

1 A bill to be entitled

2 An act relating to property and casualty insurance
3 rates and forms; amending s. 627.062, F.S.; exempting
4 medical malpractice insurance that covers certain
5 providers and practitioners from specified rate filing
6 requirements; revising provisions relating to
7 notification of rate changes to codify the amendments
8 made to s. 627.062(3)(d)3., F.S., by s. 1, ch. 2011-
9 160, Laws of Florida, in lieu of the amendments made
10 by s. 12, ch. 2011-39, Laws of Florida, and making
11 editorial changes; amending s. 627.410, F.S.;
12 conforming provisions to changes made by the act;
13 creating s. 627.4102, F.S.; providing for an
14 informational filing of certain forms that are exempt
15 from the Office of Insurance Regulation's approval
16 process; requiring an informational filing to include
17 a notarized certification from the insurer and
18 providing a statement that must be included in the
19 certification; authorizing the office to impose
20 sanctions for false certifications; requiring a Notice
21 of Change In Policy Terms form to be filed with a
22 changed renewal policy; providing for construction;
23 providing an effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 Section 1. Paragraph (d) of subsection (3) and paragraph
28 (e) of subsection (7) of section 627.062, Florida Statutes, are

29 | amended to read:

30 | 627.062 Rate standards.—

31 | (3)

32 | (d)1. The following categories or kinds of insurance and
33 | types of commercial lines risks are not subject to paragraph
34 | (2) (a) or paragraph (2) (f):

35 | a. Excess or umbrella.

36 | b. Surety and fidelity.

37 | c. Boiler and machinery and leakage and fire extinguishing
38 | equipment.

39 | d. Errors and omissions.

40 | e. Directors and officers, employment practices, fiduciary
41 | liability, and management liability.

42 | f. Intellectual property and patent infringement
43 | liability.

44 | g. Advertising injury and Internet liability insurance.

45 | h. Property risks rated under a highly protected risks
46 | rating plan.

47 | i. General liability.

48 | j. Nonresidential property, except for collateral
49 | protection insurance as defined in s. 624.6085.

50 | k. Nonresidential multiperil.

51 | l. Excess property.

52 | m. Burglary and theft.

53 | n. Medical malpractice for a facility that is not a
54 | hospital, nursing home, or assisted living facility.

55 | o. Medical malpractice for a health care practitioner who
56 | is not a dentist, physician, or surgeon.

57 | ~~p.n.~~ Any other commercial lines categories or kinds of
58 | insurance or types of commercial lines risks that the office
59 | determines should not be subject to paragraph (2) (a) or
60 | paragraph (2) (f) because of the existence of a competitive
61 | market for such insurance, similarity of such insurance to other
62 | categories or kinds of insurance not subject to paragraph (2) (a)
63 | or paragraph (2) (f), or to improve the general operational
64 | efficiency of the office.

65 | 2. Insurers or rating organizations shall establish and
66 | use rates, rating schedules, or rating manuals to allow the
67 | insurer a reasonable rate of return on insurance and risks
68 | described in subparagraph 1. which are written in this state.

69 | 3. An insurer shall ~~must~~ notify the office of any changes
70 | to rates for insurance and risks described in subparagraph 1.
71 | within 30 days after the effective date of the change. The
72 | notice must include the name of the insurer, the type or kind of
73 | insurance subject to rate change, ~~total premium written during~~
74 | ~~the immediately preceding year by the insurer for the type or~~
75 | ~~kind of insurance subject to the rate change,~~ and the average
76 | statewide percentage change in rates. Actuarial data
77 | ~~Underwriting files, premiums, losses, and expense statistics~~
78 | with regard to rates for such insurance and risks ~~written by an~~
79 | ~~insurer~~ must be maintained by the insurer for 2 years after the
80 | effective date of changes to those rates and are subject to
81 | examination by the office. The office may require the insurer to
82 | incur the costs associated with an examination. Upon
83 | examination, the office, in accordance with generally accepted
84 | and reasonable actuarial techniques, shall consider the rate

85 factors in paragraphs (2) (b), (c), and (d) and the standards in
86 paragraph (2) (e) to determine if the rate is excessive,
87 inadequate, or unfairly discriminatory.

