, loss costs during the immediately preceding year for the type or kind of insurance subject to the loss cost change, and the average statewide percentage change in loss cost. Actuarial data with regard to changes to loss cost for risks not subject to paragraph (2)(a) or paragraph (2)(f) must be maintained by the rating organization for 2 years after the
effective date of the change and are subject to examination by 
the office. The office may require the rating organization to 
incure the costs associated with an examination. Upon 
examination, the office, in accordance with generally accepted 
and reasonable actuarial techniques, shall consider the rate 
factors in paragraphs (2)(b)-(d) and the standards in paragraph 
(2)(e) to determine if the rate is excessive, inadequate, or 
unfairly discriminatory.

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

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

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

627.4102 Informational filing of forms.—
(1) Property and casualty forms, excluding workers’ 
compensation and personal lines forms, but including residential 
property insurance with rates established pursuant to s. 
627.062(3)(d), are exempt from the approval process required 
under s. 627.410 if:
(a) The form has been electronically submitted to the 
office in an informational filing made through I-File 30 days 
before the delivery or issuance for delivery of the form within
this state; and

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

Section 13. Paragraph (b) of subsection (3) and subsection (4) of section 626.916, Florida Statutes, are amended, subsection (5) is added to that section, and paragraph (a) of subsection (1) of that section is republished, to read:

626.916 Eligibility for export.—

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

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

(3)

(b) Paragraphs (1)(a)-(d) do not apply to classes of insurance which are subject to s. 627.062(3)(d)1, except that paragraph (1)(a) applies to residential property insurance with rates established pursuant to s. 627.062(3)(d). These classes may be exportable under the following conditions:

1. The insurance must be placed only by or through a surplus lines agent licensed in this state;

2. The insurer must be made eligible under s. 626.918; and

3. The insured must sign a disclosure that substantially provides the following: “You are agreeing to place coverage in the surplus lines market. Superior coverage may be available in the admitted market and at a lesser cost. Persons insured by
surplus lines carriers are not protected under the Florida Insurance Guaranty Act with respect to any right of recovery for the obligation of an insolvent unlicensed insurer.” If the notice is signed by the insured, the insured is presumed to have been informed and to know that other coverage may be available, and, with respect to the diligent-effort requirement under subsection (1), there is no liability on the part of, and no cause of action arises against, the retail agent presenting the form.

----------------- T I T L E A M E N D M E N T -----------------

And the title is amended as follows:

Delete line 42

and insert:

service organizations; amending s. 626.914, F.S.; revising the definition of the term “diligent effort” as used in the Surplus Lines Law; amending s. 627.062, F.S.; specifying applicable rate standards and requirements for certain personal lines residential property insurance; creating s. 627.1711, F.S.; providing a limitation on certain personal lines residential property insurance policies that may be written or renewed by an insurer each calendar year; amending s. 627.4102, F.S.; providing an exemption, if certain conditions are met, from a form approval process for certain personal lines residential property insurance forms; amending s. 626.916, F.S.; specifying applicable requirements before certain personal lines residential property insurance may be
exported;