

By the Committee on Banking and Insurance; and Senators King, Holzendorf and Horne

311-2105-00

1                                   A bill to be entitled  
2           An act relating to health insurance; amending  
3           s. 627.410, F.S.; modifying rate filing  
4           requirements for approval of health insurance  
5           policy forms by the Department of Insurance;  
6           amending s. 627.411, F.S.; providing guidelines  
7           for determining when benefits are considered  
8           reasonable in relation to the premium charged  
9           for purposes of disapproval of health insurance  
10          policy forms by the department; providing an  
11          effective date.

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

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15           Section 1. Subsections (1), (3), (6), (7), and  
16 paragraph (a) of subsection (8) of section 627.410, Florida  
17 Statutes, are amended to read:

18           627.410 Filing, approval of forms.--

19           (1) No basic insurance policy or annuity contract  
20 form, or application form where written application is  
21 required and is to be made a part of the policy or contract,  
22 or group certificates issued under a master contract delivered  
23 in this state, or printed rider or endorsement form or form of  
24 renewal certificate, shall be delivered or issued for delivery  
25 in this state, unless the form has been filed with the  
26 department at its offices in Tallahassee by or in behalf of  
27 the insurer which proposes to use such form and has been  
28 approved by the department. This provision does not apply to  
29 ~~surety bonds or to~~ policies, riders, endorsements, or forms of  
30 unique character which are designed for and used with relation  
31 to insurance upon a particular subject (other than as to

1 individual or small group health insurance), or which relate  
2 to the manner of distribution of benefits or to the  
3 reservation of rights and benefits under life or health  
4 insurance policies and are used at the request of the  
5 individual policyholder, contract holder, or  
6 certificateholder. As to group insurance policies effectuated  
7 and delivered outside this state but covering persons resident  
8 in this state, the group certificates to be delivered or  
9 issued for delivery in this state shall be filed with the  
10 department for information purposes only.

11 (3) The department may, as specified in s. 627.411(1)  
12 ~~for cause~~, withdraw a previous approval. No insurer shall  
13 issue or use any form disapproved by the department, or as to  
14 which the department has withdrawn approval, after the  
15 effective date of the order of the department.

16 (6)(a) An insurer shall not deliver or issue for  
17 delivery or renew in this state any health insurance policy  
18 form until it has filed with the department a copy of every  
19 applicable rating manual, rating schedule, change in rating  
20 manual, and change in rating schedule; if rating manuals and  
21 rating schedules are not applicable, the insurer must file  
22 with the department applicable premium rates and any change in  
23 applicable premium rates. This paragraph does not apply to  
24 rating manuals, rating schedules, changes in rating manuals or  
25 schedules, or, if rating manuals or schedules are not  
26 applicable, to premium rates or changes in such rates relating  
27 to policies, riders, endorsements, or forms of unique  
28 character which are designed for and used with relation to  
29 insurance upon a particular subject or to benefits under group  
30 health insurance policies insuring 51 or more persons and used

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1 at the request of the individual policyholder, contract  
2 holder, or certificateholder.

3 (b) The department may establish by rule, for each  
4 type of health insurance form, procedures to be used in  
5 ascertaining that a form meets the standards in this section  
6 and s. 627.411(2) for new rate filings and rate revisions in  
7 accordance with generally accepted standards of actuarial  
8 practice ~~the reasonableness of benefits in relation to premium~~  
9 ~~rates~~ and may, by rule, exempt from any requirement of  
10 paragraph (a) any health insurance policy form or type thereof  
11 (as specified in such rule) to which form or type such  
12 requirements may not be practically applied or to which form  
13 or type the application of such requirements is not desirable  
14 or necessary for the protection of the public. With respect to  
15 any health insurance policy form or type thereof which is  
16 exempted by rule from any requirement of paragraph (a),  
17 premium rates filed pursuant to ss. 627.640 and 627.662 shall  
18 be for informational purposes.

19 (c) Every filing made pursuant to this subsection  
20 shall be made within the same time period provided in, and  
21 shall be deemed to be approved under the same conditions as  
22 those provided in, subsection (2).

