

1 A bill to be entitled
2 An act relating to workers' compensation;
3 creating s. 624.4315, F.S.; requiring workers'
4 compensation insurers to notify the Office of
5 Insurance Regulation of significant
6 underwriting changes; amending s. 627.171,
7 F.S.; providing that the 10-percent limit on
8 the percentage of commercial insurance policies
9 that an insurer may write at a rate in excess
10 of the applicable filed rate excludes workers'
11 compensation policies written for an employer
12 in lieu of coverage from the joint underwriting
13 plan established under s. 627.311(5), F.S.;
14 amending s. 627.211, F.S.; revising the
15 standards used by the Office of Insurance
16 Regulation in approving or disapproving an
17 insurer's deviation from the approved workers'
18 compensation rate filing; requiring the Office
19 of Insurance Regulation to submit an annual
20 report to the Legislature which evaluates
21 competition in the workers' compensation
22 insurance market; providing an effective date.

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

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

28 624.4315 Workers' compensation insurers; notice of
29 significant underwriting change.--Each workers' compensation
30 insurer shall notify the office in writing or by electronic
31 means of a significant underwriting change that materially

1 limits or restricts the number of workers' compensation
2 policies or premiums written in this state. The commission may
3 adopt rules to administer this requirement.

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

6 627.171 Excess rates.--

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

14 (2) An insurer may not use excess rates pursuant to
15 this section for more than 10 percent of its commercial
16 insurance policies written or renewed in each calendar year
17 for any line of commercial insurance or for more than 5
18 percent of its personal lines insurance policies written or
19 renewed in each calendar year for any line of personal
20 insurance. In determining the 10-percent limitation for
21 commercial insurance policies, the insurer shall exclude any
22 workers' compensation policy that was written for an employer
23 who had coverage in the joint underwriting plan created by s.
24 627.311(5) immediately prior to the writing of the policy by
25 the insurer and any workers' compensation policy that was
26 written for an employer who had been offered coverage in the
27 joint underwriting plan but who was written a policy by the
28 insurer in lieu of accepting the joint underwriting plan
29 policy. These workers' compensation policies shall be excluded
30 from the 10-percent limitation for the first 3 years of
31 coverage.

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

4 627.211 Deviations; workers' compensation and
5 employer's liability insurances.--

6 (3) In considering an application for the deviation,
7 the office shall give consideration to the applicable
8 principles for ratemaking as set forth in ss. 627.062 and
9 627.072 and, the financial condition of the insurer, ~~and the~~
10 ~~impact of the deviation on the current market conditions~~
11 ~~including the composition of the market, the stability of~~
12 ~~rates, and the level of competition in the market.~~ In
13 evaluating the financial condition of the insurer, the office
14 may consider: (1) the insurer's audited financial statements
15 and whether the statements provide unqualified opinions or
16 contain significant qualifications or "subject to" provisions;
17 (2) any independent or other actuarial certification of loss
18 reserves; (3) whether workers' compensation and employer's
19 liability reserves are above the midpoint or best estimate of
20 the actuary's reserve range estimate; (4) the adequacy of the
21 proposed rate; (5) historical experience demonstrating the
22 profitability of the insurer; (6) the existence of excess or
23 other reinsurance that contains a sufficiently low attachment
24 point and maximums that provide adequate protection to the
25 insurer; and (7) other factors considered relevant to the
26 financial condition of the insurer by the office. The office
27 shall approve the deviation if it finds it to be justified, it
28 would not endanger the financial condition of the insurer, ~~it~~
29 ~~would not adversely affect the current market conditions~~
30 ~~including the composition of the market, the stability of~~
31 ~~rates, and the level of competition in the market, and it that~~

1 ~~the deviation~~ would not constitute predatory pricing. The
2 office ~~it~~ shall disapprove the deviation if it finds that the
3 resulting premiums would be excessive, inadequate, or unfairly
4 discriminatory, would endanger the financial condition of the
5 insurer, ~~or would adversely affect current market conditions~~
6 ~~including the composition of the marketplace, the stability of~~
7 ~~rates, and the level of competition in the market,~~ or would
8 result in predatory pricing. The insurer may not use a
9 deviation unless the deviation is specifically approved by the
10 office. An insurer may apply the premiums approved pursuant to
11 s. 627.091 or its uniform deviation approved pursuant to this
12 section to a particular insured according to underwriting
13 guidelines filed with and approved by the office, such
14 approval to be based on ss. 627.062 and 627.072.

15 (6) The office shall submit an annual report to the
16 President of the Senate and the Speaker of the House of
17 Representatives by January 1 of each year which evaluates
18 competition in the workers' compensation insurance market in
19 this state. The report must contain an analysis of the
20 availability and affordability of workers' compensation
21 coverage and whether the current market structure, conduct,
22 and performance are conducive to competition, based upon
23 economic analysis and tests. The purpose of this report is to
24 aid the Legislature in determining whether changes to the
25 workers' compensation rating laws are warranted. The report
26 must also document that the office has complied with the
27 provisions of s. 627.096 which require the office to
28 investigate and study all workers' compensation insurers in
29 the state and to study the data, statistics, schedules, or
30 other information as it finds necessary to assist in its
31 review of workers' compensation rate filings.

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