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LEGISLATIVE ACTION

Senate

House

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Floor: WD

03/09/2012 09:37 AM

Senator Smith moved the following:

Senate Amendment (with title amendment)

Between lines 16 and 17

insert:

Section 1. Section 627.215, Florida Statutes, is amended to read:

627.215 Excessive profits for ~~workers' compensation,~~
~~employer's liability,~~ commercial property, and commercial
casualty insurance prohibited.-

(1) (a) Each insurer group writing ~~workers' compensation and~~
~~employer's liability insurance as defined in s. 624.605(1)(c),~~
commercial property insurance as defined in s. 627.0625,
commercial umbrella liability insurance as defined in s.



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14 627.0625, or commercial casualty insurance as defined in s.
15 627.0625 shall file with the office before ~~prior to~~ July 1 of
16 each year, on a form prescribed by the commission, the following
17 data for the component types of such insurance as provided in
18 the form:

- 19 1. Calendar-year earned premium.
- 20 2. Accident-year incurred losses and loss adjustment
21 expenses.
- 22 3. The administrative and selling expenses incurred in this
23 state or allocated to this state for the calendar year.
- 24 4. Policyholder dividends applicable to the calendar year.

25
26 This does not ~~Nothing herein is intended to~~ prohibit an insurer
27 from filing on a calendar-year basis.

28 (b) The data filed for the group shall be a consolidation
29 of the data of the individual insurers of the group. However, an
30 insurer may elect to ~~either~~ consolidate commercial umbrella
31 liability insurance data with commercial casualty insurance data
32 or to separately file data for commercial umbrella liability
33 insurance. Each insurer shall elect its method of filing
34 commercial umbrella liability insurance at the time of filing
35 data for accident year 1987 and shall thereafter continue filing
36 under the same method. In the case of commercial umbrella
37 liability insurance data reported separately, a separate
38 excessive profits test shall be applied and the test period
39 shall be 10 years. ~~In the case of workers' compensation and
40 employer's liability insurance, the final report for the test
41 period including accident years 1984, 1985, and 1986 must be
42 filed prior to July 1, 1988. In the case of commercial property~~



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43 ~~and commercial casualty insurance, the final report for the test~~
44 ~~period including accident years 1987, 1988, and 1989 must be~~
45 ~~filed prior to July 1, 1991.~~

46 ~~(2) Each insurer group writing workers' compensation and~~
47 ~~employer's liability insurance shall also file a schedule of~~
48 ~~Florida loss and loss adjustment experience for each of the 3~~
49 ~~years previous to the most recent accident year. The incurred~~
50 ~~losses and loss adjustment expenses shall be valued as of~~
51 ~~December 31 of the first year following the latest accident year~~
52 ~~to be reported, developed to an ultimate basis, and at two 12-~~
53 ~~month intervals thereafter, each developed to an ultimate basis,~~
54 ~~so that a total of three evaluations will be provided for each~~
55 ~~accident year. The first year to be so reported shall be~~
56 ~~accident year 1984, so that the reporting of 3 accident years~~
57 ~~under this revised evaluation will not take place until accident~~
58 ~~years 1985 and 1986 have become available. For reporting~~
59 ~~purposes unrelated to determining excessive profits, the loss~~
60 ~~and loss adjustment experience of each accident year shall~~
61 ~~continue to be reported until each accident year has been~~
62 ~~reported at eight stages of development.~~

63 (2)~~(3)~~(a) Each insurer group writing commercial property
64 insurance or commercial casualty insurance shall also file a
65 schedule of Florida loss and loss adjustment experience for each
66 of the 3 years previous to the most recent accident year. The
67 incurred losses and loss adjustment expenses shall be valued as
68 of December 31 of the first year following the latest accident
69 year, developed to an ultimate basis, and at two 12-month
70 intervals thereafter, each developed to an ultimate basis, so
71 that a total of 3 evaluations will be provided for each accident



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72 ~~year. The first year to be so reported shall be accident year~~
73 ~~1987, which shall first be reported on or before July 1, 1989,~~
74 ~~and the reporting of 3 accident years will not take place until~~
75 ~~accident years 1988 and 1989 have become available. For medical~~
76 ~~malpractice insurance, the first year to be so reported shall be~~
77 ~~accident year 1990, which shall first be reported on or before~~
78 ~~July 1, 1992, and the reporting of 3 accident years for full~~
79 ~~inclusion of medical malpractice experience in commercial~~
80 ~~casualty insurance will not take place until accident years 1991~~
81 ~~and 1992 become available. Accordingly, no medical malpractice~~
82 ~~insured shall be eligible for refunds or credits until the~~
83 ~~reporting period ending with calendar accident year 1992. For~~
84 reporting purposes unrelated to determining excess profits, the
85 loss and loss adjustment experience of each accident year shall
86 continue to be reported until each accident year has been
87 reported at eight stages of development.

