

1                                   A bill to be entitled  
 2           An act relating to insurance company excess profits;  
 3           amending s. 627.215, F.S., which prohibits insurance  
 4           companies from realizing excessive profits for writing  
 5           certain lines of insurance coverage, to delete  
 6           workers' compensation and employer's liability  
 7           insurance coverages from the list of lines for which  
 8           excessive profits are prohibited; amending s.  
 9           628.6017, F.S.; conforming a cross-reference;  
 10          providing an effective date.

11  
 12 Be It Enacted by the Legislature of the State of Florida:

13  
 14           Section 1. Section 627.215, Florida Statutes, is amended  
 15 to read:

16           627.215 Excessive profits for ~~workers' compensation,~~  
 17 ~~employer's liability,~~ commercial property, and commercial  
 18 casualty insurance prohibited.—

19           (1) (a) Each insurer group writing ~~workers' compensation~~  
 20 ~~and employer's liability insurance as defined in s.~~  
 21 ~~624.605(1)(c),~~ commercial property insurance as defined in s.  
 22 627.0625, commercial umbrella liability insurance as defined in  
 23 s. 627.0625, or commercial casualty insurance as defined in s.  
 24 627.0625 shall file with the office prior to July 1 of each  
 25 year, on a form prescribed by the commission, the following data  
 26 for the component types of such insurance as provided in the  
 27 form:

28           1. Calendar-year earned premium.

29 |           2. Accident-year incurred losses and loss adjustment  
30 | expenses.

31 |           3. The administrative and selling expenses incurred in  
32 | this state or allocated to this state for the calendar year.

33 |           4. Policyholder dividends applicable to the calendar year.  
34 |

35 | Nothing herein is intended to prohibit an insurer from filing on  
36 | a calendar-year basis.

37 |           (b) The data filed for the group shall be a consolidation  
38 | of the data of the individual insurers of the group. However, an  
39 | insurer may elect to either consolidate commercial umbrella  
40 | liability insurance data with commercial casualty insurance data  
41 | or to separately file data for commercial umbrella liability  
42 | insurance. Each insurer shall elect its method of filing  
43 | commercial umbrella liability insurance at the time of filing  
44 | data for accident year 1987 and shall thereafter continue filing  
45 | under the same method. In the case of commercial umbrella  
46 | liability insurance data reported separately, a separate  
47 | excessive profits test shall be applied and the test period  
48 | shall be 10 years. ~~In the case of workers' compensation and  
49 | employer's liability insurance, the final report for the test  
50 | period including accident years 1984, 1985, and 1986 must be  
51 | filed prior to July 1, 1988.~~ In the case of commercial property  
52 | and commercial casualty insurance, the final report for the test  
53 | period including accident years 1987, 1988, and 1989 must be  
54 | filed prior to July 1, 1991.

55 |           ~~(2) Each insurer group writing workers' compensation and  
56 | employer's liability insurance shall also file a schedule of~~

57 ~~Florida loss and loss adjustment experience for each of the 3~~  
 58 ~~years previous to the most recent accident year. The incurred~~  
 59 ~~losses and loss adjustment expenses shall be valued as of~~  
 60 ~~December 31 of the first year following the latest accident year~~  
 61 ~~to be reported, developed to an ultimate basis, and at two 12-~~  
 62 ~~month intervals thereafter, each developed to an ultimate basis,~~  
 63 ~~so that a total of three evaluations will be provided for each~~  
 64 ~~accident year. The first year to be so reported shall be~~  
 65 ~~accident year 1984, so that the reporting of 3 accident years~~  
 66 ~~under this revised evaluation will not take place until accident~~  
 67 ~~years 1985 and 1986 have become available. For reporting~~  
 68 ~~purposes unrelated to determining excessive profits, the loss~~  
 69 ~~and loss adjustment experience of each accident year shall~~  
 70 ~~continue to be reported until each accident year has been~~  
 71 ~~reported at eight stages of development.~~

