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1
2 An act relating to property and casualty insurance
3 rates, fees, and forms; amending s. 215.555, F.S.;
4 postponing the date that repeals the Florida Hurricane
5 Catastrophe Fund emergency assessment exemption for
6 medical malpractice insurance premiums; amending s.
7 627.062, F.S.; exempting medical malpractice insurance
8 that covers certain providers and practitioners from
9 specified rate filing requirements; revising
10 provisions relating to notification of rate changes to
11 codify the amendments made to s. 627.062(3)(d)3.,
12 F.S., by s. 1, ch. 2011-160, Laws of Florida, in lieu
13 of the amendments made by s. 12, ch. 2011-39, Laws of
14 Florida, and making editorial changes; amending s.
15 627.410, F.S.; conforming provisions to changes made
16 by the act; creating s. 627.4102, F.S.; providing for
17 an informational filing of certain forms that are
18 exempt from the Office of Insurance Regulation's
19 approval process; requiring an informational filing to
20 include a notarized certification from the insurer and
21 providing a statement that must be included in the
22 certification; authorizing the office to require prior
23 review and approval of a form that is not in
24 compliance; requiring a Notice of Change In Policy
25 Terms form to be filed with a changed renewal policy;
26 providing for construction and applicability;
27 providing an effective date.

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29 Be It Enacted by the Legislature of the State of Florida:

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Section 1. Paragraph (b) of subsection (6) of section 215.555, Florida Statutes, is amended to read:

215.555 Florida Hurricane Catastrophe Fund.—

(6) REVENUE BONDS.—

(b) *Emergency assessments*—

1. If the board determines that the amount of revenue produced under subsection (5) is insufficient to fund the obligations, costs, and expenses of the fund and the corporation, including repayment of revenue bonds and that portion of the debt service coverage not met by reimbursement premiums, the board shall direct the Office of Insurance Regulation to levy, by order, an emergency assessment on direct premiums for all property and casualty lines of business in this state, including property and casualty business of surplus lines insurers regulated under part VIII of chapter 626, but not including any workers' compensation premiums or medical malpractice premiums. As used in this subsection, the term "property and casualty business" includes all lines of business identified on Form 2, Exhibit of Premiums and Losses, in the annual statement required of authorized insurers by s. 624.424 and any rule adopted under this section, except for those lines identified as accident and health insurance and except for policies written under the National Flood Insurance Program. The assessment shall be specified as a percentage of direct written premium and is subject to annual adjustments by the board in order to meet debt obligations. The same percentage applies ~~shall apply~~ to all policies in lines of business subject to the assessment issued or renewed during the 12-month period

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59 beginning on the effective date of the assessment.

60 2. A premium is not subject to an annual assessment under
61 this paragraph in excess of 6 percent of premium with respect to
62 obligations arising out of losses attributable to any one
63 contract year, and a premium is not subject to an aggregate
64 annual assessment under this paragraph in excess of 10 percent
65 of premium. An annual assessment under this paragraph continues
66 ~~shall continue~~ as long as the revenue bonds issued with respect
67 to which the assessment was imposed are outstanding, including
68 any bonds the proceeds of which were used to refund the revenue
69 bonds, unless adequate provision has been made for the payment
70 of the bonds under the documents authorizing issuance of the
71 bonds.

72 3. Emergency assessments shall be collected from
73 policyholders. Emergency assessments shall be remitted by
74 insurers as a percentage of direct written premium for the
75 preceding calendar quarter as specified in the order from the
76 Office of Insurance Regulation. The office shall verify the
77 accurate and timely collection and remittance of emergency
78 assessments and shall report the information to the board in a
79 form and at a time specified by the board. Each insurer
80 collecting assessments shall provide the information with
81 respect to premiums and collections as may be required by the
82 office to enable the office to monitor and verify compliance
83 with this paragraph.

84 4. With respect to assessments of surplus lines premiums,
85 each surplus lines agent shall collect the assessment at the
86 same time as the agent collects the surplus lines tax required
87 by s. 626.932, and the surplus lines agent shall remit the

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88 assessment to the Florida Surplus Lines Service Office created
89 by s. 626.921 at the same time as the agent remits the surplus
90 lines tax to the Florida Surplus Lines Service Office. The
91 emergency assessment on each insured procuring coverage and
92 filing under s. 626.938 shall be remitted by the insured to the
93 Florida Surplus Lines Service Office at the time the insured
94 pays the surplus lines tax to the Florida Surplus Lines Service
95 Office. The Florida Surplus Lines Service Office shall remit the
96 collected assessments to the fund or corporation as provided in
97 the order levied by the Office of Insurance Regulation. The
98 Florida Surplus Lines Service Office shall verify the proper
99 application of such emergency assessments and shall assist the
100 board in ensuring the accurate and timely collection and
101 remittance of assessments as required by the board. The Florida
102 Surplus Lines Service Office shall annually calculate the
103 aggregate written premium on property and casualty business,
104 other than workers' compensation and medical malpractice,
105 procured through surplus lines agents and insureds procuring
106 coverage and filing under s. 626.938 and shall report the
107 information to the board in a form and at a time specified by
108 the board.