88 4. A rating organization shall ~~must~~ notify the office of
89 any changes to loss cost for insurance and risks described in
90 subparagraph 1. within 30 days after the effective date of the
91 change. The notice must include the name of the rating
92 organization, the type or kind of insurance subject to a loss
93 cost change, loss costs during the immediately preceding year
94 for the type or kind of insurance subject to the loss cost
95 change, and the average statewide percentage change in loss
96 cost. Actuarial data with regard to changes to loss cost for
97 risks not subject to paragraph (2) (a) or paragraph (2) (f) must
98 be maintained by the rating organization for 2 years after the
99 effective date of the change and are subject to examination by
100 the office. The office may require the rating organization to
101 incur the costs associated with an examination. Upon
102 examination, the office, in accordance with generally accepted
103 and reasonable actuarial techniques, shall consider the rate
104 factors in paragraphs (2) (b)-(d) and the standards in paragraph
105 (2) (e) to determine if the rate is excessive, inadequate, or
106 unfairly discriminatory.

107 (7) The provisions of this subsection apply only to rates
108 for medical malpractice insurance and control to the extent of
109 any conflict with other provisions of this section.

110 (e) For medical malpractice rates subject to paragraph
111 (2) (a), the ~~each~~ medical malpractice insurer shall ~~must~~ make a
112 rate filing under this section, sworn to by at least two

113 executive officers of the insurer, at least once each calendar
 114 year.

115 Section 2. Subsection (1) of section 627.410, Florida
 116 Statutes, is amended to read:

117 627.410 Filing, approval of forms.—

118 (1) A ~~No~~ basic insurance policy or annuity contract form,
 119 or application form where written application is required and is
 120 to be made a part of the policy or contract, ~~or~~ group
 121 certificates issued under a master contract delivered in this
 122 state, or printed rider or endorsement form or form of renewal
 123 certificate, may not ~~shall~~ be delivered or issued for delivery
 124 in this state, unless the form has been filed with the office by
 125 or on ~~in~~ behalf of the insurer that ~~which~~ proposes to use such
 126 form and has been approved by the office or filed pursuant to s.
 127 627.4102. This provision does not apply to surety bonds or to
 128 policies, riders, endorsements, or forms of unique character
 129 that ~~which~~ are designed for and used with ~~relation to~~ insurance
 130 on ~~upon~~ a particular subject, ~~(other than as to health~~
 131 ~~insurance)~~, or that ~~which~~ relate to the manner of distributing
 132 ~~distribution of~~ benefits or to the reservation of rights and
 133 benefits under life or health insurance policies and are used at
 134 the request of the individual policyholder, contract holder, or
 135 certificateholder. For ~~As to~~ group insurance policies
 136 effectuated and delivered outside this state but covering
 137 persons resident in this state, the group certificates to be
 138 delivered or issued for delivery in this state shall be filed
 139 with the office for information purposes only.

140 Section 3. Section 627.4102, Florida Statutes, is created

141 to read:

142 627.4102 Informational filing of forms.—

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

146 (a) The form has been electronically submitted to the
147 office in an informational filing made through I-File 30 days
148 before the delivery or issuance for delivery of the form within
149 this state; and

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

169 appropriate regulatory action by the Office of Insurance
170 Regulation."

171 (2) If the filing contains a certification that does not
172 meet the requirements of this section, the form filing, at the
173 discretion of the office, shall be subject to prior review and
174 approval pursuant to s. 627.410, and the period for review and
175 approval established under s. 627.410(2) begins to run on the
176 date the office notifies the insurer of the discovery of the
177 inadequate certification. The office may pursue regulatory
178 action against an insurer that submits a false certification.

179 (3) A Notice of Change in Policy Terms form required under
180 s. 627.43141(2) shall be filed as a part of the informational
181 filing for a renewal policy that contains a change. If a renewal
182 policy that was certified requires such form, the insurer must
183 provide a copy of the form to the named insured's agent before
184 or upon providing the form to the named insured.

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

188 Section 4. This act shall take effect July 1, 2013.