72 (2) ~~(3)~~ (a) Each insurer group writing commercial property  
 73 insurance or commercial casualty insurance shall also file a  
 74 schedule of Florida loss and loss adjustment experience for each  
 75 of the 3 years previous to the most recent accident year. The  
 76 incurred losses and loss adjustment expenses shall be valued as  
 77 of December 31 of the first year following the latest accident  
 78 year, developed to an ultimate basis, and at two 12-month  
 79 intervals thereafter, each developed to an ultimate basis, so  
 80 that a total of 3 evaluations will be provided for each accident  
 81 year. The first year to be so reported shall be accident year  
 82 1987, which shall first be reported on or before July 1, 1989,  
 83 and the reporting of 3 accident years will not take place until  
 84 accident years 1988 and 1989 have become available. For medical

HB 4169

2012

85 malpractice insurance, the first year to be so reported shall be  
86 accident year 1990, which shall first be reported on or before  
87 July 1, 1992, and the reporting of 3 accident years for full  
88 inclusion of medical malpractice experience in commercial  
89 casualty insurance will not take place until accident years 1991  
90 and 1992 become available. Accordingly, no medical malpractice  
91 insured shall be eligible for refunds or credits until the  
92 reporting period ending with calendar-accident year 1992. For  
93 reporting purposes unrelated to determining excess profits, the  
94 loss and loss adjustment experience of each accident year shall  
95 continue to be reported until each accident year has been  
96 reported at eight stages of development.

97 (b) Each insurer group writing commercial umbrella  
98 liability insurance which elects to file separate data for such  
99 insurance shall also file a schedule of Florida loss and loss  
100 adjustment experience for each of the 10 years previous to the  
101 most recent accident year. The incurred losses and loss  
102 adjustment expenses shall be valued as of December 31 of the  
103 first year following the latest accident year, developed to an  
104 ultimate basis, and at nine 12-month intervals thereafter, each  
105 developed to an ultimate basis, so that a total of 10  
106 evaluations will be provided for each accident year. The first  
107 year to be so reported shall be accident year 1987, which shall  
108 first be reported on or before October 1, 1989, and the  
109 reporting of 10 accident years will not take place until  
110 accident year 1996 data is reported.

111 (3)~~(4)~~ Each insurer group's underwriting gain or loss for  
112 each calendar-accident year shall be computed as follows: The

HB 4169

2012

113 sum of the accident-year incurred losses and loss adjustment  
114 expenses as of December 31 of the year, developed to an ultimate  
115 basis, plus the administrative and selling expenses incurred in  
116 the calendar year, plus policyholder dividends applicable to the  
117 calendar year, shall be subtracted from the calendar-year earned  
118 premium to determine the underwriting gain or loss.

119 (4)~~(5)~~ For the 3 most recent calendar-accident years for  
120 which data is to be filed under this section, the underwriting  
121 gain or loss shall be compared to the anticipated underwriting  
122 profit, except in the case of separately reported commercial  
123 umbrella liability insurance for which such comparison shall be  
124 made for the 10 most recent calendar-accident years.

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

139 (5)~~(7)~~(a) Beginning with the July 1, 1991, report for  
140 ~~workers' compensation insurance, employer's liability insurance,~~

HB 4169

2012

141 commercial property insurance, and commercial casualty  
142 insurance, an excessive profit has been realized if the net  
143 aggregate underwriting gain for ~~all~~ these lines combined is  
144 greater than the net aggregate anticipated underwriting profit  
145 for these lines plus 5 percent of earned premiums for the 3 most  
146 recent calendar years for which data is to be filed under this  
147 section. For calculation purposes commercial property insurance  
148 and commercial casualty insurance shall be broken down into  
149 sublines in order to ascertain the anticipated underwriting  
150 profit factor versus the actual underwriting gain for the given  
151 subline.

152 (b) Beginning with the July 1, 1998, report for commercial  
153 umbrella liability insurance, if an insurer has elected to file  
154 data separately for such insurance, an excessive profit has been  
155 realized if the underwriting gain for such insurance is greater  
156 than the anticipated underwriting profit for such insurance plus  
157 5 percent of earned premiums for the 10 most recent calendar  
158 years for which data is to be filed under this section.

