

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 require prior
20 review and approval of a form that is not in
21 compliance; requiring a Notice of Change In Policy
22 Terms form to be filed with a changed renewal policy;
23 providing for construction and applicability;
24 providing an effective date.

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

27
28 Section 1. Paragraph (d) of subsection (3) and paragraph

29 (e) of subsection (7) of section 627.062, Florida Statutes, are
 30 amended to read:

31 627.062 Rate standards.—

32 (3)

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

36 a. Excess or umbrella.

37 b. Surety and fidelity.

38 c. Boiler and machinery and leakage and fire extinguishing
 39 equipment.

40 d. Errors and omissions.

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

43 f. Intellectual property and patent infringement
 44 liability.

45 g. Advertising injury and Internet liability insurance.

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

48 i. General liability.

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

51 k. Nonresidential multiperil.

52 l. Excess property.

53 m. Burglary and theft.

54 n. Medical malpractice for a facility that is not a
 55 hospital licensed under chapter 395, a nursing home licensed
 56 under part II of chapter 400, or an assisted living facility

57 | licensed under part I of chapter 429.

58 | o. Medical malpractice for a health care practitioner who
 59 | is not a dentist licensed under chapter 466, a physician
 60 | licensed under chapter 458, an osteopathic physician licensed
 61 | under chapter 459, a chiropractic physician licensed under
 62 | chapter 460, or a podiatric physician licensed under chapter
 63 | 461.

64 | p.#. Any other commercial lines categories or kinds of
 65 | insurance or types of commercial lines risks that the office
 66 | determines should not be subject to paragraph (2) (a) or
 67 | paragraph (2) (f) because of the existence of a competitive
 68 | market for such insurance, similarity of such insurance to other
 69 | categories or kinds of insurance not subject to paragraph (2) (a)
 70 | or paragraph (2) (f), or to improve the general operational
 71 | efficiency of the office.

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

76 | 3. An insurer shall ~~must~~ notify the office of any changes
 77 | to rates for insurance and risks described in subparagraph 1.
 78 | within 30 days after the effective date of the change. The
 79 | notice must include the name of the insurer, the type or kind of
 80 | insurance subject to rate change, ~~total premium written during~~
 81 | ~~the immediately preceding year by the insurer for the type or~~
 82 | ~~kind of insurance subject to the rate change,~~ and the average
 83 | statewide percentage change in rates. Actuarial data
 84 | ~~Underwriting files, premiums, losses, and expense statistics~~

85 | with regard to rates for such insurance and risks written by an
86 | insurer must be maintained by the insurer for 2 years after the
87 | effective date of changes to those rates and are subject to
88 | examination by the office. The office may require the insurer to
89 | incur the costs associated with an examination. Upon
90 | examination, the office, in accordance with generally accepted
91 | and reasonable actuarial techniques, shall consider the rate
92 | factors in paragraphs (2) (b), (c), and (d) and the standards in
93 | paragraph (2) (e) to determine if the rate is excessive,
94 | inadequate, or unfairly discriminatory.

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

113 | unfairly discriminatory.

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

117 | (e) For medical malpractice rates subject to paragraph
118 | (2) (a), the ~~each~~ medical malpractice insurer shall ~~must~~ make a
119 | rate filing under this section, sworn to by at least two
120 | executive officers of the insurer, at least once each calendar
121 | year.

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

124 | 627.410 Filing, approval of forms.—

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

141 the request of the individual policyholder, contract holder, or
142 certificateholder. ~~For As to~~ group insurance policies
143 effectuated and delivered outside this state but covering
144 persons resident in this state, the group certificates to be
145 delivered or issued for delivery in this state shall be filed
146 with the office for information purposes only.

147 Section 3. Section 627.4102, Florida Statutes, is created
148 to read:

149 627.4102 Informational filing of forms.—

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

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

157 (b) At the time the informational filing is made, a
158 notarized certification is attached to the filing that certifies
159 that each form within the filing is in compliance with all
160 applicable state laws and rules. The certification must be on
161 the insurer's letterhead and signed and dated by the insurer's
162 president, chief executive officer, general counsel, or an
163 employee of the insurer responsible for the filing on behalf of
164 the insurer. The certification must contain the following
165 statement, and no other language: "I, ...[name]..., as
166 ...[title]... of ...[insurer name]..., do hereby certify that
167 this form filing has been thoroughly and diligently reviewed by
168 me and by all appropriate company personnel, as well as company

169 consultants, if applicable, and certify that each form contained
170 within the filing is in compliance with all applicable Florida
171 laws and rules. Should a form be found not to be in compliance
172 with Florida laws and rules, I acknowledge that the Office of
173 Insurance Regulation shall disapprove the form."

174 (2) If the filing contains a form that is not in
175 compliance with state laws and rules, the form filing, at the
176 discretion of the office, is subject to prior review and
177 approval pursuant to s. 627.410, and the period for review and
178 approval established under s. 627.410(2) begins to run on the
179 date the office notifies the insurer of the discovery of the
180 noncompliant form.

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

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

190 (5) The provisions of this section supersede and replace
191 the existing order issued by the office exempting specified
192 property and casualty forms from the requirements of s. 627.410.

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