A bill to be entitled

An act relating to health insurance; amending s. 627.410, F.S.; establishing a minimum loss ratio for health insurance forms; amending s. 627.411, F.S.; revising the loss ratio for certain health insurance coverage; amending s. 627.6745, F.S.; revising the loss ratio for Medicare supplement policies issued on or after a certain date; amending s. 627.9407, F.S.; establishing a minimum loss ratio for long-term care insurance policies; providing an effective date.

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

Section 1. Paragraph (b) of subsection (6) and subsections (7) and (8) of section 627.410, Florida Statutes, are amended to read:

627.410 Filing, approval of forms.—

(6)

(b) The commission may ~~establish~~ by rule:~~, for each type of health insurance form,~~

1. Establish procedures for ~~to be used in~~ ascertaining the relationship between ~~reasonableness of~~ benefits ~~in relation~~ to premium rates for each type of health insurance form, including Medicare supplement policies as defined in s. 627.672, long-term care policies as defined in s. 627.9404, and other policy forms where more than 50 percent of the policies are issued to individuals age 65 and older. ~~and may, by rule,~~

2. Exempt from ~~any requirement of~~ paragraph (a) any health

insurance policy form or type ~~thereof (as specified in such rule)~~ to which form or type ~~such~~ requirements may not be practically applied or to which form or type the application of such requirements is not desirable or necessary for the protection of the public. For ~~With respect to~~ any health insurance policy form or type that ~~thereof which~~ is exempted ~~by rule from any requirement of paragraph (a)~~, premium rates filed pursuant to ss. 627.640 and 627.662 shall be for informational purposes.

(7)~~(a)~~ Each insurer subject to ~~the requirements of~~ subsection (6) shall make an annual filing with the office within ~~no later than~~ 12 months after its previous filing supporting the~~, demonstrating the reasonableness of benefits in relation to~~ premium rates charged in relation to benefits for each insurance form. Upon ~~The office, after~~ receiving a request to be exempted from the provisions of this section, the office may, for good cause due to insignificant numbers of policies in force or insignificant premium volume, exempt a company, by line of coverage, from filing rates or rate certification as required by this section.

(a)~~(b)~~ The filing is ~~required by this subsection shall be~~ satisfied by one of the following methods:

1. A rate filing prepared by an actuary which contains documentation supporting premium rates charged in relation to benefits ~~demonstrating the reasonableness of benefits in relation to premiums charged~~ in accordance with ~~the~~ applicable rating laws and rules adopted ~~promulgated~~ by the commission.

2. If no rate change is proposed, a filing that ~~which~~

consists of a certification by an actuary supporting premium rates charged in relation to benefits ~~that benefits are reasonable in relation to premiums currently charged~~ in accordance with applicable laws and rules adopted ~~promulgated~~ by the commission.

(b) ~~(c)~~ As used in this section, "actuary" means ~~an individual who is~~ a member of the Society of Actuaries or the American Academy of Actuaries. If an insurer does not employ or otherwise retain the services of an actuary, the insurer's certification must ~~shall~~ be prepared by insurer personnel or consultants who have ~~with~~ a minimum of 5 years' experience in insurance ratemaking. The chief executive officer of the insurer must ~~shall~~ review and sign the certification indicating his or her agreement with its conclusions.

(c) ~~(d)~~ If at the time a filing is due ~~required under this section~~ an insurer is in the process of completing a rate review, the insurer may apply to the office for an extension of up to ~~an additional~~ 30 days in which to make the filing. The request for an extension must be received by the office by ~~no later than~~ the date the filing is due.

(d) ~~(e)~~ If an insurer ~~fails to meet the filing requirements of this subsection and~~ does not submit the filing within 60 days following the date the filing is due, the office may, in addition to any other penalty authorized by law, order the insurer to discontinue issuing the ~~issuance of~~ policies subject to the filing ~~for which the required filing was not made,~~ until ~~such time as the office determines that~~ the required filing is properly submitted.