23 (d) Every filing made pursuant to this subsection,  
24 except disability income policies and accidental death  
25 policies, shall be prohibited from applying the following  
26 rating practices:

- 27 1. Select and ultimate premium schedules.
- 28 2. Premium class definitions which classify insured  
29 based on year of issue or duration since issue.

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1           3. Attained age premium structures on policy forms  
2 under which more than 50 percent of the policies are issued to  
3 persons age 65 or over.

4           ~~(e) Except as provided in subparagraph 1., an insurer~~  
5 ~~shall continue to make available for purchase any individual~~  
6 ~~policy form issued on or after October 1, 1993. A policy form~~  
7 ~~shall not be considered to be available for purchase unless~~  
8 ~~the insurer has actively offered it for sale in the previous~~  
9 ~~12 months.~~

10           1. An insurer may discontinue the availability of an  
11 individual ~~a~~ policy form if the insurer provides to the  
12 department in writing its decision at least 30 days prior to  
13 discontinuing the availability of the form of the policy or  
14 certificate. After receipt of the notice by the department,  
15 the insurer shall no longer offer for sale the policy form or  
16 certificate form in this state.

17           ~~2. An insurer that discontinues the availability of a~~  
18 ~~policy form pursuant to subparagraph 1. shall not file for~~  
19 ~~approval a new policy form providing similar benefits as the~~  
20 ~~discontinued form for a period of 5 years after the insurer~~  
21 ~~provides notice to the department of the discontinuance. The~~  
22 ~~period of discontinuance may be reduced if the department~~  
23 ~~determines that a shorter period is appropriate.~~

24           ~~2.3.~~ The experience of an individual accident and  
25 health insurance ~~all~~ policy form that is no longer being  
26 marketed in this state, except for policies rated pursuant to  
27 a loss ratio guarantee under subsection (8), shall be combined  
28 with the experience of at least one other individual accident  
29 and health insurance policy form providing similar benefits,  
30 as determined by the insurer, which is still being marketed in  
31 the state by the same insurer, unless the insurer has no other

1 policy form ~~forms~~ providing similar benefits ~~shall be combined~~  
2 ~~for all rating purposes~~. For purposes of this section, a form  
3 is considered active if the form has been marketed in this  
4 state in the past 6 months.

5 (7)(a) Each insurer subject to the requirements of  
6 subsection (6) shall make an annual filing with the department  
7 no later than 12 months after its previous filing,  
8 establishing compliance with the standards in s. 627.411(2)  
9 for each insurance policy form, excluding noncancelable policy  
10 forms. For guaranteed renewable medical indemnity, loss of  
11 income, and disability income policy forms, the filing shall  
12 be biennial and made no later than 24 months after its  
13 previous filing ~~demonstrating the reasonableness of benefits~~  
14 ~~in relation to premium rates~~. The department, after receiving  
15 a request to be exempted from the provisions of this section,  
16 may, for good cause due to insignificant numbers of policies  
17 in force or insignificant premium volume, exempt a company, by  
18 line of coverage, from filing rates or rate certification as  
19 required by this section.

20 (b) The filing required by this subsection shall be  
21 satisfied by one of the following methods:

22 1. A rate filing prepared by an actuary which contains  
23 documentation establishing ~~demonstrating~~ the reasonableness of  
24 benefits in relation to premiums charged ~~in accordance with~~  
25 ~~the applicable rating laws and rules promulgated by the~~  
26 ~~department~~. For premium rate changes, benefits shall be deemed  
27 reasonable in relation to premium charged if both of the  
28 following loss ratios meet or exceed the standards established  
29 in s. 627.411(2).

1           a. The anticipated loss ratio over the entire future  
2 period for which the revised rates are computed to provide  
3 coverage; and

4           b. The lifetime anticipated loss ratio derived by  
5 dividing the amount determined under sub-sub-subparagraph (I)  
6 by the amount determined under sub-sub-subparagraph (II):

7           (I) The sum of the accumulated benefits from the  
8 original effective date of the form to the effective date of  
9 the revision, and the present value of future benefits.

