

**By** the Committees on Commerce and Tourism; and Banking and Insurance; and Senator Oelrich

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1                   A bill to be entitled  
2           An act relating to commercial insurance rates;  
3           amending s. 627.062, F.S.; exempting certain liability  
4           and property insurance lines from specific rate  
5           standards and filing requirements; revising certain  
6           reporting and recordkeeping requirements for such  
7           exempt insurers and certain rating organizations  
8           regarding rate changes; requiring such entities to pay  
9           certain examination costs; deleting a provision that  
10          permits the Office of Insurance Regulation of the  
11          Financial Services Commission to require such insurers  
12          to provide certain information regarding rates at the  
13          insurer's expense; requiring such entities to pay  
14          certain examination costs; amending s. 627.0651, F.S.;  
15          exempting certain commercial motor vehicle insurance  
16          from specific rate standards and filing requirements;  
17          revising certain reporting and recordkeeping  
18          requirements for such exempt insurers and certain  
19          rating organizations regarding rate changes; requiring  
20          such entities to pay certain examination costs;  
21          deleting a provision that permits the Office of  
22          Insurance Regulation of the Financial Services  
23          Commission to require such insurers to provide certain  
24          information regarding rates at the insurer's expense;  
25          providing an effective date.

26  
27   Be It Enacted by the Legislature of the State of Florida:

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29          Section 1. Subsection (3) of section 627.062, Florida

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30 Statutes, is amended to read:

31 627.062 Rate standards.—

32 (3) (a) For individual risks that are not rated in  
33 accordance with the insurer's rates, rating schedules, rating  
34 manuals, and underwriting rules filed with the office and which  
35 have been submitted to the insurer for individual rating, the  
36 insurer must maintain documentation on each risk subject to  
37 individual risk rating. The documentation must identify the  
38 named insured and specify the characteristics and classification  
39 of the risk supporting the reason for the risk being  
40 individually risk rated, including any modifications to existing  
41 approved forms to be used on the risk. The insurer must maintain  
42 these records for a period of at least 5 years after the  
43 effective date of the policy.

44 (b) Individual risk rates and modifications to existing  
45 approved forms are not subject to this part or part II, except  
46 for paragraph (a) and ss. 627.402, 627.403, 627.4035, 627.404,  
47 627.405, 627.406, 627.407, 627.4085, 627.409, 627.4132,  
48 627.4133, 627.415, 627.416, 627.417, 627.419, 627.425, 627.426,  
49 627.4265, 627.427, and 627.428, but are subject to all other  
50 applicable provisions of this code and rules adopted thereunder.

51 (c) This subsection does not apply to private passenger  
52 motor vehicle insurance.

53 (d)1. The following categories or kinds of insurance and  
54 types of commercial lines risks are not subject to paragraph  
55 (2) (a) or paragraph (2) (f):

56 a. Excess or umbrella.

57 b. Surety and fidelity.

58 c. Boiler and machinery and leakage and fire extinguishing

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59 equipment.

60 d. Errors and omissions.

61 e. Directors and officers, employment practices, fiduciary  
62 liability, and management liability.

63 f. Intellectual property and patent infringement liability.

64 g. Advertising injury and Internet liability insurance.

65 h. Property risks rated under a highly protected risks  
66 rating plan.

67 i. General liability.

68 j. Nonresidential property, except for collateral  
69 protection insurance, as defined in s. 624.6085.

70 k. Nonresidential multiperil.

71 l. Excess property.

72 m. Burglary and theft.

73 n.~~4~~ Any other commercial lines categories or kinds of  
74 insurance or types of commercial lines risks that the office  
75 determines should not be subject to paragraph (2)(a) or  
76 paragraph (2)(f) because of the existence of a competitive  
77 market for such insurance, similarity of such insurance to other  
78 categories or kinds of insurance not subject to paragraph (2)(a)  
79 or paragraph (2)(f), or to improve the general operational  
80 efficiency of the office.

81 2. Insurers or rating organizations shall establish and use  
82 rates, rating schedules, or rating manuals to allow the insurer  
83 a reasonable rate of return on insurance and risks described in  
84 subparagraph 1. which are written in this state.

85 3. An insurer must notify the office of any changes to  
86 rates for insurance and risks described in subparagraph 1. no  
87 later than 30 days after the effective date of the change. The

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88 notice must include the name of the insurer, the type or kind of  
89 insurance subject to rate change, ~~total premium written during~~  
90 ~~the immediately preceding year by the insurer for the type or~~  
91 ~~kind of insurance subject to the rate change,~~ and the average  
92 statewide percentage change in rates. Actuarial data  
93 ~~Underwriting files, premiums, losses, and expense statistics~~  
94 with regard to rates for insurance and risks described in  
95 subparagraph 1. written by an insurer shall be maintained by the  
96 insurer for 2 years after the effective date of changes to rates  
97 and are subject to examination by the office. The office may  
98 require the insurer to pay the costs associated with an  
99 examination. Upon examination, the office shall, in accordance  
100 with generally accepted and reasonable actuarial techniques,  
101 consider the rate factors in paragraphs (2) (b), (c), and (d) and  
102 the standards in paragraph (2) (e) to determine if the rate is  
103 excessive, inadequate, or unfairly discriminatory.