(8)~~(a)~~ For the purposes of subsections (6) and (7), benefits ~~of an individual accident and health insurance policy form, including Medicare supplement policies as defined in s. 627.672, when authorized by rules adopted by the commission, and excluding long-term care insurance policies as defined in s. 627.9404, and other policy forms under which more than 50 percent of the policies are issued to individuals age 65 and over,~~ are deemed to be reasonable in relation to premium rates if the rates are filed pursuant to a loss ratio guarantee of at least 85 percent and both the initial rates and the durational and lifetime loss ratios have been approved by the office.~~, and~~ Such benefits shall also ~~continue to~~ be deemed reasonable for renewal rates if ~~while~~ the insurer complies with the loss ratio ~~such~~ guarantee and~~, provided~~ the currently expected lifetime loss ratio is not more than 5 percent less than the filed lifetime loss ratio as certified ~~to~~ by an actuary.

(a) The office may ~~shall have the right to~~ bring an administrative action if it determines ~~should it deem~~ that the lifetime loss ratio will not be met. For Medicare supplement filings, the office may withdraw a previously approved filing ~~which was~~ made pursuant to a loss ratio guarantee if it determines that the filing is not in compliance with ss. 627.671-627.675 or the currently expected lifetime loss ratio is less than the filed lifetime loss ratio as certified by an actuary in the initial guaranteed loss ratio filing. If this section conflicts with ss. 627.671-627.675, ss. 627.671-627.675 shall control.

(b) The renewal premium rates shall be deemed to be

approved upon filing with the office if the filing is accompanied by a ~~the most~~ current approved loss ratio guarantee of at least 85 percent. The loss ratio guarantee must ~~shall~~ be in writing, ~~shall~~ be signed by an officer of the insurer, and ~~shall~~ contain at least:

1. A recitation of the anticipated lifetime and durational target loss ratios contained in the actuarial memorandum filed with the policy form when it was originally approved. The durational target loss ratios shall be calculated for 1-year experience periods. If statutory changes have rendered any portion of the ~~such~~ actuarial memorandum obsolete, the loss ratio guarantee shall also include an amendment to the actuarial memorandum reflecting current law and containing new lifetime and durational loss ratio targets.

2. A guarantee that the applicable loss ratios for the experience period in which the new rates will take effect, and for each experience period thereafter until new rates are filed, will meet the loss ratios referred to in subparagraph 1.

3. A guarantee that the applicable loss ratio results for the experience period will be independently audited at the insurer's expense. The audit must ~~shall~~ be performed in the second calendar quarter of the year following the end of the experience period, and the audited results must ~~shall~~ be reported to the office by ~~no later than~~ the end of such quarter. The commission shall establish by rule the minimum information reasonably necessary to be included in the report. The audit must ~~shall~~ be done in accordance with accepted accounting and actuarial principles.

4. A guarantee that affected policyholders in this state shall be issued a proportional refund, based on the premium earned, of the amount necessary to bring the applicable experience period loss ratio up to the durational target loss ratio referred to in subparagraph 1. The refund shall be made to all policyholders ~~in this state~~ who are insured under the applicable policy form as of the last day of the experience period, except that no refund need be made ~~to a policyholder~~ in an amount less than $10. Refunds less than $10 shall be aggregated and paid pro rata to the policyholders receiving refunds. The refund shall include interest at the then-current variable loan interest rate for life insurance policies established by the National Association of Insurance Commissioners, calculated from the end of the experience period until the date of payment. Payments must ~~shall~~ be made during the third calendar quarter of the year following the experience period for which a refund is determined to be due. However, no refunds shall be made until 60 days after the filing of the audit report in order for ~~that~~ the office to have ~~has~~ adequate time to review the report.