109 5. Any assessment authority not used for a particular
110 contract year may be used for a subsequent contract year. If,
111 for a subsequent contract year, the board determines that the
112 amount of revenue produced under subsection (5) is insufficient
113 to fund the obligations, costs, and expenses of the fund and the
114 corporation, including repayment of revenue bonds and that
115 portion of the debt service coverage not met by reimbursement
116 premiums, the board shall direct the Office of Insurance

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117 Regulation to levy an emergency assessment up to an amount not
118 exceeding the amount of unused assessment authority from a
119 previous contract year or years, plus an additional 4 percent
120 provided that the assessments in the aggregate do not exceed the
121 limits specified in subparagraph 2.

122 6. The assessments otherwise payable to the corporation
123 under this paragraph shall be paid to the fund unless ~~and until~~
124 the Office of Insurance Regulation and the Florida Surplus Lines
125 Service Office ~~have~~ received a notice from the corporation and
126 the fund ~~a notice~~, which shall be conclusive and upon which they
127 may rely without further inquiry, that the corporation has
128 issued bonds and the fund has no agreements in effect with local
129 governments under paragraph (c). On or after the date of the
130 notice and until the date the corporation has no bonds
131 outstanding, the fund shall have no right, title, or interest in
132 or to the assessments, except as provided in the fund's
133 agreement with the corporation.

134 7. Emergency assessments are not premium and are not
135 subject to the premium tax, to the surplus lines tax, to any
136 fees, or to any commissions. An insurer is liable for all
137 assessments that it collects and must treat the failure of an
138 insured to pay an assessment as a failure to pay the premium. An
139 insurer is not liable for uncollectible assessments.

140 8. If ~~When~~ an insurer is required to return an unearned
141 premium, it shall also return any collected assessment
142 attributable to the unearned premium. A credit adjustment to the
143 collected assessment may be made by the insurer with regard to
144 future remittances that are payable to the fund or corporation,
145 but the insurer is not entitled to a refund.

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146 9. ~~If~~ When a surplus lines insured or an insured who has
147 procured coverage and filed under s. 626.938 is entitled to the
148 return of an unearned premium, the Florida Surplus Lines Service
149 Office shall provide a credit or refund to the agent or such
150 insured for the collected assessment attributable to the
151 unearned premium before ~~prior to~~ remitting the emergency
152 assessment collected to the fund or corporation.

153 10. The exemption of medical malpractice insurance premiums
154 from emergency assessments under this paragraph is repealed May
155 31, 2016 ~~2013~~, and medical malpractice insurance premiums shall
156 be subject to emergency assessments attributable to loss events
157 occurring in the contract years commencing on June 1, 2016 ~~2013~~.

158 Section 2. Paragraph (d) of subsection (3) and paragraph
159 (e) of subsection (7) of section 627.062, Florida Statutes, are
160 amended to read:

161 627.062 Rate standards.—

162 (3)

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

166 a. Excess or umbrella.

167 b. Surety and fidelity.

168 c. Boiler and machinery and leakage and fire extinguishing
169 equipment.

170 d. Errors and omissions.

171 e. Directors and officers, employment practices, fiduciary
172 liability, and management liability.

173 f. Intellectual property and patent infringement liability.

174 g. Advertising injury and Internet liability insurance.

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175 h. Property risks rated under a highly protected risks
176 rating plan.

177 i. General liability.

178 j. Nonresidential property, except for collateral
179 protection insurance as defined in s. 624.6085.

180 k. Nonresidential multiperil.

181 l. Excess property.

182 m. Burglary and theft.

183 n. Medical malpractice for a facility that is not a
184 hospital licensed under chapter 395, a nursing home licensed
185 under part II of chapter 400, or an assisted living facility
186 licensed under part I of chapter 429.

187 o. Medical malpractice for a health care practitioner who
188 is not a dentist licensed under chapter 466, a physician
189 licensed under chapter 458, an osteopathic physician licensed
190 under chapter 459, a chiropractic physician licensed under
191 chapter 460, a podiatric physician licensed under chapter 461, a
192 pharmacist licensed under chapter 465, or a pharmacy technician
193 registered under chapter 465.

194 ~~p.n.~~ Any other commercial lines categories or kinds of
195 insurance or types of commercial lines risks that the office
196 determines should not be subject to paragraph (2)(a) or
197 paragraph (2)(f) because of the existence of a competitive
198 market for such insurance, similarity of such insurance to other
199 categories or kinds of insurance not subject to paragraph (2)(a)
200 or paragraph (2)(f), or to improve the general operational
201 efficiency of the office.

202 2. Insurers or rating organizations shall establish and use
203 rates, rating schedules, or rating manuals to allow the insurer

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204 a reasonable rate of return on insurance and risks described in
205 subparagraph 1. which are written in this state.