10           (II) The sum of the accumulated premiums from the  
11 original effective date of the form to the effective date of  
12 the revision, and the present value of future premiums, which  
13 present values shall be taken over the entire period for which  
14 the revised rates are computed to provide coverage and which  
15 accumulated benefits and premiums shall include an explicit  
16 estimate of actual benefits and premiums from the last date an  
17 accounting has been made to the effective date of the  
18 revision.

19  
20 Interest shall be used in the calculation of these accumulated  
21 benefits and premiums and present values in the calculation of  
22 the loss ratio. For purposes of sub-sub-subparagraph (I), the  
23 present value of benefits may, at the insurer's option,  
24 include recognition of the policy reserve as a benefit  
25 (addition), or the present value of premiums may, at the  
26 insurer's option, include recognition of the policy reserve as  
27 a deduction. Anticipated loss ratios lower than those  
28 indicated in sub-sub-subparagraphs (I) and (II) shall require  
29 justification based on special circumstances that may be  
30 applicable, including, but not limited to: accident only,  
31 short-term nonrenewable, specified peril, and other special

1 risks; marketing methods; giving due consideration to  
2 acquisition and administration costs and premium mode;  
3 extraordinary expenses; high risk of claims fluctuation  
4 because of low loss frequency or the catastrophic or  
5 experimental nature of the coverage; product features, such as  
6 long elimination periods, high deductibles, and high maximum  
7 limits; and the industrial or debit method of distribution.

8       2. If no rate change is proposed, a filing which  
9 consists of a certification by an actuary that benefits are  
10 reasonable in relation to premiums currently charged in  
11 accordance with the loss ratio standards established in this  
12 section and s. 627.411(2)~~applicable laws and rules~~  
13 ~~promulgated by the department.~~

14       3. For premium rate changes for group policy forms,  
15 benefits shall be deemed reasonable in relation to premium  
16 charged if the anticipated loss ratio over the entire future  
17 period for which the revised rates are computed to provide  
18 coverage meets or exceeds the standards established in s.  
19 627.411(2).

20       4. An insurer may combine the experience of similar  
21 policy forms in the required filing.

22       (c) As used in this section, the term "actuary" means  
23 an individual who is a member of the Society of Actuaries or  
24 the American Academy of Actuaries. If an insurer does not  
25 employ or otherwise retain the services of an actuary, the  
26 insurer's certification shall be prepared by insurer personnel  
27 or consultants with a minimum of 5 years' experience in  
28 insurance ratemaking and~~The~~ chief executive officer of the  
29 insurer shall review and sign the certification indicating his  
30 or her agreement with its conclusions.

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1 (d) If at the time a filing is required under this  
2 section an insurer is in the process of completing a rate  
3 review, the insurer may apply to the department for an  
4 extension of up to an additional 30 days in which to make the  
5 filing. The request for extension must be received by the  
6 department in its offices in Tallahassee no later than the  
7 date the filing is due.

8 (e) If an insurer fails to meet the filing  
9 requirements of this subsection and does not submit the filing  
10 within 60 days following the date the filing is due, the  
11 department may, in addition to any other penalty authorized by  
12 law, order the insurer to discontinue the issuance of policies  
13 for which the required filing was not made, until such time as  
14 the ~~department determines that the~~ required filing is ~~properly~~  
15 submitted.

16 (8)(a) For the purposes of subsections (6) and (7) and  
17 s. 627.411, benefits of an individual accident and health  
18 insurance policy form, including Medicare supplement policies  
19 as defined in s. 627.672, when authorized by rules adopted by  
20 the department, and excluding long-term care insurance  
21 policies as defined in s. 627.9404, and other policy forms  
22 under which more than 50 percent of the policies are issued to  
23 individuals age 65 and over, are deemed to comply with the  
24 provisions cited in this section ~~to be reasonable in relation~~  
25 ~~to premium rates~~ if the rates are filed pursuant to a loss  
26 ratio guarantee and both the initial rates and the durational  
27 and lifetime loss ratios have been approved by the department,  
28 and such benefits shall continue to be deemed reasonable for  
29 renewal rates while the insurer complies with such guarantee,  
30 provided the currently expected lifetime loss ratio is not  
31 more than 5 percent less than the filed lifetime loss ratio as