5. A guarantee that if the applicable loss ratio exceeds the durational target loss ratio for that experience period by more than 20 percent and~~, provided~~ there are at least 2,000 policyholders on the form nationwide or, if not, ~~then~~ accumulated each calendar year until 2,000 policyholder years is reached, the insurer, if directed by the office, shall withdraw the policy form for the purposes of issuing new policies.

(c) As used in this subsection:

1. "Loss ratio" means the ratio of incurred claims to earned premium.

2. "Applicable loss ratio" means the loss ratio attributable solely to this state if there are 2,000 or more policyholders in the state. If there are 500 or more policyholders in this state but fewer ~~less~~ than 2,000, it is the linear interpolation of the nationwide loss ratio and the loss ratio for this state. If there are fewer ~~less~~ than 500 policyholders in this state, it is the nationwide loss ratio.

3. "Experience period" means the period, ordinarily a calendar year, for which a loss ratio guarantee is calculated.

Section 2. Subsection (3) of section 627.411, Florida Statutes, is amended to read:

627.411 Grounds for disapproval.—

(3)~~(a)~~ For health insurance coverage as described in s. 627.6561(5)(a)2., the minimum loss ratio standard of incurred claims to earned premium for the form shall be 85 ~~65~~ percent.

~~(b)~~ Incurred claims are claims occurring within a fixed period, whether or not paid during the same period, under the terms of the policy period.

(a)~~1.~~ Claims include scheduled benefit payments or services provided by a provider or through a provider network for dental, vision, disability, and similar health benefits.

(b)~~2.~~ Claims do not include state assessments, taxes, company expenses, or any expense incurred by the company for the cost of adjusting and settling a claim, including the review, qualification, oversight, management, or monitoring of a claim or incentives or compensation to providers for other than the

provisions of health care services.

(c)~~3.~~ A company may ~~at its discretion~~ include costs that are demonstrated to reduce claims, such as fraud intervention programs or case management costs, which are identified in each filing, are demonstrated to reduce claims costs, and do not result in increasing the experience period loss ratio by more than 5 percent.

(d)~~4.~~ For scheduled claim payments, such as disability income or long-term care, the incurred claims shall be the present value of the benefit payments discounted for continuance and interest.

Section 3. Subsection (1) of section 627.6745, Florida Statutes, is amended to read:

627.6745 Loss ratio standards; public rate hearings.—

(1) Medicare supplement policies shall return the following to policyholders in the form of aggregate benefits under the policy, with respect to the lifetime of the policy, on the basis of earned premiums and on the basis of incurred claims experience or, if coverage is provided by a health maintenance organization based on service rather than reimbursement, incurred health care expenses, and in accordance with accepted actuarial principles and practices:

(a) At least 85 ~~75~~ percent of the aggregate amount of premiums earned in the case of group policies.

(b) For individual policies issued or renewed before ~~prior to~~ July 1, 1989, at least 60 percent of the aggregate amount of premiums earned; ~~and~~ for individual policies issued or renewed on or after July 1, 1989, but before October 1, 2010, at least

65 percent of the aggregate amount of premiums earned; and for policies issued on or after October 1, 2010, at least 85 percent of the aggregate amount of premiums earned. For the purposes of this section, policies issued as a result of soliciting ~~solicitations of~~ individuals through the mail or by mass media advertising are ~~shall be~~ deemed to be individual policies.

Section 4. Subsection (6) of section 627.9407, Florida Statutes, is amended to read:

627.9407 Disclosure, advertising, and performance standards for long-term care insurance.—

(6) LOSS RATIO AND RESERVE STANDARDS.—The commission shall adopt rules establishing loss ratio and reserve standards for long-term care insurance policies. Such loss ratios may not be less than 85 percent. The rules must contain a specific reference to long-term care insurance policies. Such loss ratio and reserve standards shall be established at levels at which benefits are reasonable in relation to premiums and which ~~that~~ provide for adequate reserving of the long-term care insurance risk.

Section 5. This act shall take effect July 1, 2010.