

By the Committees on Health Policy; and Banking and Insurance;
and Senator Hukill

588-03422-13

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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

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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 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 licensed under chapter 395, a nursing home licensed
55 under part II of chapter 400, or an assisted living facility
56 licensed under part I of chapter 429.

57 o. Medical malpractice for a health care practitioner who
58 is not a dentist licensed under chapter 466, a physician

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59 licensed under chapter 458, an osteopathic physician licensed
60 under chapter 459, a chiropractic physician licensed under
61 chapter 460, or a podiatric physician licensed under chapter
62 461.

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

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

75 3. An insurer shall ~~must~~ notify the office of any changes
76 to rates for insurance and risks described in subparagraph 1.
77 within 30 days after the effective date of the change. The
78 notice must include the name of the insurer, the type or kind of
79 insurance subject to rate change, ~~total premium written during~~
80 ~~the immediately preceding year by the insurer for the type or~~
81 ~~kind of insurance subject to the rate change,~~ and the average
82 statewide percentage change in rates. Actuarial data
83 ~~Underwriting files, premiums, losses, and expense statistics~~
84 with regard to rates for such insurance and risks ~~written by an~~
85 ~~insurer~~ must be maintained by the insurer for 2 years after the
86 effective date of changes to those rates and are subject to
87 examination by the office. The office may require the insurer to

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88 incur the costs associated with an examination. Upon
89 examination, the office, in accordance with generally accepted
90 and reasonable actuarial techniques, shall consider the rate
91 factors in paragraphs (2) (b), (c), and (d) and the standards in
92 paragraph (2) (e) to determine if the rate is excessive,
93 inadequate, or unfairly discriminatory.

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

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

116 (e) For medical malpractice rates subject to paragraph

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

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

123 627.410 Filing, approval of forms.—

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

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

148 627.4102 Informational filing of forms.—

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

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

156 (b) At the time the informational filing is made, a
157 notarized certification is attached to the filing that certifies
158 that each form within the filing is in compliance with all
159 applicable state laws and rules. The certification must be on
160 the insurer's letterhead and signed and dated by the insurer's
161 president, chief executive officer, general counsel, or an
162 employee of the insurer responsible for the filing on behalf of
163 the insurer. The certification must contain the following
164 statement, and no other language: "I, ...[name]..., as
165 ...[title]... of ...[insurer name]..., do hereby certify that
166 this form filing has been thoroughly and diligently reviewed by
167 me and by all appropriate company personnel, as well as company
168 consultants, if applicable, and certify that each form contained
169 within the filing is in compliance with all applicable Florida
170 laws and rules. Should a form be found not to be in compliance
171 with Florida laws and rules, I acknowledge that the Office of
172 Insurance Regulation shall disapprove the form."

173 (2) If the filing contains a form that is not in compliance
174 with state laws and rules, the form filing, at the discretion of

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175 the office, is subject to prior review and approval pursuant to
176 s. 627.410, and the period for review and approval established
177 under s. 627.410(2) begins to run on the date the office
178 notifies the insurer of the discovery of the noncompliant form.

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 sample copy of the form to the named insured's agent
184 before or upon providing the form to the named insured.

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

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

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