

1 A bill to be entitled
 2 An act relating to commercial insurance rates and
 3 forms; amending s. 627.062, F.S.; exempting medical
 4 malpractice insurance that covers certain providers
 5 and practitioners from specified rate filing
 6 requirements; amending s. 627.410, F.S.; conforming
 7 provisions to changes made by the act; creating s.
 8 627.4102, F.S.; providing for an informational filing
 9 of certain forms that are exempt from the Office of
 10 Insurance Regulation's approval process; requiring an
 11 informational filing to include a notarized
 12 certification from the insurer and providing a
 13 statement that must be included in the certification;
 14 authorizing the office to impose sanctions for false
 15 certifications; requiring a Notice of Change In Policy
 16 Terms form to be filed with a changed renewal policy;
 17 providing for construction; providing an effective
 18 date.

19
 20 Be It Enacted by the Legislature of the State of Florida:

21
 22 Section 1. Paragraph (d) of subsection (3) and paragraph
 23 (e) of subsection (7) of section 627.062, Florida Statutes, are
 24 amended to read:

25 627.062 Rate standards.—

26 (3)

27 (d)1. The following categories or kinds of insurance and
 28 types of commercial lines risks are not subject to paragraph

- 29 | (2) (a) or paragraph (2) (f) :
- 30 | a. Excess or umbrella.
- 31 | b. Surety and fidelity.
- 32 | c. Boiler and machinery and leakage and fire extinguishing
- 33 | equipment.
- 34 | d. Errors and omissions.
- 35 | e. Directors and officers, employment practices, fiduciary
- 36 | liability, and management liability.
- 37 | f. Intellectual property and patent infringement
- 38 | liability.
- 39 | g. Advertising injury and Internet liability insurance.
- 40 | h. Property risks rated under a highly protected risks
- 41 | rating plan.
- 42 | i. General liability.
- 43 | j. Nonresidential property, except for collateral
- 44 | protection insurance as defined in s. 624.6085.
- 45 | k. Nonresidential multiperil.
- 46 | l. Excess property.
- 47 | m. Burglary and theft.
- 48 | n. Medical malpractice for a facility that is not a
- 49 | hospital, nursing home, or assisted living facility.
- 50 | o. Medical malpractice for a health care practitioner who
- 51 | is not a dentist, physician, or surgeon.
- 52 | ~~p.~~ Any other commercial lines categories or kinds of
- 53 | insurance or types of commercial lines risks that the office
- 54 | determines should not be subject to paragraph (2) (a) or
- 55 | paragraph (2) (f) because of the existence of a competitive
- 56 | market for such insurance, similarity of such insurance to other

57 categories or kinds of insurance not subject to paragraph (2) (a)
58 or paragraph (2) (f), or to improve the general operational
59 efficiency of the office.

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

64 3. An insurer shall ~~must~~ notify the office of any changes
65 to rates for insurance and risks described in subparagraph 1.
66 within 30 days after the effective date of the change. The
67 notice must include the name of the insurer, the type or kind of
68 insurance subject to rate change, total premium written during
69 the immediately preceding year by the insurer for the type or
70 kind of insurance subject to the rate change, and the average
71 statewide percentage change in rates. Underwriting files,
72 premiums, losses, and expense statistics with regard to such
73 insurance and risks ~~written by an insurer~~ must be maintained by
74 the insurer and subject to examination by the office. Upon
75 examination, the office, in accordance with generally accepted
76 and reasonable actuarial techniques, shall consider the rate
77 factors in paragraphs (2) (b), (c), and (d) and the standards in
78 paragraph (2) (e) to determine if the rate is excessive,
79 inadequate, or unfairly discriminatory.

80 4. A rating organization shall ~~must~~ notify the office of
81 any changes to loss cost for insurance and risks described in
82 subparagraph 1. within 30 days after the effective date of the
83 change. The notice must include the name of the rating
84 organization, the type or kind of insurance subject to a loss

85 | cost change, loss costs during the immediately preceding year
 86 | for the type or kind of insurance subject to the loss cost
 87 | change, and the average statewide percentage change in loss
 88 | cost. Actuarial data with regard to changes to loss cost for
 89 | risks not subject to paragraph (2)(a) or paragraph (2)(f) must
 90 | be maintained by the rating organization for 2 years after the
 91 | effective date of the change and are subject to examination by
 92 | the office. The office may require the rating organization to
 93 | incur the costs associated with an examination. Upon
 94 | examination, the office, in accordance with generally accepted
 95 | and reasonable actuarial techniques, shall consider the rate
 96 | factors in paragraphs (2)(b)-(d) and the standards in paragraph
 97 | (2)(e) to determine if the rate is excessive, inadequate, or
 98 | unfairly discriminatory.

