

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

.
.
.

Representative Ritter offered the following:

Amendment (with title amendment)

Between line(s) 4790 and 4791, insert:

Section 33. Section 627.091, Florida Statutes, is amended to read:

627.091 Rate filings; workers' compensation and employer's liability insurances.--

(1) As used in this section, the term:

(a) "Expenses" means that portion of a rate attributable to acquisition, field supervision, collection expenses, and general expenses.

(b) "Multiplier" means the profit and expenses, other than loss adjustment expenses associated with writing workers' compensation and employer's liability insurance, expressed as a single nonintegral number to be applied to the prospective loss

Amendment No. (for drafter's use only)

27 costs approved by the department in making rates for each
28 classification of risks utilized by that insurer.

29 (c) "Prospective loss costs" means that portion of a rate
30 reflecting historical aggregate losses and loss adjustment
31 expenses projected through development to their ultimate value
32 and through trending to a future point in time. The term does
33 not include provisions for profit or expenses, other than loss
34 adjustment expenses.

35 (2)(1) As to workers' compensation and employer's
36 liability insurances, every insurer shall file with the
37 department every manual of classifications, rules, and rates,
38 every rating plan, and every modification of any of the
39 foregoing which it proposes to use. Every insurer is authorized
40 to include deductible provisions in its manual of
41 classifications, rules, and rates. Such deductibles shall in all
42 cases be in a form and manner which is consistent with the
43 underlying purpose of chapter 440.

44 (3)(2) Every such filing shall state the proposed
45 effective date thereof, and shall indicate the character and
46 extent of the coverage contemplated. When a filing is not
47 accompanied by the information upon which the insurer supports
48 the filing and the department does not have sufficient
49 information to determine whether the filing meets the applicable
50 requirements of this part, it shall within 15 days after the
51 date of filing require the insurer to furnish the information
52 upon which it supports the filing. The information furnished in
53 support of a filing may include:

54 (a) The experience or judgment of the insurer or rating
55 organization making the filing;

237913

Amendment No. (for drafter's use only)

56 (b) Its interpretation of any statistical data it relies
57 upon;

58 (c) The experience of other insurers or rating
59 organizations; or

60 (d) Any other factors which the insurer or rating
61 organization deems relevant.

62 ~~(4)(3)~~ A filing and any supporting information shall be
63 open to public inspection as provided in s. 119.07(1).

64 ~~(5)(4)~~ An insurer may satisfy its obligation to make ~~such~~
65 filings of prospective loss costs by becoming a member of, or a
66 subscriber to, a licensed rating organization which makes such
67 filings and by authorizing the department to accept such filings
68 in its behalf; but nothing contained in this chapter shall be
69 construed as requiring any insurer to become a member or a
70 subscriber to any rating organization.

71 (6)(a) A licensed rating organization may develop and file
72 for approval with the department reference filings containing
73 prospective loss costs and the underlying loss data and other
74 supporting statistical and actuarial information. A rating
75 organization may not develop or file final rates or multipliers
76 for expenses and profit. After a loss cost reference filing has
77 been filed with the department and approved, the rating
78 organization shall provide its member insurers with a copy of
79 the approved reference filing.

80 (b) Each insurer shall independently and individually file
81 with the department the final rates it will use and the
82 effective date of any rate changes. An insurer may independently
83 file its rates, including prospective loss costs, as authorized
84 by this section. An insurer that is a member or subscriber to a

Amendment No. (for drafter's use only)

85 rating organization may use the prospective loss costs in an
86 approved reference filing by the rating organization or the
87 insurer may file for a deviation from the loss cost reference
88 filing under s. 627.211.

89 (c) If an insurer uses the prospective loss costs in the
90 approved reference filing, the insurer must independently and
91 individually file with the department its multiplier for
92 expenses and profit. The insurer's rates shall be the
93 combination of the prospective loss costs and the multiplier for
94 expenses and profit. Insurers shall file data in accordance with
95 the uniform statistical plan approved by the department.
96 Insurers may use variable or fixed expense loads or a
97 combination of these and may vary the expense load by class, if
98 the insurer files supporting data justifying such variations. An
99 insurer that uses the prospective loss costs in an approved
100 reference filing may use its multiplier and final rates
101 immediately upon filing with the department, subject to
102 disapproval by the department.

103 (d) Insurers may file with the department premium
104 discounts, credits, and surcharges, that bear a reasonable
105 relationship to the expected loss and expense experience of an
106 individual policyholder, subject to a maximum surcharge of 40
107 percent above the approved rate and a maximum discount or credit
108 of 50 percent below the approved rate. An insurer that uses the
109 prospective loss costs in an approved reference filing may use
110 premium discounts, credits, and surcharges immediately upon
111 filing with the department, subject to disapproval by the
112 department.