159 ~~(6)-(8)~~ As used in this section with respect to any 3-year  
160 period, or with respect to any 10-year period in the case of  
161 commercial umbrella liability insurance, "anticipated  
162 underwriting profit" means the sum of the dollar amounts  
163 obtained by multiplying, for each rate filing of the insurer  
164 group in effect during such period, the earned premiums  
165 applicable to such rate filing during such period by the  
166 percentage factor included in such rate filing for profit and  
167 contingencies, such percentage factor having been determined  
168 with due recognition to investment income from funds generated

HB 4169

2012

169 by Florida business, except that the anticipated underwriting  
170 profit for the purposes of this section shall be calculated  
171 using a profit and contingencies factor that is not less than  
172 zero. Separate calculations need not be made for consecutive  
173 rate filings containing the same percentage factor for profits  
174 and contingencies.

175 (7)~~(9)~~ If the insurer group has realized an excessive  
176 profit, the office shall order a return of the excessive amounts  
177 after affording the insurer group an opportunity for hearing and  
178 otherwise complying with the requirements of chapter 120. Such  
179 excessive amounts shall be refunded in all instances unless the  
180 insurer group affirmatively demonstrates to the office that the  
181 refund of the excessive amounts will render a member of the  
182 insurer group financially impaired or will render it insolvent  
183 under the provisions of the Florida Insurance Code.

184 (8)~~(10)~~ Any excess profit of an insurance company as  
185 determined on July 1, 1991, and thereafter shall be returned to  
186 policyholders in the form of a cash refund or a credit toward  
187 the future purchase of insurance. The excessive amount shall be  
188 refunded on a pro rata basis in relation to the final  
189 compilation year earned premiums to the policyholders of record  
190 of the insurer group on December 31 of the final compilation  
191 year.

192 (9)~~(11)~~(a) Cash refunds to policyholders may be rounded to  
193 the nearest dollar.

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

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

HB 4169

2012

197 consistently.

198 (10)~~(12)~~(a) Refunds shall be completed in one of the  
199 following ways:

200 1. If the insurer group elects to make a cash refund, the  
201 refund shall be completed within 60 days of entry of a final  
202 order indicating that excessive profits have been realized.

203 2. If the insurer group elects to make refunds in the form  
204 of a credit to renewal policies, such credits shall be applied  
205 to policy renewal premium notices which are forwarded to  
206 insureds more than 60 calendar days after entry of a final order  
207 indicating that excessive profits have been realized. If an  
208 insurer group has made this election but an insured thereafter  
209 cancels her or his policy or otherwise allows the policy to  
210 terminate, the insurer group shall make a cash refund not later  
211 than 60 days after termination of such coverage.

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

215 (11)~~(13)~~ Any refund or renewal credit made pursuant to  
216 this section shall be treated as a policyholder dividend  
217 applicable to the year immediately succeeding the compilation  
218 period giving rise to the refund or credit, for purposes of  
219 reporting under this section for subsequent years.

220 (12)~~(14)~~ The application of this law to commercial  
221 property and commercial casualty insurance, which includes  
222 commercial umbrella liability insurance, ceases on January 1,  
223 1997.



HB 4169

2012

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

226 628.6017 Converting assessable mutual insurer.—

227 (4) An assessable mutual insurer becoming a stock insurer  
 228 or a nonassessable mutual insurer shall not be subject to s.  
 229 627.215 or s. 627.351(5) for 5 years following authorization of  
 230 the conversion by the office. However, the converted stock  
 231 insurer or nonassessable mutual insurer shall file all necessary  
 232 data required by s. 627.215. Such amounts otherwise subject to  
 233 s. 627.215(8) ~~627.215(10)~~ shall be maintained as surplus as to  
 234 policyholders and not be available for dividends for a period of  
 235 5 years.

236 Section 3. This act shall take effect July 1, 2012.