

By Senator Geller

31-02965-08

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1 A bill to be entitled

2 An act relating to insurance rate standards; amending s.
3 627.062, F.S.; revising the range of dates during which
4 all filings made by an insurer seeking a rate that is
5 greater than the rate most recently approved by the Office
6 of Insurance Regulation must be a "file and use" filing;
7 revising the date of application of a provision under
8 which an insurer may demand arbitration of a rate filing
9 in lieu of a hearing under the Florida Administrative
10 Procedure Act after any action that constitutes agency
11 action taken by the office with respect to a rate filing;
12 providing an effective date.

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

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16 Section 1. Paragraph (a) of subsection (2) and paragraph
17 (a) of subsection (6) of section 627.062, Florida Statutes, are
18 amended to read:

19 627.062 Rate standards.--

20 (2) As to all such classes of insurance:

21 (a) Insurers or rating organizations shall establish and
22 use rates, rating schedules, or rating manuals to allow the
23 insurer a reasonable rate of return on such classes of insurance
24 written in this state. A copy of rates, rating schedules, rating
25 manuals, premium credits or discount schedules, and surcharge
26 schedules, and changes thereto, shall be filed with the office
27 under one of the following procedures except as provided in
28 subparagraph 3.:

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29 1. If the filing is made at least 90 days before the
30 proposed effective date and the filing is not implemented during
31 the office's review of the filing and any proceeding and judicial
32 review, then such filing shall be considered a "file and use"
33 filing. In such case, the office shall finalize its review by
34 issuance of a notice of intent to approve or a notice of intent
35 to disapprove within 90 days after receipt of the filing. The
36 notice of intent to approve and the notice of intent to
37 disapprove constitute agency action for purposes of the
38 Administrative Procedure Act. Requests for supporting
39 information, requests for mathematical or mechanical corrections,
40 or notification to the insurer by the office of its preliminary
41 findings shall not toll the 90-day period during any such
42 proceedings and subsequent judicial review. The rate shall be
43 deemed approved if the office does not issue a notice of intent
44 to approve or a notice of intent to disapprove within 90 days
45 after receipt of the filing.

46 2. If the filing is not made in accordance with the
47 provisions of subparagraph 1., such filing shall be made as soon
48 as practicable, but no later than 30 days after the effective
49 date, and shall be considered a "use and file" filing. An insurer
50 making a "use and file" filing is potentially subject to an order
51 by the office to return to policyholders portions of rates found
52 to be excessive, as provided in paragraph (h).

53 3. For all filings made or submitted after January 25,
54 2007, but before December 31, 2011 ~~2008~~, an insurer seeking a
55 rate that is greater than the rate most recently approved by the
56 office shall make a "file and use" filing. This subparagraph
57 applies to property insurance only. For purposes of this

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58 | subparagraph, motor vehicle collision and comprehensive coverages
59 | are not considered to be property coverages.

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61 | The provisions of this subsection shall not apply to workers'
62 | compensation and employer's liability insurance and to motor
63 | vehicle insurance.

64 | (6) (a) After any action with respect to a rate filing that
65 | constitutes agency action for purposes of the Administrative
66 | Procedure Act, except for a rate filing for medical malpractice,
67 | an insurer may, in lieu of demanding a hearing under s. 120.57,
68 | require arbitration of the rate filing. However, the arbitration
69 | option provision in this subsection does not apply to a rate
70 | filing that is made on or after the effective date of this act
71 | until January 1, 2011 ~~2009~~. Arbitration shall be conducted by a
72 | board of arbitrators consisting of an arbitrator selected by the
73 | office, an arbitrator selected by the insurer, and an arbitrator
74 | selected jointly by the other two arbitrators. Each arbitrator
75 | must be certified by the American Arbitration Association. A
76 | decision is valid only upon the affirmative vote of at least two
77 | of the arbitrators. No arbitrator may be an employee of any
78 | insurance regulator or regulatory body or of any insurer,
79 | regardless of whether or not the employing insurer does business
80 | in this state. The office and the insurer must treat the decision
81 | of the arbitrators as the final approval of a rate filing. Costs
82 | of arbitration shall be paid by the insurer.

83 | Section 2. This act shall take effect July 1, 2008.