1 certified to by an actuary. The department shall have the  
2 right to bring an administrative action should it deem that  
3 the lifetime loss ratio will not be met. For Medicare  
4 supplement filings, the department may withdraw a previously  
5 approved filing which was made pursuant to a loss ratio  
6 guarantee if it determines that the filing is not in  
7 compliance with ss. 627.671-627.675 or the currently expected  
8 lifetime loss ratio is less than the filed lifetime loss ratio  
9 as certified by an actuary in the initial guaranteed loss  
10 ratio filing. If this section conflicts with ss.  
11 627.671-627.675, ss. 627.671-627.675 shall control.

12 Section 2. Section 627.411, Florida Statutes, is  
13 amended to read:

14 627.411 ~~Grounds for~~ Disapproval of forms.--

15 (1) The department shall disapprove any insurance  
16 policy form that must be filed under s. 627.410, or withdraw  
17 any previous approval thereof, only if the form:

18 (a) Is in any respect in violation of, or does not  
19 comply with, this code.

20 (b) Contains or incorporates by reference, where such  
21 incorporation is otherwise permissible, any inconsistent,  
22 ambiguous, or misleading clauses, or exceptions and conditions  
23 which deceptively affect the risk purported to be assumed in  
24 the general coverage of the contract.

25 (c) Has any title, heading, or other indication of its  
26 provisions which is misleading.

27 (d) Is printed or otherwise reproduced in such manner  
28 as to render any material provision of the form substantially  
29 illegible.

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1 (e)1. Is for health insurance, and provides benefits  
2 ~~that which~~ are unreasonable in relation to the premium charged  
3 as specified in s. 627.411(2); or,

4 2. Contains provisions that constitute unfair  
5 discrimination pursuant to s. 626.9541(1)(g)~~which are unfair~~  
6 ~~or inequitable as contrary to the public policy of this state~~  
7 ~~or which encourages misrepresentation or which apply rating~~  
8 ~~practices which result in premium escalations that are not~~  
9 ~~viable for the policyholder market or result in unfair~~  
10 ~~discrimination in sales practices.~~

11 (f) Excludes coverage for human immunodeficiency virus  
12 infection or acquired immune deficiency syndrome or contains  
13 limitations in the benefits payable, or in the terms or  
14 conditions of such contract, for human immunodeficiency virus  
15 infection or acquired immune deficiency syndrome which are  
16 different than those which apply to any other sickness or  
17 medical condition.

18 (2) ~~In determining whether the~~ Benefits are deemed  
19 reasonable in relation to the premium charged if premium rates  
20 are neither excessive nor inadequate as specified in this  
21 subsection.~~, the department, in accordance with reasonable~~  
22 ~~actuarial techniques, shall consider:~~

23 ~~(a) Past loss experience and prospective loss~~  
24 ~~experience within and without this state.~~

25 ~~(b) Allocation of expenses.~~

26 ~~(c) Risk and contingency margins, along with~~  
27 ~~justification of such margins.~~

28 ~~(d) Acquisition costs.~~

29 (a) Premium rates are not excessive if the insurer  
30 demonstrates, in accordance with generally accepted standards  
31 of actuarial practice, satisfaction of the following minimum

1 anticipated loss ratios, and the original loss ratio for the  
2 form established by the company, except that the original loss  
3 ratio may be reduced upon filing and approval that a reduction  
4 to the loss ratio is necessary to cover actual increased  
5 expenses of the company:

6 1. Loss ratio table, individual policies for the line  
7 of business indicated.

8 a. Medical expenses.

<u>Renewal clause</u>	<u>Loss ratio</u>
<u>Noncancelable</u>	<u>55 percent</u>
<u>Nonrenewable</u>	<u>60 percent</u>
<u>Guaranteed renewable</u>	<u>65 percent</u>
<u>All others</u>	<u>70 percent</u>

17 b. Medical indemnity, loss of income.

