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1                   A bill to be entitled  
 2           An act relating to insurance rate filings; amending s.  
 3           627.062, F.S.; deleting authorization and procedures for  
 4           use and file rate filings; revising requirements for  
 5           making rate filings for all classes of insurance; amending  
 6           s. 627.0651, F.S.; deleting authorization and procedures  
 7           for use and file rate filings; revising requirements for  
 8           making rate filings for motor vehicle insurance; amending  
 9           s. 627.311, F.S.; deleting authorization and procedures  
 10          for use and file rate filings; revising requirements for  
 11          filing rate plans by joint underwriters and joint  
 12          reinsurers; providing an effective date.

13

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

15

16           Section 1. Paragraphs (a) and (h) of subsection (2) of  
 17           section 627.062, Florida Statutes, are amended to read:

18           627.062 Rate standards.—

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

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

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

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

52            ~~3. For all property insurance filings made or submitted~~  
53 ~~after January 25, 2007, but before December 31, 2010, an insurer~~  
54 ~~seeking a rate that is greater than the rate most recently~~  
55 ~~approved by the office shall make a "file and use" filing. For~~

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56 ~~purposes of this subparagraph, motor vehicle collision and~~  
57 ~~comprehensive coverages are not considered to be property~~  
58 ~~coverages.~~

59 (h) ~~If In the event~~ the office finds that a rate or rate  
60 change is excessive, inadequate, or unfairly discriminatory, the  
61 office shall issue an order of disapproval specifying that a new  
62 rate or rate schedule which responds to the findings of the  
63 office be filed by the insurer. The office shall further order,  
64 ~~for any "use and file" filing made in accordance with~~  
65 ~~subparagraph (a)2.,~~ that premiums charged each policyholder  
66 constituting the portion of the rate above that which was  
67 actuarially justified be returned to such policyholder in the  
68 form of a credit or refund. If the office finds that an  
69 insurer's rate or rate change is inadequate, the new rate or  
70 rate schedule filed with the office in response to such a  
71 finding shall be applicable only to new or renewal business of  
72 the insurer written on or after the effective date of the  
73 responsive filing.

74  
75 The provisions of this subsection shall not apply to workers'  
76 compensation and employer's liability insurance and to motor  
77 vehicle insurance.

78 Section 2. Subsections (1) and (11) of section 627.0651,  
79 Florida Statutes, are amended to read:

80 627.0651 Making and use of rates for motor vehicle  
81 insurance.—

82 (1) Insurers shall establish and use rates, rating  
83 schedules, or rating manuals to allow the insurer a reasonable

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84 rate of return on motor vehicle insurance written in this state.  
85 A copy of rates, rating schedules, and rating manuals, and  
86 changes therein, shall be filed with the office. ~~under one of~~  
87 ~~the following procedures:~~

88 (a) ~~If~~ The filing must be ~~is~~ made at least 60 days before  
89 the proposed effective date and the filing may ~~is~~ not be  
90 implemented during the office's review of the filing and any  
91 proceeding and judicial review, ~~such filing shall be considered~~  
92 ~~a "file and use" filing. In such case,~~ The office shall initiate  
93 proceedings to disapprove the rate and so notify the insurer or  
94 shall finalize its review within 60 days after receipt of the  
95 filing. Notification to the insurer by the office of its  
96 preliminary findings shall toll the 60-day period during any  
97 such proceedings and subsequent judicial review. The rate shall  
98 be deemed approved if the office does not issue notice to the  
99 insurer of its preliminary findings within 60 days after the  
100 filing.

101 ~~(b) If the filing is not made in accordance with the~~  
102 ~~provisions of paragraph (a), such filing shall be made as soon~~  
103 ~~as practicable, but no later than 30 days after the effective~~  
104 ~~date, and shall be considered a "use and file" filing. An~~  
105 ~~insurer making a "use and file" filing is potentially subject to~~  
106 ~~an order by the office to return to policyholders portions of~~  
107 ~~rates found to be excessive, as provided in subsection (11).~~

108 (11) If ~~In the event~~ the office finds that a rate or rate  
109 change is excessive, inadequate, or unfairly discriminatory, the  
110 office shall issue an order of disapproval specifying that a new  
111 rate or rate schedule which responds to the findings of the

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112 office be filed by the insurer. The office shall further order  
 113 ~~for any "use and file" filing made in accordance with paragraph~~  
 114 ~~(1)(b)~~, that premiums charged each policyholder constituting the  
 115 portion of the rate above that which was actuarially justified  
 116 be returned to such policyholder in the form of a credit or  
 117 refund. If the office finds that an insurer's rate or rate  
 118 change is inadequate, the new rate or rate schedule filed with  
 119 the office in response to such a finding shall be applicable  
 120 only to new or renewal business of the insurer written on or  
 121 after the effective date of the responsive filing.

122 Section 3. Paragraph (e) of subsection (5) of section  
 123 627.311, Florida Statutes, is amended to read:

124 627.311 Joint underwriters and joint reinsurers; public  
 125 records and public meetings exemptions.—

126 (5)

127 (e) For rates and rating plans effective on or after  
 128 January 1, 2008, the plan shall establish and use its rates and  
 129 rating plans, and the plan may establish and use changes in  
 130 rating plans at any time, but no more frequently than two times  
 131 per any rating class for any calendar year. By December 1 of  
 132 each year thereafter, except as provided in subparagraph (c)22.,  
 133 the board shall establish and use actuarially sound rates for  
 134 use by the plan to assure that the plan is self-funding while  
 135 those rates are in effect. Such rates and rating plans must be  
 136 filed with the office at least 60 ~~within 30~~ calendar days before  
 137 ~~after~~ their effective dates, ~~and shall be considered a "use and~~  
 138 ~~file" filing~~. Any disapproval by the office must have an  
 139 effective date that is at least 60 days from the date of

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140 disapproval of the rates and rating plan and must have  
141 prospective effect only. The plan shall be subject to any order  
142 by the office to return to policyholders any portion of the  
143 rates disapproved by the office. The office may not disapprove  
144 any rates or rating plans unless it demonstrates that such rates  
145 and rating plans are excessive, inadequate, or unfairly  
146 discriminatory.

147 Section 4. This act shall take effect January 1, 2011.