88 (b) Each insurer group writing commercial umbrella
89 liability insurance which elects to file separate data for such
90 insurance shall also file a schedule of Florida loss and loss
91 adjustment experience for each of the 10 years previous to the
92 most recent accident year. The incurred losses and loss
93 adjustment expenses shall be valued as of December 31 of the
94 first year following the latest accident year, developed to an
95 ultimate basis, and at nine 12-month intervals thereafter, each
96 developed to an ultimate basis, so that a total of 10
97 evaluations will be provided for each accident year. ~~The first~~
98 ~~year to be so reported shall be accident year 1987, which shall~~
99 ~~first be reported on or before October 1, 1989, and the~~
100 ~~reporting of 10 accident years will not take place until~~



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101 ~~accident year 1996 data is reported.~~

102 (3)~~(4)~~ Each insurer group's underwriting gain or loss for
103 each calendar-accident year shall be computed as follows: The
104 sum of the accident-year incurred losses and loss adjustment
105 expenses as of December 31 of the year, developed to an ultimate
106 basis, plus the administrative and selling expenses incurred in
107 the calendar year, plus policyholder dividends applicable to the
108 calendar year, shall be subtracted from the calendar-year earned
109 premium to determine the underwriting gain or loss.

110 (4)~~(5)~~ For the 3 most recent calendar-accident years for
111 which data is to be filed under this section, the underwriting
112 gain or loss shall be compared to the anticipated underwriting
113 profit, except in the case of separately reported commercial
114 umbrella liability insurance for which such comparison shall be
115 made for the 10 most recent calendar-accident years.

116 ~~(6) For those insurer groups writing workers' compensation~~
117 ~~and employer's liability insurance during the years 1984, 1985,~~
118 ~~1986, 1987, and 1988, an excessive profit has been realized if~~
119 ~~underwriting gain is greater than the anticipated underwriting~~
120 ~~profit plus 5 percent of earned premiums for the 3 most recent~~
121 ~~calendar years for which data is to be filed under this section.~~
122 ~~Any excess profit of an insurance company offering workers'~~
123 ~~compensation or employer's liability insurance during this~~
124 ~~period of time, shall be returned to policyholders in the form~~
125 ~~of a cash refund or a credit toward future purchase of~~
126 ~~insurance. The excessive amount shall be refunded on a pro rata~~
127 ~~basis in relation to the final compilation year earned premiums~~
128 ~~to the workers' compensation policyholders of record of the~~
129 ~~insurer group on December 31 of the final compilation year.~~



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130 ~~(5)-(7)~~ (a) Beginning with the July 1, 1991, report for
131 ~~workers' compensation insurance, employer's liability insurance,~~
132 commercial property insurance, and commercial casualty
133 insurance, an excessive profit has been realized if the net
134 aggregate underwriting gain for ~~all~~ these lines combined is
135 greater than the net aggregate anticipated underwriting profit
136 for these lines plus 5 percent of earned premiums for the 3 most
137 recent calendar years for which data is to be filed under this
138 section. For calculation purposes commercial property insurance
139 and commercial casualty insurance shall be broken down into
140 sublines in order to ascertain the anticipated underwriting
141 profit factor versus the actual underwriting gain for the given
142 subline.

143 (b) Beginning with the July 1, 1998, report for commercial
144 umbrella liability insurance, if an insurer has elected to file
145 data separately for such insurance, an excessive profit has been
146 realized if the underwriting gain for such insurance is greater
147 than the anticipated underwriting profit for such insurance plus
148 5 percent of earned premiums for the 10 most recent calendar
149 years for which data is to be filed under this section.