Amendment No. (for drafter's use only)

113 (e) An insurer may request to have its multiplier for
114 expenses and profit remain on file and reference all subsequent
115 prospective loss costs reference filings. Upon the effective
116 date of approval of subsequent reference loss cost filings, the
117 insurer's rates shall be the combination of the prospective loss
118 costs and the multiplier contained in its filing with the
119 department. The insurer's filed multiplier shall remain in
120 effect until the insurer withdraws it and files a revised
121 multiplier. If the insurer elects to use the prospective loss
122 costs as filed but with a different effective date, then the
123 insurer must file notice with the department of the effective
124 date.

125 (f)1. A rate may be disapproved at any time subsequent to
126 the effective date. A rate subject to prefiling may also be
127 disapproved before the effective date.

128 2. The director may disapprove a rate if the director
129 finds that the rate is inadequate or unfairly discriminatory.
130 The director shall disapprove a rate if he or she finds that the
131 rate is excessive, inadequate, or unfairly discriminatory.

132 3. If the director finds that a reasonable degree of
133 competition does not exist, the director may require that the
134 insurers in that market file information in support of existing
135 rates. If the director believes that such rates may violate any
136 of the requirements of these sections a hearing shall be called
137 prior to any disapproval.

138 4. If the director believes that rates violate the
139 inadequacy or unfair discrimination standard in or any other
140 applicable requirement of this act, the director may require
141 that the insurers in that market file information in support of

Amendment No. (for drafter's use only)

142 existing rates. If, after reviewing the supporting rate
143 information, the director continues to believe that the rates
144 may violate these requirements, a hearing shall be called prior
145 to any disapproval.

146 5. The director may disapprove, without hearing, rates
147 prefiled that have not become effective; however, the insurer
148 whose rates have been disapproved shall be given a hearing upon
149 a written request made within 30 days after the disapproval
150 order.

151 6. If the director disapproves a rate, the director shall
152 issue an order specifying in what respects it fails to meet the
153 requirements of these sections and stating when, within a
154 reasonable period thereafter, such rate shall be discontinued
155 for any policy issued or renewed after a date specified in the
156 order. Such order may include a provision for premium adjustment
157 for the period after the effective date of the order for
158 policies in effect on such date.

159 7. Whenever an insurer has no legally effective rates as a
160 result of the director's disapproval of rates or other act, the
161 director shall on request of the insurer specify interim rates
162 for the insurer that are high enough to protect the interests of
163 all parties and may order that a specified portion of the
164 premiums be placed in an escrow account approved by him or her.
165 When new rates become legally effective, the director shall
166 order the escrowed funds or any overcharge in the interim rates
167 to be distributed appropriately, except that refunds of less
168 than \$10 per policyholder shall not be required.

169 (7) A rating organization may file supplementary rating
170 information that includes policy-writing rules, rating plans

Amendment No. (for drafter's use only)

171 classification codes and descriptions, and rules that include
172 factors or relativities such as increased limits factors,
173 classification relativities, or similar factors, but excludes
174 minimum premiums. An insurer may elect to use such supplementary
175 rating information approved by the department.

176 (8) A rating organization may file:

177 (a) Final rates and rating plans for the residual market.

178 (b) The uniform classification plan and rules.

179 (c) The uniform experience rating plan and rules.

180 (d) Advisory manual workers' compensation rates to be used
181 for the sole purpose of computing the assessment liability of
182 self-insurers.

183 (9)(5) Pursuant to the provisions of s. 624.3161, the
184 department may examine the underlying statistical data used in
185 such filings.

186 (10)(6) Whenever the committee of a recognized rating
187 organization with responsibility for workers' compensation and
188 employer's liability insurance rates in this state meets to
189 discuss the necessity for, or a request for, Florida rate
190 increases or decreases, the determination of Florida rates, the
191 rates to be requested, and any other matters pertaining
192 specifically and directly to such Florida rates, such meetings
193 shall be held in this state and shall be subject to s. 286.011.
194 The committee of such a rating organization shall provide at
195 least 3 weeks' prior notice of such meetings to the department
196 and shall provide at least 14 days' prior notice of such
197 meetings to the public by publication in the Florida
198 Administrative Weekly.

