

Bill No. CS for CS for SB 1980

Barcode 062456

CHAMBER ACTION

Senate

House

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Senators Klein, Smith, Geller, and Campbell moved the following **amendment to amendment** (021596):

Senate Amendment (with title amendment)

On page 28, line 29, through page 30, line 22, delete those lines

and insert:

Section 7. Effective July 1, 2006, paragraphs (a), (b), and (h) of subsection (2) of section 627.062, Florida Statutes, are amended, and subsection (9) is added to that section, to read:

627.062 Rate standards.--

(2) As to all such classes of insurance:

(a) Insurers or rating organizations shall establish and use rates, rating schedules, or rating manuals to allow the insurer a reasonable rate of return on such classes of insurance written in this state. A copy of rates, rating schedules, rating manuals, premium credits or discount schedules, and surcharge schedules, and changes thereto, shall be filed with the office ~~under one of the following~~

1 ~~procedures:~~

2 1. ~~If the filing is made~~ at least 90 days before the
3 proposed effective date. ~~and~~ The filing ~~may~~ is not be
4 implemented during the office's review of the filing and any
5 proceeding and judicial review. ~~, then~~ Such filing is ~~shall be~~
6 considered a "file and use" filing. ~~In such case,~~ The office
7 shall finalize its review by issuance of a notice of intent to
8 approve or a notice of intent to disapprove within 90 days
9 after receipt of the filing. The notice of intent to approve
10 and the notice of intent to disapprove constitute agency
11 action for purposes of the Administrative Procedure Act.
12 Requests for supporting information, requests for mathematical
13 or mechanical corrections, or notification to the insurer by
14 the office of its preliminary findings shall not toll the
15 90-day period during any such proceedings and subsequent
16 judicial review. The rate shall be deemed approved if the
17 office does not issue a notice of intent to approve or a
18 notice of intent to disapprove within 90 days after receipt of
19 the filing.

20 2. ~~If the filing is not made in accordance with the~~
21 ~~provisions of subparagraph 1., such filing shall be made as~~
22 ~~soon as practicable, but no later than 30 days after the~~
23 ~~effective date, and shall be considered a "use and file"~~
24 ~~filing. An insurer making a "use and file" filing is~~
25 ~~potentially subject to an order by the office to return to~~
26 ~~policyholders portions of rates found to be excessive, as~~
27 ~~provided in paragraph (h).~~

28 (b) Upon receiving a rate filing, the office shall
29 review the rate filing to determine if a rate is excessive,
30 inadequate, or unfairly discriminatory. In making that
31 determination, the office shall, in accordance with generally

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1 accepted and reasonable actuarial techniques, consider the
2 following factors:

3 1. Past and prospective loss experience within and
4 without this state.

5 2. Past and prospective expenses.

6 3. The degree of competition among insurers for the
7 risk insured.

8 4. Investment income reasonably expected by the
9 insurer, consistent with the insurer's investment practices,
10 from investable premiums anticipated in the filing, plus any
11 other expected income from currently invested assets
12 representing the amount expected on unearned premium reserves
13 and loss reserves. The commission may adopt rules utilizing
14 reasonable techniques of actuarial science and economics to
15 specify the manner in which insurers shall calculate
16 investment income attributable to such classes of insurance
17 written in this state and the manner in which such investment
18 income shall be used in the calculation of insurance rates.
19 Such manner shall contemplate allowances for an underwriting
20 profit factor and full consideration of investment income
21 which produce a reasonable rate of return; however, investment
22 income from invested surplus shall not be considered.

23 5. The reasonableness of the judgment reflected in the
24 filing.

25 6. Dividends, savings, or unabsorbed premium deposits
26 allowed or returned to Florida policyholders, members, or
27 subscribers.

28 7. The adequacy of loss reserves.

29 8. The cost of reinsurance.

30 9. Trend factors, including trends in actual losses
31 per insured unit for the insurer making the filing.

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1 10. Conflagration and catastrophe hazards, if
2 applicable.

3 11. A reasonable margin for underwriting profit and
4 contingencies. For that portion of the rate covering the risk
5 of hurricanes and other catastrophic losses for which the
6 insurer has not purchased reinsurance and has exposed its
7 capital and surplus to such risk, the office must approve a
8 rating factor that provides the insurer a reasonable rate of
9 return that is commensurate with such risk.

10 12. The cost of medical services, if applicable.

11 13. Other relevant factors which impact upon the
12 frequency or severity of claims or upon expenses.

13 (h) If ~~in the event~~ the office finds that a rate or
14 rate change is excessive, inadequate, or unfairly
15 discriminatory, the office shall issue an order of disapproval
16 specifying that a new rate or rate schedule which responds to
17 the findings of the office be filed by the insurer. ~~The office~~
18 ~~shall further order, for any "use and file" filing made in~~
19 ~~accordance with subparagraph (a)2., that premiums charged each~~
20 ~~policyholder constituting the portion of the rate above that~~
21 ~~which was actuarially justified be returned to such~~
22 ~~policyholder in the form of a credit or refund.~~ If the office
23 finds that an insurer's rate or rate change is inadequate, the
24 new rate or rate schedule filed with the office in response to
25 such a finding shall be applicable only to new or renewal
26 business of the insurer written on or after the effective date
27 of the responsive filing.

28
29 The provisions of this subsection shall not apply to workers'
30 compensation and employer's liability insurance and to motor
31 vehicle insurance.

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1 ===== T I T L E A M E N D M E N T =====

2 And the title is amended as follows:

3 On page 131, lines 3-7, delete those lines

4

5 and insert:

6 revising procedures governing certain rate
7 filings; removing provisions authorizing a "use
8 and file" filing and providing for a credit or
9 refund for certain premiums charged for such a
10 filing; revising factors to be used in
11 reviewing rate filings; providing that, in
12 considering a rate filing, the burden is on the
13 Office of Insurance Regulation to establish
14 that costs of reinsurance are excessive;

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