

By Senator Brandes

22-00261B-15

2015258__

1 A bill to be entitled
2 An act relating to property and casualty insurance;
3 amending s. 627.062, F.S.; requiring the Office of
4 Insurance Regulation to use certain models or methods,
5 or a straight average of model results or output
6 ranges, to estimate hurricane losses when determining
7 whether the rates in a rate filing are excessive,
8 inadequate, or unfairly discriminatory; amending s.
9 627.0628, F.S.; increasing the length of time during
10 which an insurer is not required to adhere to certain
11 models found by the Commission on Hurricane Loss
12 Projection Methodology to be accurate or reliable in
13 determining probable maximum loss levels with respect
14 to certain rate filings; providing that the
15 requirement to adhere to such findings does not
16 prohibit an insurer from using a straight average of
17 model results or output ranges under specified
18 circumstances; amending s. 627.0651, F.S.; revising
19 provisions for the making and use of rates for motor
20 vehicle insurance; amending s. 627.3518, F.S.;
21 conforming a cross-reference; amending s. 627.4133,
22 F.S.; increasing the amount of prior notice required
23 with respect to the nonrenewal, cancellation, or
24 termination of certain insurance policies; deleting
25 certain provisions that require extended periods of
26 prior notice with respect to the nonrenewal,
27 cancellation, or termination of certain insurance
28 policies; prohibiting the cancellation of certain
29 policies that have been in effect for a specified

22-00261B-15

2015258__

30 amount of time except under certain circumstances;
31 amending s. 627.421, F.S.; authorizing a policyholder
32 of personal lines insurance to affirmatively elect
33 delivery of policy documents by electronic means;
34 amending s. 627.7074, F.S.; revising notification
35 requirements for participation in the neutral
36 evaluation program; amending s. 627.736, F.S.;
37 revising the period for applicability of certain
38 Medicare fee schedules or payment limitations;
39 amending s. 627.744, F.S.; revising preinsurance
40 inspection requirements for private passenger motor
41 vehicles; providing an effective date.

42
43 Be It Enacted by the Legislature of the State of Florida:

44
45 Section 1. Paragraph (b) of subsection (2) of section
46 627.062, Florida Statutes, is amended to read:

47 627.062 Rate standards.—

48 (2) As to all such classes of insurance:

49 (b) Upon receiving a rate filing, the office shall review
50 the filing to determine whether ~~if~~ a rate is excessive,
51 inadequate, or unfairly discriminatory. In making that
52 determination, the office shall, in accordance with generally
53 accepted and reasonable actuarial techniques, consider the
54 following factors:

- 55 1. Past and prospective loss experience within and without
56 this state.
- 57 2. Past and prospective expenses.
- 58 3. The degree of competition among insurers for the risk

22-00261B-15

2015258__

59 insured.

60 4. Investment income reasonably expected by the insurer,
61 consistent with the insurer's investment practices, from
62 investable premiums anticipated in the filing, plus any other
63 expected income from currently invested assets representing the
64 amount expected on unearned premium reserves and loss reserves.
65 The commission may adopt rules using reasonable techniques of
66 actuarial science and economics to specify the manner in which
67 insurers calculate investment income attributable to classes of
68 insurance written in this state and the manner in which
69 investment income is used to calculate insurance rates. Such
70 manner must contemplate allowances for an underwriting profit
71 factor and full consideration of investment income that produces
72 a reasonable rate of return; however, investment income from
73 invested surplus may not be considered.

74 5. The reasonableness of the judgment reflected in the
75 filing.

76 6. Dividends, savings, or unabsorbed premium deposits
77 allowed or returned to policyholders, members, or subscribers in
78 this state.

79 7. The adequacy of loss reserves.

80 8. The cost of reinsurance. The office may not disapprove a
81 rate as excessive solely due to the insurer having obtained
82 catastrophic reinsurance to cover the insurer's estimated 250-
83 year probable maximum loss or any lower level of loss.

84 9. Trend factors, including trends in actual losses per
85 insured unit for the insurer making the filing.

86 10. Conflagration and catastrophe hazards, if applicable.

87 11. Projected hurricane losses, if applicable, which must

22-00261B-15

2015258__

88 be estimated using a model or method, or a straight average of
89 model results or output ranges, independently found to be
90 acceptable or reliable by the Florida Commission on Hurricane
91 Loss Projection Methodology, and as further provided in s.
92 627.0628.

93 12. Projected flood losses for personal residential
94 property insurance, if applicable, which may be estimated using
95 a model or method, or a straight average of model results or
96 output ranges, independently found to be acceptable or reliable
97 by the Florida Commission on Hurricane Loss Projection
98 Methodology and as further provided in s. 627.0628.

99 13. A reasonable margin for underwriting profit and
100 contingencies.

101 14. The cost of medical services, if applicable.

102 15. Other relevant factors that affect the frequency or
103 severity of claims or expenses.

104

105 ~~The provisions of~~ This subsection does ~~de~~ not apply to workers'
106 compensation, employer's liability insurance, and motor vehicle
107 insurance.

