

By Senator Gutman

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A bill to be entitled
An act relating to property, casualty, and
surety insurance; amending s. 627.062, F.S.;
providing standards for determining whether
rates are excessive, inadequate, or unfairly
discriminatory; amending s. 627.171, F.S.;
increasing the percentage of excess rates an
insurer may use for commercial insurance
policies; setting standards for the use of
excess rates; providing an effective date.

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

Section 1. Paragraph (e) of subsection (2) of section
627.062, Florida Statutes, is amended to read:

627.062 Rate standards.--

(2) As to all such classes of insurance:

(e) After consideration of the rate factors provided
in paragraphs (b), (c), and (d), a rate may be found by the
department to be excessive, inadequate, or unfairly
discriminatory based upon the following standards:

1. Rates shall be deemed excessive if they are likely
to produce a profit from Florida business that is unreasonably
high in relation to the risk involved in the class of business
or if expenses are unreasonably high in relation to services
rendered.

2. Rates shall be deemed excessive if, among other
things, the rate structure established by a stock insurance
company provides for replenishment of surpluses from premiums,
when the replenishment is attributable to investment losses.

1 3. Rates shall be deemed inadequate if they are
2 clearly insufficient, together with the investment income
3 attributable to them, to sustain projected losses and expenses
4 in the class of business to which they apply.

5 4. A rating plan, including discounts, credits, or
6 surcharges, shall be deemed unfairly discriminatory if it
7 fails to clearly and equitably reflect consideration of the
8 policyholder's participation in a risk management program
9 adopted pursuant to s. 627.0625.

10 5. A rate shall be deemed inadequate as to the premium
11 charged to a risk or group of risks if discounts or credits
12 are allowed which exceed a reasonable reflection of expense
13 savings and reasonably expected loss experience from the risk
14 or group of risks.

15 6. A rate shall be deemed unfairly discriminatory as
16 to a risk or group of risks if the application of premium
17 discounts, credits, or surcharges among such risks does not
18 bear a reasonable relationship to the expected loss and
19 expense experience among the various risks.

20 7. Insurers may not be required to file reports on the
21 application of filed and approved discounts, credits or
22 surcharges for individual policies or for all policies in any
23 line of insurance in the aggregate. The department may not
24 adopt rules that limit the amount of discounts, credits, or
25 surcharges for individual policies or for all policies in any
26 line of insurance in the aggregate. This subparagraph does not
27 prohibit the department from requiring the filing of
28 appropriate data in a rate filing pursuant to paragraph (a) to
29 support the discounts, credits, or surcharges contained in a
30 schedule rating plan or individual risk rating plan.

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1 Section 2. Section 627.171, Florida Statutes, is
2 amended to read:

3 627.171 Excess rates.--

4 (1) With written consent of the insured signed prior
5 to the policy inception date and filed with the insurer, the
6 insurer may use a rate in excess of the otherwise applicable
7 filed rate on any specific risk. The signed consent form must
8 include the filed rate as well as the excess rate for the risk
9 insured and a copy of the form must be maintained by the
10 insurer for 3 years and be available for review by the
11 department.

12 (2) An insurer may not use excess rates pursuant to
13 this section for more than 20 ~~10~~ percent of its commercial
14 insurance policies written or renewed in each calendar year
15 for any line of commercial insurance or for more than 5
16 percent of its personal lines insurance policies written or
17 renewed in each calendar year for any line of personal
18 insurance.

19 (3) An insurer may not use an excess rate pursuant to
20 this section unless the rate is based on underwriting
21 considerations and is not based on arbitrary or unfairly
22 discriminatory considerations.

23 Section 3. This act shall take effect October 1, 1998.

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26 SENATE SUMMARY

27 Revises provisions related to rates on property,
28 casualty, and surety insurance. Creates excess rate
29 standards and increases the percentage of excess rates
30 that an insurer may use for commercial insurance.