150 ~~(6)-(8)~~ As used in this section with respect to any 3-year
151 period, or with respect to any 10-year period in the case of
152 commercial umbrella liability insurance, "anticipated
153 underwriting profit" means the sum of the dollar amounts
154 obtained by multiplying, for each rate filing of the insurer
155 group in effect during such period, the earned premiums
156 applicable to such rate filing during such period by the
157 percentage factor included in such rate filing for profit and
158 contingencies, such percentage factor having been determined



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159 with due recognition to investment income from funds generated
160 by Florida business, except that the anticipated underwriting
161 profit for the purposes of this section shall be calculated
162 using a profit and contingencies factor that is not less than
163 zero. Separate calculations need not be made for consecutive
164 rate filings containing the same percentage factor for profits
165 and contingencies.

166 (7)~~(9)~~ If the insurer group has realized an excessive
167 profit, the office shall order a return of the excessive amounts
168 after affording the insurer group an opportunity for hearing and
169 otherwise complying with the requirements of chapter 120. Such
170 excessive amounts shall be refunded in all instances unless the
171 insurer group affirmatively demonstrates to the office that the
172 refund of the excessive amounts will render a member of the
173 insurer group financially impaired or will render it insolvent
174 under the provisions of the Florida Insurance Code.

175 (8)~~(10)~~ Any excess profit of an insurance company ~~as~~
176 ~~determined on July 1, 1991, and thereafter~~ shall be returned to
177 policyholders in the form of a cash refund or a credit toward
178 the future purchase of insurance. The excessive amount shall be
179 refunded on a pro rata basis in relation to the final
180 compilation year earned premiums to the policyholders of record
181 of the insurer group on December 31 of the final compilation
182 year.

183 (9)~~(11)~~(a) Cash refunds to policyholders may be rounded to
184 the nearest dollar.

185 (b) Data in required reports to the office may be rounded
186 to the nearest dollar.

187 (c) Rounding, if elected by the insurer, shall be applied



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188 consistently.

189 ~~(10)-(12)~~(a) Refunds shall be completed in one of the
190 following ways:

191 1. If the insurer group elects to make a cash refund, the
192 refund shall be completed within 60 days after ~~of~~ entry of a
193 final order indicating that excessive profits have been
194 realized.

195 2. If the insurer group elects to make refunds in the form
196 of a credit to renewal policies, such credits shall be applied
197 to policy renewal premium notices which are forwarded to
198 insureds more than 60 calendar days after entry of a final order
199 indicating that excessive profits have been realized. If an
200 insurer group has made this election but an insured thereafter
201 cancels her or his policy or otherwise allows the policy to
202 terminate, the insurer group shall make a cash refund within ~~not~~
203 ~~later than~~ 60 days after termination of such coverage.

204 (b) Upon completion of the renewal credits or refund
205 payments, the insurer group shall immediately certify to the
206 office that the refunds have been made.

207 ~~(11)-(13)~~ Any refund or renewal credit made pursuant to this
208 section shall be treated as a policyholder dividend applicable
209 to the year immediately succeeding the compilation period giving
210 rise to the refund or credit, for purposes of reporting under
211 this section for subsequent years.

212 ~~(12)-(14)~~ The application of this law to commercial property
213 and commercial casualty insurance, which includes commercial
214 umbrella liability insurance, ceases on January 1, 1997.

215 Section 2. Subsection (4) of section 628.6017, Florida
216 Statutes, is amended to read:



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217 628.6017 Converting assessable mutual insurer.-

218 (4) An assessable mutual insurer becoming a stock insurer
219 or a nonassessable mutual insurer is ~~shall~~ not ~~be~~ subject to s.
220 627.215 or s. 627.351(5) for 5 years following authorization of
221 the conversion by the office. However, the converted stock
222 insurer or nonassessable mutual insurer must ~~shall~~ file all
223 necessary data required by s. 627.215. Such amounts otherwise
224 subject to s. 627.215(8) must ~~627.215(10) shall~~ be maintained as
225 surplus as to policyholders and are not ~~be~~ available for
226 dividends for ~~a period of~~ 5 years.

227
228 ===== T I T L E A M E N D M E N T =====

229 And the title is amended as follows:

230 Delete line 2

231 and insert:

232 An act relating to insurance; amending s. 627.215,
233 F.S.; removing workers' compensation and employer's
234 liability insurance from those types of insurance that
235 must report and refund excess profits; deleting
236 obsolete provisions; amending s. 628.6017, F.S.;
237 conforming a cross-reference; amending s. 624.307,