



BULLETIN

97-007

June 16, 1997

Florida Department of Insurance

Bill Nelson

Treasurer, Insurance Commissioner and Fire Marshal

All Surplus Lines Agents Eligibility Requirements for Exporting Risks

The purpose of this bulletin is to advise surplus lines agents of the requirements for exporting risks to the surplus lines market.

Section 626.916, Florida Statutes, prescribes the requirements that must be met for insurance coverage to be eligible for export to the surplus lines market. One of those requirements is that the coverage must not be procurable from authorized insurers after a "diligent effort" has been made by the producing agent to procure such coverage. It is the responsibility of the surplus lines agent to verify that a diligent effort has been made by requiring a properly documented statement of diligent effort from the retail or producing agent. Further, section 626.916, F.S. requires that the surplus lines agent's reliance on a statement of diligent effort be reasonable in light of the particular circumstances surrounding the export of that particular risk.

It is a prohibited practice for a producing agent to intentionally seek quotes from authorized insurers which they know are not writing new business, or are otherwise not writing the type or amount of coverage required. Such practice fails to satisfy the diligent effort requirements, and a surplus lines agent's reliance upon a producing agent's statement of diligent effort under these circumstances would not be reasonable. Surplus lines agents must exercise prudent business judgment when evaluating the reasonableness of the producing agent's statement of diligent effort. Failure to do so may result in disciplinary action, including revocation of the agent's license.

It has also been brought to the Department's attention that, after soliciting Agent of Record Letters from condominium associations and other commercial risks written in the admitted market, some producing agents are mid-term canceling insurance coverage for the purpose of replacing it with coverage written through the surplus lines market. Such a practice constitutes a violation of the Florida Insurance Code, as the policy to be replaced was obviously procurable and, in fact, had been procured from an authorized insurer. Any and all reports of such activity will be thoroughly investigated and prosecuted by the Department.

If you have any questions regarding this bulletin, please contact Carolyn Daniels, Administrator, Surplus Lines Section, Bureau of Industry Coordination, at (850) 413-2636.