104 4. A rating organization must notify the office of any  
105 changes to loss cost for insurance and risks described in  
106 subparagraph 1. no later than 30 days after the effective date  
107 of the change. The notice must include the name of the rating  
108 organization, the type or kind of insurance subject to a loss  
109 cost change, loss costs during the immediately preceding year  
110 for the type or kind of insurance subject to the loss cost  
111 change, and the average statewide percentage change in loss  
112 cost. Actuarial data ~~Loss and exposure statistics~~ with regard to  
113 changes to loss cost for risks applicable to loss costs for a  
114 ~~rating organization~~ not subject to paragraph (2) (a) or paragraph  
115 (2) (f) shall be maintained by the rating organization for 2  
116 years after the effective date of the change and are subject to

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117 examination by the office. The office may require the rating  
118 organization to pay the costs associated with an examination.  
119 Upon examination, the office shall, in accordance with generally  
120 accepted and reasonable actuarial techniques, consider the rate  
121 factors in paragraphs (2) (b)-(d) and the standards in paragraph  
122 (2) (e) to determine if the rate is excessive, inadequate, or  
123 unfairly discriminatory.

124 ~~5. In reviewing a rate, the office may require the insurer~~  
125 ~~to provide at the insurer's expense all information necessary to~~  
126 ~~evaluate the condition of the company and the reasonableness of~~  
127 ~~the rate according to the applicable criteria described in this~~  
128 ~~section.~~

129 Section 2. Subsection (14) of section 627.0651, Florida  
130 Statutes, is amended to read:

131 627.0651 Making and use of rates for motor vehicle  
132 insurance.—

133 (14) (a) Commercial motor vehicle insurance ~~covering a fleet~~  
134 ~~of 20 or more self-propelled vehicles~~ is not subject to  
135 subsection (1), subsection (2), or subsection (9) or s.  
136 627.0645.

137 (b) The rates for insurance described in this subsection  
138 may not be excessive, inadequate, or unfairly discriminatory.

139 (c) Insurers shall establish and use rates, rating  
140 schedules, or rating manuals to allow the insurer a reasonable  
141 rate of return on commercial motor vehicle insurance written in  
142 this state ~~covering a fleet of 20 or more self-propelled~~  
143 ~~vehicles.~~

144 (d) An insurer must notify the office of any changes to  
145 rates for type of insurance described in this subsection no

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146 later than 30 days after the effective date of the change. The  
147 notice shall include the name of the insurer, the type or kind  
148 of insurance subject to rate change, ~~total premium written~~  
149 ~~during the immediately preceding year by the insurer for the~~  
150 ~~type or kind of insurance subject to the rate change,~~ and the  
151 average statewide percentage change in rates. Actuarial data  
152 with regard to rates for risks ~~Underwriting files, premiums,~~  
153 ~~losses, and expense statistics for the type of insurance~~  
154 described in this subsection shall be maintained by the insurer  
155 for 2 years after the effective date of changes to rates and are  
156 subject to examination by the office. The office may require an  
157 insurer to pay the costs associated with an examination. Upon  
158 examination, the office shall, in accordance with generally  
159 accepted and reasonable actuarial techniques, consider the  
160 factors in paragraphs (2) (a)-(1) and apply subsections (3)-(8)  
161 to determine if the rate is excessive, inadequate, or unfairly  
162 discriminatory.

163 (e) A rating organization must notify the office of any  
164 changes to loss cost for the type of insurance described in this  
165 subsection no later than 30 days after the effective date of the  
166 change. The notice shall include the name of the rating  
167 organization, the type or kind of insurance subject to a loss  
168 cost change, loss costs during the immediately preceding year  
169 for the type or kind of insurance subject to the loss cost  
170 change, and the average statewide percentage change in loss  
171 cost. Actuarial data ~~Loss and exposure statistics~~ with regard to  
172 changes to loss cost for risks applicable to loss costs for a  
173 ~~rating organization~~ not subject to subsection (1), subsection  
174 (2), or subsection (9) shall be maintained by the rating

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175 organization for 2 years after the effective date of the change  
176 and are subject to examination by the office. The office may  
177 require the rating organization to pay the costs associated with  
178 an examination. Upon examination, the office shall, in  
179 accordance with generally accepted and reasonable actuarial  
180 techniques, consider the rate factors in paragraphs (2)(a)-(1)  
181 and apply subsections (3)-(8) to determine if the rate is  
182 excessive, inadequate, or unfairly discriminatory.

183 ~~(f) In reviewing the rate, the office may require the~~  
184 ~~insurer to provide at the insurer's expense all information~~  
185 ~~necessary to evaluate the condition of the company and the~~  
186 ~~reasonableness of the rate according to the applicable criteria~~  
187 ~~described herein.~~

188 Section 3. This act shall take effect July 1, 2011.