



BULLETIN 02-001

April 16, 2002

Florida Department of Insurance

Tom Gallagher

Treasurer, Insurance Commissioner and Fire Marshal

All Insurance Companies and Agents Transacting Surplus Lines Insurance in the State of Florida

Violation of the Prohibition Against Charging Fees in Addition to Premium

The purpose of this Bulletin is to remind surplus lines insurers and agents that it is unlawful for agents to charge fees to the insured upon the sale of a surplus lines insurance policy unless specifically authorized by law. "Broker fees," "consulting fees" and similarly named fees that produce additional income for agents are not authorized by law.

The "Unfair Insurance Trade Practices Act" forbids any person to knowingly collect as a premium or charge for insurance any sum in excess of the premium specified in the policy and as determined by the insurer.

"Premium" is defined in Section 626.9325(6), Florida Statutes, as "the consideration for insurance, by whatever name called." This statute further states that "any "assessment," or any "membership," "policy," "survey," "inspection," "service" or similar fee or charge in consideration for an insurance contract is deemed part of the premium."

There are exceptions to the general prohibition against charging amounts in excess of the premium. Surplus lines agents are specifically permitted to charge up to \$35 as a policy fee in addition to the applicable premium, in accordance with Section 626.916(4), Florida Statutes. In addition, surplus lines agents are responsible for collecting and remitting surplus lines premium tax to the Florida Department of Insurance in the amount of 5% of total gross premium in accordance with Section 626.932, Florida Statutes. Also, each surplus lines agent is required by Section 626.9325, Florida Statutes, to collect and remit a service fee of 0.3 percent of the total gross premium of each surplus lines policy for the cost of operation of the Florida Surplus Lines Service Office.

However, none of these provisions or any other provision of the Florida Insurance Code permits a surplus lines agent to charge and retain broker fees or additional commission, by whatever name called, on the sale of a surplus lines insurance policy.

The Department intends to take administrative action against any surplus lines agent found to be charging a "broker fee" or any other fees not specifically authorized by law.

If you have questions or need additional information, contact Kerry Edgil, Senior Management Analyst, Bureau of Agent & Agency Investigations, (850) 413-5616.