206 3. An insurer shall ~~must~~ notify the office of any changes
207 to rates for insurance and risks described in subparagraph 1.
208 within 30 days after the effective date of the change. The
209 notice must include the name of the insurer, the type or kind of
210 insurance subject to rate change, ~~total premium written during~~
211 ~~the immediately preceding year by the insurer for the type or~~
212 ~~kind of insurance subject to the rate change,~~ and the average
213 statewide percentage change in rates. Actuarial data
214 ~~Underwriting files, premiums, losses, and expense statistics~~
215 with regard to rates for such ~~insurance and risks written by an~~
216 ~~insurer~~ must be maintained by the insurer for 2 years after the
217 effective date of changes to those rates and are subject to
218 examination by the office. The office may require the insurer to
219 incur the costs associated with an examination. Upon
220 examination, the office, in accordance with generally accepted
221 and reasonable actuarial techniques, shall consider the rate
222 factors in paragraphs (2)(b), (c), and (d) and the standards in
223 paragraph (2)(e) to determine if the rate is excessive,
224 inadequate, or unfairly discriminatory.

225 4. A rating organization shall ~~must~~ notify the office of
226 any changes to loss cost for insurance and risks described in
227 subparagraph 1. within 30 days after the effective date of the
228 change. The notice must include the name of the rating
229 organization, the type or kind of insurance subject to a loss
230 cost change, loss costs during the immediately preceding year
231 for the type or kind of insurance subject to the loss cost
232 change, and the average statewide percentage change in loss

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233 cost. Actuarial data with regard to changes to loss cost for
234 risks not subject to paragraph (2) (a) or paragraph (2) (f) must
235 be maintained by the rating organization for 2 years after the
236 effective date of the change and are subject to examination by
237 the office. The office may require the rating organization to
238 incur the costs associated with an examination. Upon
239 examination, the office, in accordance with generally accepted
240 and reasonable actuarial techniques, shall consider the rate
241 factors in paragraphs (2) (b)-(d) and the standards in paragraph
242 (2) (e) to determine if the rate is excessive, inadequate, or
243 unfairly discriminatory.

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

247 (e) For medical malpractice rates subject to paragraph
248 (2) (a), the each medical malpractice insurer shall ~~must~~ make a
249 rate filing under this section, sworn to by at least two
250 executive officers of the insurer, at least once each calendar
251 year.

252 Section 3. Subsection (1) of section 627.410, Florida
253 Statutes, is amended to read:

254 627.410 Filing, approval of forms.—

255 (1) A ~~No~~ basic insurance policy or annuity contract form,
256 or application form where written application is required and is
257 to be made a part of the policy or contract, ~~or~~ group
258 certificates issued under a master contract delivered in this
259 state, or printed rider or endorsement form or form of renewal
260 certificate, may not ~~shall~~ be delivered or issued for delivery
261 in this state, ~~unless~~ unless the form has been filed with the office by

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262 or on ~~in~~ behalf of the insurer that ~~which~~ proposes to use such
263 form and has been approved by the office or filed pursuant to s.
264 627.4102. This provision does not apply to surety bonds or to
265 policies, riders, endorsements, or forms of unique character
266 that ~~which~~ are designed for and used with ~~relation to~~ insurance
267 on ~~upon~~ a particular subject, ~~(other than as to health~~
268 ~~insurance)~~, or that ~~which~~ relate to the manner of distributing
269 ~~distribution of~~ benefits or to the reservation of rights and
270 benefits under life or health insurance policies and are used at
271 the request of the individual policyholder, contract holder, or
272 certificateholder. For ~~As to~~ group insurance policies
273 effectuated and delivered outside this state but covering
274 persons resident in this state, the group certificates to be
275 delivered or issued for delivery in this state shall be filed
276 with the office for information purposes only.

277 Section 4. Section 627.4102, Florida Statutes, is created
278 to read:

279 627.4102 Informational filing of forms.-

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

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

287 (b) At the time the informational filing is made, a
288 notarized certification is attached to the filing that certifies
289 that each form within the filing is in compliance with all
290 applicable state laws and rules. The certification must be on

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291 the insurer's letterhead and signed and dated by the insurer's
292 president, chief executive officer, general counsel, or an
293 employee of the insurer responsible for the filing on behalf of
294 the insurer. The certification must contain the following
295 statement, and no other language: "I, ...[name]..., as
296 ...[title]... of ...[insurer name]..., do hereby certify that
297 this form filing has been thoroughly and diligently reviewed by
298 me and by all appropriate company personnel, as well as company
299 consultants, if applicable, and certify that each form contained
300 within the filing is in compliance with all applicable Florida
301 laws and rules. Should a form be found not to be in compliance
302 with Florida laws and rules, I acknowledge that the Office of
303 Insurance Regulation shall disapprove the form."

304 (2) If the filing contains a form that is not in compliance
305 with state laws and rules, the form filing, at the discretion of
306 the office, is subject to prior review and approval pursuant to
307 s. 627.410, and the period for review and approval established
308 under s. 627.410(2) begins to run on the date the office
309 notifies the insurer of the discovery of the noncompliant form.

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

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

319 (5) The provisions of this section supersede and replace

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320 the existing order issued by the office exempting specified
321 property and casualty forms from the requirements of s. 627.410.

322 Section 5. This act shall take effect July 1, 2013.