

By Senator Hukill

8-00282C-13

2013468

1 A bill to be entitled
2 An act relating to commercial insurance rates and
3 forms; amending s. 627.062, F.S.; exempting medical
4 malpractice insurance that covers certain providers
5 and practitioners from specified rate filing
6 requirements; amending s. 627.410, F.S.; conforming
7 provisions to changes made by the act; creating s.
8 627.4102, F.S.; providing for an informational filing
9 of certain forms that are exempt from the Office of
10 Insurance Regulation's approval process; requiring an
11 informational filing to include a notarized
12 certification from the insurer and providing a
13 statement that must be included in the certification;
14 authorizing the office to impose sanctions for false
15 certifications; requiring a Notice of Change in Policy
16 Terms form to be filed with a changed renewal policy;
17 providing an effective date.

18
19 Be It Enacted by the Legislature of the State of Florida:

20
21 Section 1. Paragraph (d) of subsection (3) and paragraph
22 (e) of subsection (7) of section 627.062, Florida Statutes, are
23 amended to read:

24 627.062 Rate standards.—

25 (3)

26 (d)1. The following categories or kinds of insurance and
27 types of commercial lines risks are not subject to paragraph
28 (2) (a) or paragraph (2) (f):

29 a. Excess or umbrella.

8-00282C-13

2013468

- 30 b. Surety and fidelity.
- 31 c. Boiler and machinery and leakage and fire extinguishing
32 equipment.
- 33 d. Errors and omissions.
- 34 e. Directors and officers, employment practices, fiduciary
35 liability, and management liability.
- 36 f. Intellectual property and patent infringement liability.
- 37 g. Advertising injury and Internet liability insurance.
- 38 h. Property risks rated under a highly protected risks
39 rating plan.
- 40 i. General liability.
- 41 j. Nonresidential property, except for collateral
42 protection insurance as defined in s. 624.6085.
- 43 k. Nonresidential multiperil.
- 44 l. Excess property.
- 45 m. Burglary and theft.
- 46 n. Medical malpractice for a facility that is not a
47 hospital, nursing home, or assisted living facility.
- 48 o. Medical malpractice for a health care practitioner that
49 is not a dentist, physician, or surgeon.
- 50 ~~p.~~ Any other commercial lines categories or kinds of
51 insurance or types of commercial lines risks that the office
52 determines should not be subject to paragraph (2) (a) or
53 paragraph (2) (f) because of the existence of a competitive
54 market for such insurance, similarity of such insurance to other
55 categories or kinds of insurance not subject to paragraph (2) (a)
56 or paragraph (2) (f), or to improve the general operational
57 efficiency of the office.
- 58 2. Insurers or rating organizations shall establish and use

8-00282C-13

2013468

59 rates, rating schedules, or rating manuals to allow the insurer
60 a reasonable rate of return on insurance and risks described in
61 subparagraph 1. which are written in this state.

62 3. An insurer shall ~~must~~ notify the office of any changes
63 to rates for insurance and risks described in subparagraph 1.
64 within 30 days after the effective date of the change. The
65 notice must include the name of the insurer, the type or kind of
66 insurance subject to rate change, total premium written during
67 the immediately preceding year by the insurer for the type or
68 kind of insurance subject to the rate change, and the average
69 statewide percentage change in rates. Underwriting files,
70 premiums, losses, and expense statistics with regard to such
71 insurance and risks ~~written by an insurer~~ must be maintained by
72 the insurer and subject to examination by the office. Upon
73 examination, the office, in accordance with generally accepted
74 and reasonable actuarial techniques, shall consider the rate
75 factors in paragraphs (2) (b), (c), and (d) and the standards in
76 paragraph (2) (e) to determine if the rate is excessive,
77 inadequate, or unfairly discriminatory.

78 4. A rating organization shall ~~must~~ notify the office of
79 any changes to loss cost for insurance and risks described in
80 subparagraph 1. within 30 days after the effective date of the
81 change. The notice must include the name of the rating
82 organization, the type or kind of insurance subject to a loss
83 cost change, loss costs during the immediately preceding year
84 for the type or kind of insurance subject to the loss cost
85 change, and the average statewide percentage change in loss
86 cost. Actuarial data with regard to changes to loss cost for
87 risks not subject to paragraph (2) (a) or paragraph (2) (f) must

8-00282C-13

2013468

88 be maintained by the rating organization for 2 years after the
 89 effective date of the change and are subject to examination by
 90 the office. The office may require the rating organization to
 91 incur the costs associated with an examination. Upon
 92 examination, the office, in accordance with generally accepted
 93 and reasonable actuarial techniques, shall consider the rate
 94 factors in paragraphs (2) (b)-(d) and the standards in paragraph
 95 (2) (e) to determine if the rate is excessive, inadequate, or
 96 unfairly discriminatory.

