

HB 1241

2004

A bill to be entitled

An act relating to workers' compensation; creating s. 624.4315, F.S.; requiring workers' compensation insurers to notify the Office of Insurance Regulation of significant underwriting changes; amending s. 627.171, F.S.; providing that the 10-percent limit on the percentage of commercial insurance policies that an insurer may write at a rate in excess of the applicable filed rate excludes workers' compensation policies written for an employer in lieu of coverage from the joint underwriting plan established under s. 627.311(5), F.S.; amending s. 627.211, F.S.; revising the standards used by the Office of Insurance Regulation in approving or disapproving an insurer's deviation from the approved workers' compensation rate filing; requiring the Office of Insurance Regulation to submit an annual report to the Legislature which evaluates competition in the workers' compensation insurance market; providing an effective date.

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

Section 1. Section 624.4315, Florida Statutes, is created to read:

624.4315 Workers' compensation insurers; notice of significant underwriting change.--Each workers' compensation insurer shall notify the office in writing or by electronic means of a significant underwriting change that materially limits or restricts the number of workers' compensation policies

HB 1241

2004

30 or premiums written in this state. The commission may adopt
 31 rules to administer this requirement.

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

34 627.171 Excess rates.--

35 (1) With written consent of the insured signed prior to
 36 the policy inception date and filed with the insurer, the
 37 insurer may use a rate in excess of the otherwise applicable
 38 filed rate on any specific risk. The signed consent form must
 39 include the filed rate as well as the excess rate for the risk
 40 insured, and a copy of the form must be maintained by the
 41 insurer for 3 years and be available for review by the office.

42 (2) An insurer may not use excess rates pursuant to this
 43 section for more than 10 percent of its commercial insurance
 44 policies written or renewed in each calendar year for any line
 45 of commercial insurance or for more than 5 percent of its
 46 personal lines insurance policies written or renewed in each
 47 calendar year for any line of personal insurance. In determining
 48 the 10-percent limitation for commercial insurance policies, the
 49 insurer shall exclude any workers' compensation policy that was
 50 written for an employer who had coverage in the joint
 51 underwriting plan created by s. 627.311(5) immediately prior to
 52 the writing of the policy by the insurer and any workers'
 53 compensation policy that was written for an employer who had
 54 been offered coverage in the joint underwriting plan but who had
 55 a policy that was written by the insurer in lieu of accepting
 56 the joint underwriting plan policy. These workers' compensation
 57 policies shall be excluded from the 10-percent limitation for
 58 the first 3 years of coverage.

HB 1241

2004

59 Section 3. Subsection (3) of section 627.211, Florida
60 Statutes, is amended, and subsection (6) is added to that
61 section, to read:

62 627.211 Deviations; workers' compensation and employer's
63 liability insurances.--

64 (3) In considering an application for the deviation, the
65 office shall give consideration to the applicable principles for
66 ratemaking as set forth in ss. 627.062 and 627.072 and, the
67 financial condition of the insurer, ~~and the impact of the~~
68 ~~deviation on the current market conditions including the~~
69 ~~composition of the market, the stability of rates, and the level~~
70 ~~of competition in the market.~~ In evaluating the financial
71 condition of the insurer, the office may consider: (1) the
72 insurer's audited financial statements and whether the
73 statements provide unqualified opinions or contain significant
74 qualifications or "subject to" provisions; (2) any independent
75 or other actuarial certification of loss reserves; (3) whether
76 workers' compensation and employer's liability reserves are
77 above the midpoint or best estimate of the actuary's reserve
78 range estimate; (4) the adequacy of the proposed rate; (5)
79 historical experience demonstrating the profitability of the
80 insurer; (6) the existence of excess or other reinsurance that
81 contains a sufficiently low attachment point and maximums that
82 provide adequate protection to the insurer; and (7) other
83 factors considered relevant to the financial condition of the
84 insurer by the office. The office shall approve the deviation if
85 it finds it to be justified, it would not endanger the financial
86 condition of the insurer, ~~it would not adversely affect the~~
87 ~~current market conditions including the composition of the~~

HB 1241

2004

88 ~~market, the stability of rates, and the level of competition in~~
 89 ~~the market,~~ and it ~~that the deviation~~ would not constitute
 90 predatory pricing. The office ~~It~~ shall disapprove the deviation
 91 if it finds that the resulting premiums would be excessive,
 92 inadequate, or unfairly discriminatory, would endanger the
 93 financial condition of the insurer, ~~or would adversely affect~~
 94 ~~current market conditions including the composition of the~~
 95 ~~marketplace, the stability of rates, and the level of~~
 96 ~~competition in the market,~~ or would result in predatory pricing.
 97 The insurer may not use a deviation unless the deviation is
 98 specifically approved by the office.

99 (6) The office shall submit an annual report to the
 100 President of the Senate and the Speaker of the House of
 101 Representatives by January 1 of each year which evaluates
 102 competition in the workers' compensation insurance market in
 103 this state. The report must contain an analysis of the
 104 availability and affordability of workers' compensation coverage
 105 and whether the current market structure, conduct, and
 106 performance are conducive to competition, based upon economic
 107 analysis and tests. The purpose of this report is to aid the
 108 Legislature in determining whether changes to the workers'
 109 compensation rating laws are warranted. The report must also
 110 document that the office has complied with the provisions of s.
 111 627.096 which require the office to investigate and study all
 112 workers' compensation insurers in the state and to study the
 113 data, statistics, schedules, or other information as it finds
 114 necessary to assist in its review of workers' compensation rate
 115 filings.

116 Section 4. This act shall take effect July 1, 2004.