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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; providing for application; amending s.
23 626.938, F.S.; requiring certain insureds or insurers
24 engaging in specified insurance transactions with a
25 foreign or alien insurer to compute the premium tax and
26 service fees based on the gross premium under certain
27 circumstances; requiring such insureds or insurers to pay
28 the applicable premium tax to the department and the

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

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

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

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

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

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

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

52 |
 53 | Be It Enacted by the Legislature of the State of Florida:
 54 |

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

57 626.931 Agent affidavit and insurer reporting
58 requirements.-

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

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

69 626.932 Surplus lines tax.-

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

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

78 626.9325 Service fee.-

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

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

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

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

97 626.9362 Cooperative reciprocal agreement authorized for
 98 collection and allocation of certain nonadmitted insurance
 99 taxes.—

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

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

110 (a) Creating a clearinghouse for the purpose of
 111 facilitating the receipt and disbursement of nonadmitted
 112 insurance taxes.

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113 (b) Specifying requirements and time periods for
114 reporting.

115 (c) Determining methods for the collection and forwarding
116 of nonadmitted insurance taxes to another state.

117 (d) Specifying a premium tax allocation formula for multi-
118 state risk nonadmitted insurance.

119 (e) Providing for audits and the exchange of information.

120 (f) Facilitating the administration of the cooperative
121 reciprocal agreement in a reasonable manner.

122 (3) The Florida Surplus Lines Service Office must
123 implement any cooperative reciprocal agreement entered into by
124 the Department Of Financial Services and the Office of Insurance
125 Regulation under this section and has the authority to collect
126 the total tax imposed on a multi-state risk nonadmitted
127 insurance premium.

128 (4) The department and the Office of Insurance Regulation
129 may adopt rules for the administration and enforcement of a
130 cooperative reciprocal agreement entered into with another state
131 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:

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

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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.