97 (7) The provisions of this subsection apply only to rates
 98 for medical malpractice insurance and control to the extent of
 99 any conflict with other provisions of this section.

100 (e) For medical malpractice rates subject to paragraph
 101 (2) (e), the each medical malpractice insurer shall ~~must~~ make a
 102 rate filing under this section, sworn to by at least two
 103 executive officers of the insurer, at least once each calendar
 104 year.

105 Section 2. Subsection (1) of section 627.410, Florida
 106 Statutes, is amended to read:

107 627.410 Filing, approval of forms.—

108 (1) A ~~No~~ basic insurance policy or annuity contract form,
 109 or application form where written application is required and is
 110 to be made a part of the policy or contract, ~~or~~ group
 111 certificates issued under a master contract delivered in this
 112 state, or printed rider or endorsement form or form of renewal
 113 certificate, may not ~~shall~~ be delivered or issued for delivery
 114 in this state, unless the form has been filed with the office by
 115 or on ~~in~~ behalf of the insurer that ~~which~~ proposes to use such
 116 form and has been approved by the office, or filed pursuant to

8-00282C-13

2013468

117 s. 627.4102. This provision does not apply to surety bonds or to
118 policies, riders, endorsements, or forms of unique character
119 which are designed for and used with ~~relation to~~ insurance on
120 ~~upon~~ a particular subject, ~~(other than as to health insurance),~~
121 or which relate to the manner of distributing ~~distribution of~~
122 benefits or to the reservation of rights and benefits under life
123 or health insurance policies and ~~are~~ used at the request of the
124 individual policyholder, contract holder, or certificateholder.
125 For ~~As to~~ group insurance policies effectuated and delivered
126 outside this state but covering persons resident in this state,
127 the group certificates to be delivered or issued for delivery in
128 this state shall be filed with the office for information
129 purposes only.

130 Section 3. Section 627.4102, Florida Statutes, is created
131 to read:

132 627.4102 Informational filing of forms.-

133 (1) Property and casualty forms, except workers'
134 compensation forms, are exempt from the approval process
135 required under s. 627.410, if:

136 (a) The form has been electronically submitted to the
137 office in an informational filing made through I-File, 30 days
138 before the delivery or issuance for delivery of the form within
139 this state; and

140 (b) At the time the informational filing is made, a
141 notarized certification is attached to the filing which
142 certifies that each form within the filing is in compliance with
143 all applicable state laws and rules. The certification must be
144 on the insurer's letterhead and signed and dated by the
145 insurer's president, chief executive officer, or general

8-00282C-13

2013468

146 counsel, or an employee of the insurer responsible for the
147 filing on behalf of the insurer. The certification must
148 expressly acknowledge that if the representations contained in
149 the certification are found to be false, the insurer is subject
150 to appropriate regulatory action. The certification must contain
151 substantively the following statement: "I ...[name]..., as
152 ...[title]... of ...[insurer name]..., do hereby certify that
153 this form filing has been thoroughly and diligently reviewed by
154 me and by all appropriate company personnel, as well as company
155 consultants, if applicable, and certify that each form contained
156 within the filing is in compliance with all applicable Florida
157 laws and rules. Should this certification later be deemed false,
158 I acknowledge that ...[insurer name]... is subject to all
159 appropriate regulatory action by the Office of Insurance
160 Regulation."

161 (2) If the filing contains a certification that does not
162 meet the requirements of this section, the form filing, at the
163 discretion of the office, shall be subject to prior review and
164 approval pursuant to s. 627.410, and the period for review and
165 approval established under s. 627.410(2) begins to run on the
166 date the office notifies the insurer of the discovery of the
167 inadequate certification. The office may pursue regulatory
168 action against an insurer that submits a false certification.

169 (3) A Notice of Change in Policy Terms form required under
170 s. 627.43141(2) shall be filed as a part of the informational
171 filing for a renewal policy that contains a change. If a renewal
172 policy that was certified requires such form, the insurer must
173 provide a copy of the form to the named insured's agent before
174 or upon providing the form to the named insured.

8-00282C-13

2013468__

175 (4) This section does not preclude an insurer from electing
176 to file any form for approval under s. 627.410 which would
177 otherwise be exempt under this section.

178 Section 4. This act shall take effect upon becoming a law.