Amendment No. (for drafter's use only)

199 Section 34. Subsection (1) of section 627.096, Florida
200 Statutes, is amended to read:

201 627.096 Workers' Compensation Rating Bureau.--

202 (1) There is created within the department a Workers'
203 Compensation Rating Bureau, which shall make an investigation
204 and study of all insurers authorized to issue workers'
205 compensation and employer's liability coverage in this state.
206 Such bureau shall study the data, statistics, schedules, or
207 other information as it may deem necessary to assist and advise
208 the department in its review of filings made by or on behalf of
209 workers' compensation and employer's liability insurers. The
210 department shall have the authority to promulgate rules
211 requiring all workers' compensation and employer's liability
212 insurers to submit to the rating bureau any data, statistics,
213 schedules, and other information deemed necessary to the rating
214 bureau's study and advisement. All data, statistics, schedules,
215 and other information submitted to, or considered by, the
216 Workers' Compensation Rating Bureau shall be considered public
217 record for purposes of s. 119.07(1) and s. 24(a), Art. 1 of the
218 State Constitution.

219 Section 35. Section 627.101, Florida Statutes, is amended
220 to read:

221 627.101 When filing becomes effective; workers'
222 compensation and employer's liability insurances.--

223 (1) The department shall review prospective loss cost
224 filings and final rate filings as to workers' compensation and
225 employer's liability insurances as soon as reasonably possible
226 after they have been made in order to determine whether they
227 meet the applicable requirements of this part. If the department

237913

Amendment No. (for drafter's use only)

228 determines that part of a rate filing does not meet the
229 applicable requirements of this part, it may reject so much of
230 the filing as does not meet these requirements, and approve the
231 remainder of the filing.

232 (2) The department shall specifically approve a
233 prospective loss cost ~~the~~ filing before it becomes effective,
234 unless the department has concluded it to be in the public
235 interest to hold a public hearing to determine whether the
236 filing meets the requirements of this chapter and has given
237 notice of such hearing to the insurer or rating organization
238 that made the filing, and in which case the effectiveness of the
239 filing shall be subject to the further order of the department
240 made as provided in s. 627.111. An insurer that uses the
241 prospective loss costs in an approved reference filing may use
242 its multiplier and final rates immediately upon filing with the
243 department, as provided in s. 627.091, subject to disapproval by
244 the department. If the department specifically disapproves
245 either a prospective loss cost filing or a final rate ~~the~~
246 filing, the provisions of subsection (4) shall apply.

247 (3) An insurer or rating organization may, at the time it
248 makes a prospective loss cost filing with the department,
249 request a public hearing thereon. In such event, the department
250 shall give notice of the hearing.

251 (4) If the department disapproves a prospective loss cost
252 or final rate filing, it shall promptly give notice of such
253 disapproval to the insurer or rating organization that made the
254 filing, stating the respects in which it finds that the filing
255 does not meet the requirements of this chapter. If the
256 department approves a filing, it shall give prompt notice

237913

Amendment No. (for drafter's use only)

257 thereof to the insurer or rating organization that made the
258 filing, and in which case the filing shall become effective upon
259 such approval or upon such subsequent date as may be
260 satisfactory to the department and the insurer or rating
261 organization that made the filing.

262 Section 36. Paragraph (b) of subsection (1) of section
263 627.211, Florida Statutes, is amended to read:

264 627.211 Deviations; workers' compensation and employer's
265 liability insurances.--

266 (1) Every member or subscriber to a rating organization
267 shall, as to workers' compensation or employer's liability
268 insurance, adhere to the filings made on its behalf by such
269 organization; except that any such insurer may make written
270 application to the department for permission to file a uniform
271 percentage decrease or increase to be applied to the premiums
272 produced by the rating system so filed for a kind of insurance,
273 for a class of insurance which is found by the department to be
274 a proper rating unit for the application of such uniform
275 percentage decrease or increase, or for a subdivision of
276 workers' compensation or employer's liability insurance:

277 (b) For which separate loss adjustment expense provisions
278 are included in the filings of the rating organization.

279
280 Such application shall specify the basis for the modification
281 and shall be accompanied by the data upon which the applicant
282 relies. A copy of the application and data shall be sent
283 simultaneously to the rating organization.

284
285 ===== T I T L E A M E N D M E N T =====

Amendment No. (for drafter's use only)

286 Between line(s) 92 and 93, insert:
287 amending s. 627.091, F.S.; revising provisions for rate
288 filings and factors for consideration in such filings;
289 providing procedures for disapproval of rates; amending s.
290 627.096, F.S.; providing for information obtained by the
291 Workers' Compensation Rating Bureau; amending s. 627.101,
292 F.S.; revising rate filing, review, and approval
293 procedures; amending s. 627.211, F.S.; revising provisions
294 for filings by rating organizations;