99 | (7) The provisions of this subsection apply only to rates
 100 | for medical malpractice insurance and control to the extent of
 101 | any conflict with other provisions of this section.

102 | (e) For medical malpractice rates subject to paragraph
 103 | (2)(e), the ~~each~~ medical malpractice insurer shall ~~must~~ make a
 104 | rate filing under this section, sworn to by at least two
 105 | executive officers of the insurer, at least once each calendar
 106 | year.

107 | Section 2. Subsection (1) of section 627.410, Florida
 108 | Statutes, is amended to read:

109 | 627.410 Filing, approval of forms.—

110 | (1) A ~~No~~ basic insurance policy or annuity contract form,
 111 | or application form where written application is required and is
 112 | to be made a part of the policy or contract, ~~or~~ group

113 certificates issued under a master contract delivered in this
 114 state, or printed rider or endorsement form or form of renewal
 115 certificate, may not ~~shall~~ be delivered or issued for delivery
 116 in this state, unless the form has been filed with the office by
 117 or on ~~in~~ behalf of the insurer that ~~which~~ proposes to use such
 118 form and has been approved by the office or filed pursuant to s.
 119 627.4102. This provision does not apply to surety bonds or to
 120 policies, riders, endorsements, or forms of unique character
 121 that ~~which~~ are designed for and used with ~~relation to~~ insurance
 122 on ~~upon~~ a particular subject, (other than as to health
 123 insurance), or that ~~which~~ relate to the manner of distributing
 124 ~~distribution of~~ benefits or to the reservation of rights and
 125 benefits under life or health insurance policies and are used at
 126 the request of the individual policyholder, contract holder, or
 127 certificateholder. For ~~As to~~ group insurance policies
 128 effectuated and delivered outside this state but covering
 129 persons resident in this state, the group certificates to be
 130 delivered or issued for delivery in this state shall be filed
 131 with the office for information purposes only.

132 Section 3. Section 627.4102, Florida Statutes, is created
 133 to read:

134 627.4102 Informational filing of forms.—

135 (1) Property and casualty forms, except workers'
 136 compensation forms, are exempt from the approval process
 137 required under s. 627.410 if:

138 (a) The form has been electronically submitted to the
 139 office in an informational filing made through I-File 30 days
 140 before the delivery or issuance for delivery of the form within

141 this state; and

142 (b) At the time the informational filing is made, a
143 notarized certification is attached to the filing that certifies
144 that each form within the filing is in compliance with all
145 applicable state laws and rules. The certification must be on
146 the insurer's letterhead and signed and dated by the insurer's
147 president, chief executive officer, general counsel, or an
148 employee of the insurer responsible for the filing on behalf of
149 the insurer. The certification must expressly acknowledge that
150 if the representations contained in the certification are found
151 to be false, the insurer is subject to appropriate regulatory
152 action. The certification must contain substantively the
153 following statement: "I, ...[name]..., as ...[title]... of
154 ...[insurer name]..., do hereby certify that this form filing
155 has been thoroughly and diligently reviewed by me and by all
156 appropriate company personnel, as well as company consultants,
157 if applicable, and certify that each form contained within the
158 filing is in compliance with all applicable Florida laws and
159 rules. Should this certification later be deemed false, I
160 acknowledge that ...[insurer name]... is subject to all
161 appropriate regulatory action by the Office of Insurance
162 Regulation."

163 (2) If the filing contains a certification that does not
164 meet the requirements of this section, the form filing, at the
165 discretion of the office, shall be subject to prior review and
166 approval pursuant to s. 627.410, and the period for review and
167 approval established under s. 627.410(2) begins to run on the
168 date the office notifies the insurer of the discovery of the

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169 | inadequate certification. The office may pursue regulatory
170 | action against an insurer that submits a false certification.

171 | (3) A Notice of Change in Policy Terms form required under
172 | s. 627.43141(2) shall be filed as a part of the informational
173 | filing for a renewal policy that contains a change. If a renewal
174 | policy that was certified requires such form, the insurer must
175 | provide a copy of the form to the named insured's agent before
176 | or upon providing the form to the named insured.

177 | (4) This section does not preclude an insurer from
178 | electing to file any form for approval under s. 627.410 that
179 | would otherwise be exempt under this section.

180 | Section 4. This act shall take effect upon becoming a law.