<u>Renewal clause</u>	<u>Loss ratio</u>
<u>Noncancelable</u>	<u>50 percent</u>
<u>Nonrenewable</u>	<u>55 percent</u>
<u>Guaranteed renewable</u>	<u>60 percent</u>
<u>All others</u>	<u>65 percent</u>

26 2. Loss ratio table, group policies.

27 a. Group medical expense.

<u>Group size</u>	<u>Loss ratio</u>
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1	<u>Fewer than 51 certificates</u>	<u>65 percent</u>
2	<u>51 through 500 certificates</u>	<u>70 percent</u>
3	<u>All others</u>	<u>75 percent</u>
4		
5	<u>b. Group medical indemnity or any group policy with an</u>	
6	<u>average annual premium per certificate of less than \$1,000.</u>	
7		
8	<u>Group size</u>	<u>Loss ratio</u>
9		
10	<u>Fewer than 51 certificates</u>	<u>57.5 percent</u>
11	<u>51 through 500 certificates</u>	<u>62.5 percent</u>
12	<u>All others</u>	<u>67.5 percent</u>
13		
14	<u>3. Group conversion insurance, other than</u>	
15	<u>long-term-care insurance and Medicare supplement insurance,</u>	
16	<u>issued on either a group or an individual basis, shall have a</u>	
17	<u>loss ratio of not less than 120 percent, subject to the limits</u>	
18	<u>described in s. 627.6675.</u>	
19	<u>4. The lifetime loss ratios in subparagraphs 1. and 2.</u>	
20	<u>may be adjusted in accordance with the following formula:</u>	
21		
22	<u><math>R' = (A - 25I) R/A</math></u>	
23		
24	<u>Where:</u>	
25	<u>R = the loss ratio from subparagraphs 1. and 2.</u>	
26	<u>A = the average annualized premium per individual</u>	
27	<u>policy or per group certificate.</u>	
28	<u>I = (CPI-U, year N-1)/103.9.</u>	
29	<u>R' = the adjusted loss ratio.</u>	
30		
31		

1 R' cannot be more than 10 percentage points less than R nor  
2 less than 50 percent, except that R' cannot be less than 45  
3 percent as to accident-only noncancellable policies. The CPI-U  
4 is the consumer price index for all urban consumers, for all  
5 items, and for all regions of the United States combined, as  
6 determined by the United States Department of Labor, Bureau of  
7 Labor Statistics, as of September of each year. Year N-1 is  
8 the calendar year immediately preceding the calendar year N in  
9 which the rate filing is submitted in this state.

10 5. Blanket insurance is exempt from the loss ratios  
11 described in subparagraphs 1.-3. The minimum loss ratio for  
12 blanket insurance is 65 percent.

13 6. Medicare supplement and long-term-care insurance  
14 are exempt from the loss ratios described in subparagraphs  
15 1.-3. The minimum loss ratios for Medicare supplement  
16 insurance must be established in accordance with s. 627.6745.  
17 Benefits under long-term-care insurance policies shall be  
18 deemed reasonable in relation to premiums provided that the  
19 expected loss ratio is at least 60 percent, calculated in a  
20 manner that provides for adequate reserving of the  
21 long-term-care insurance risk. In evaluating the expected loss  
22 ratio, due consideration shall be given to: statistical  
23 credibility of incurred claims experience and earned premiums;  
24 the period for which rates are computed to provide coverage;  
25 experienced and projected trends; the concentration of  
26 experience within early policy duration; expected claim  
27 fluctuations; experience refunds, adjustments, or dividends;  
28 renewability features; all appropriate expense factors;  
29 interest; the experimental nature of the coverage; policy  
30 reserves; the mix of business by risk classification; and  
31 product features such as long elimination periods, high

1 deductibles, and high maximum limits. Additionally, except to  
2 the extent of any conflict with this code, the department  
3 shall adopt rules to implement this subsection, and such rules  
4 shall include the factors specified in section 17A of the  
5 Long-Term Care Model Regulations, as approved by the National  
6 Association of Insurance Commissioners in July 1998.

7 7. The anticipated future loss ratio shall be  
8 calculated as the present value of anticipated future benefits  
9 divided by the present value of future premiums, calculated  
10 over the entire period for which the revised rates are  
11 computed to provide coverage.

12 8. The lifetime loss ratio shall be calculated as the  
13 sum of:

14 a. The accumulated benefits from the original  
15 effective date of the form to the effective date of the  
16 revision.

17 b. The present value of anticipated future benefits  
18 divided by the sum of the accumulated premiums from the  
19 original effective date of the form to the effective date of  
20 the revision.

21 c. The present value of anticipated future premiums,  
22 with future values calculated over the entire period for which  
23 the revised rates are computed to provide coverage.

24 9. Interest shall be used in the calculation of  
25 accumulated and present values of benefits and premiums.

26 10. The minimum loss ratio for individual contracts  
27 and group certificate forms issued, delivered, or issued for  
28 delivery in this state prior to June 1, 1994, which were  
29 approved by the department prior to February 1, 1994, shall be  
30 the loss ratio and loss ratio adjustment formula that was in  
31 effect at the time the form was approved.

1           11. Anticipated loss ratios lower than those required  
2 in subparagraph (a)1. or subparagraph (a)2. shall require  
3 justification based upon special circumstances that may be  
4 applicable, including, but not limited to:

5           a. Accident-only, short-term nonrenewable, specified  
6 peril, and other special risks.

7           b. Marketing methods; giving due consideration to  
8 acquisition and administration costs and premium mode;  
9 extraordinary expenses; high risks of claims fluctuation  
10 because of low loss frequency or the catastrophic or  
11 experimental nature of the coverage; product features, such as  
12 long elimination periods, high deductibles, and high maximum  
13 limits; and the industrial or debit method of distribution.

14           (b) Premium rates are not inadequate if the insurer  
15 demonstrates, in accordance with generally accepted standards  
16 of actuarial practice, that the sum of premium income and  
17 investment income, minus the sum of benefit payments,  
18 expenses, taxes, and contingency margins, is greater than  
19 zero.

20           Section 3. This act shall take effect July 1, 2000.

1                   STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
2                   COMMITTEE SUBSTITUTE FOR  
3                   Senate Bill 1060  
4                   Reinserts current law which states that Medicare supplement  
5                   policies are not subject to the loss ratio guaranty provisions  
6                   unless the department approves it by rule. (The bill applies  
7                   the loss ratio guaranty provisions to Medicare supplement  
8                   policies.)  
9                   Reinserts current law for the loss ratio guarantee provisions  
10                  which state that if an insurer has less than 500 policyholders  
11                  in the state, the insurer must use its nationwide loss ratio.  
12                  Deletes the provisions of the bill which provided, instead,  
13                  that if the insurer has less than 2,000 policyholder years  
14                  nationwide, the experience must be accumulated until the end  
15                  of the calendar year in which 2,000 policyholder years are  
16                  obtained.  
17                  Requires that if an insurer is making a rate increase that  
18                  reduces the original loss ratio established by the company,  
19                  the insurer must demonstrate that such reduction is necessary  
20                  to cover actual increased expenses of the company.  
21                  The bill authorizes the department to establish procedures for  
22                  establishing that a health insurance policy form meets the  
23                  requirements of s. 627.411(2). The committee substitute adds  
24                  that the form must also meet the requirements of s. 627.410  
25                  which includes other rating requirements related to pooling,  
26                  annual rate certifications, and loss ratio calculations.  
27                  Deletes the bill's exemption of long-term care policies from  
28                  the prohibition against using attained age premium structures.  
29                  Specifies that guaranteed renewable medical indemnity policies  
30                  are subject to a biannual, rather than annual, rate  
31                  certification (rather than applying this to guaranteed  
                  renewable, and medical indemnity policies.)  
                  Specifies that the department must adopt rules to implement  
                  subsection 627.411(2), F.S.