108 Section 2. Paragraph (d) of subsection (3) of section
109 627.0628, Florida Statutes, is amended to read:

110 627.0628 Florida Commission on Hurricane Loss Projection
111 Methodology; public records exemption; public meetings
112 exemption.—

113 (3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.—

114 (d) With respect to a rate filing under s. 627.062, an
115 insurer shall employ and may not modify or adjust actuarial
116 methods, principles, standards, models, or output ranges found

22-00261B-15

2015258__

117 by the commission to be accurate or reliable in determining
118 hurricane loss factors for use in a rate filing under s.
119 627.062. An insurer shall employ and may not modify or adjust
120 models found by the commission to be accurate or reliable in
121 determining probable maximum loss levels pursuant to paragraph
122 (b) with respect to a rate filing under s. 627.062 made more
123 than 180 ~~60~~ days after the commission has made such findings.
124 This paragraph does not prohibit an insurer from using a
125 straight average of model results or output ranges for the
126 purposes of a rate filing ~~for personal lines residential flood~~
127 ~~insurance coverage~~ under s. 627.062.

128 Section 3. Subsection (8) of section 627.0651, Florida
129 Statutes, is amended to read:

130 627.0651 Making and use of rates for motor vehicle
131 insurance.—

132 (8) Rates are not unfairly discriminatory if averaged
133 broadly among members of a group; nor are rates unfairly
134 discriminatory even though they are lower than rates for
135 nonmembers of the group. However, such rates are unfairly
136 discriminatory if they are not actuarially measurable and
137 credible and sufficiently related to actual or expected loss and
138 expense experience of the group so as to ensure ~~assure~~ that
139 nonmembers of the group are not unfairly discriminated against.
140 Use of a single United States Postal Service zip code as a
141 rating territory shall be deemed unfairly discriminatory unless
142 filed pursuant to paragraph (1) (a) and such territory
143 incorporates sufficient actual or expected loss and loss
144 adjustment expense experience so as to be actuarially measurable
145 and credible.

22-00261B-15

2015258__

146 Section 4. Subsection (9) of section 627.3518, Florida
147 Statutes, is amended to read:

148 627.3518 Citizens Property Insurance Corporation
149 policyholder eligibility clearinghouse program.—The purpose of
150 this section is to provide a framework for the corporation to
151 implement a clearinghouse program by January 1, 2014.

152 (9) The 45-day notice of nonrenewal requirement set forth
153 in s. 627.4133(2)(b)5. ~~s. 627.4133(2)(b)5.b.~~ applies when a
154 policy is nonrenewed by the corporation because the risk has
155 received an offer of coverage pursuant to this section which
156 renders the risk ineligible for coverage by the corporation.

157 Section 5. Paragraph (b) of subsection (2) of section
158 627.4133, Florida Statutes, is amended to read:

159 627.4133 Notice of cancellation, nonrenewal, or renewal
160 premium.—

161 (2) With respect to any personal lines or commercial
162 residential property insurance policy, including, but not
163 limited to, any homeowner, mobile home owner, farmowner,
164 condominium association, condominium unit owner, apartment
165 building, or other policy covering a residential structure or
166 its contents:

167 (b) The insurer shall give the first-named insured written
168 notice of nonrenewal, cancellation, or termination at least 120
169 ~~100~~ days before the effective date of the nonrenewal,
170 cancellation, or termination. ~~However, the insurer shall give at~~
171 ~~least 100 days' written notice, or written notice by June 1,~~
172 ~~whichever is earlier, for any nonrenewal, cancellation, or~~
173 ~~termination that would be effective between June 1 and November~~
174 ~~30.~~ The notice must include the reason for the nonrenewal,

22-00261B-15

2015258__

175 cancellation, or termination, except that:

176 ~~1. The insurer shall give the first named insured written~~
177 ~~notice of nonrenewal, cancellation, or termination at least 120~~
178 ~~days before the effective date of the nonrenewal, cancellation,~~
179 ~~or termination for a first named insured whose residential~~
180 ~~structure has been insured by that insurer or an affiliated~~
181 ~~insurer for at least 5 years before the date of the written~~
182 ~~notice.~~

183 1.2. If cancellation is for nonpayment of premium, at least
184 10 days' written notice of cancellation accompanied by the
185 reason therefor must be given. As used in this subparagraph, the
186 term "nonpayment of premium" means failure of the named insured
187 to discharge when due her or his obligations for paying the
188 premium on a policy or an installment of such premium, whether
189 the premium is payable directly to the insurer or its agent or
190 indirectly under a premium finance plan or extension of credit,
191 or failure to maintain membership in an organization if such
192 membership is a condition precedent to insurance coverage. The
193 term also means the failure of a financial institution to honor
194 an insurance applicant's check after delivery to a licensed
195 agent for payment of a premium even if the agent has previously
196 delivered or transferred the premium to the insurer. If a
197 dishonored check represents the initial premium payment, the
198 contract and all contractual obligations are void ab initio
199 unless the nonpayment is cured within the earlier of 5 days
200 after actual notice by certified mail is received by the
201 applicant or 15 days after notice is sent to the applicant by
202 certified mail or registered mail. If the contract is void, any
203 premium received by the insurer from a third party must be

22-00261B-15

2015258__

204 refunded to that party in full.

205 ~~2.3.~~ If cancellation or termination occurs during the first
206 90 days the insurance is in force and the insurance is canceled
207 or terminated for reasons other than nonpayment of premium, at
208 least 20 days' written notice of cancellation or termination
209 accompanied by the reason therefor must be given unless there
210 has been a material misstatement or misrepresentation or a
211 failure to comply with the underwriting requirements established
212 by the insurer.

213 3. After the policy has been in effect for 90 days, the
214 policy may not be canceled by the insurer unless there has been
215 a material misstatement, a nonpayment of premium, a failure to
216 comply with underwriting requirements established by the insurer
217 within 90 days after the date of effectuation of coverage, or a
218 substantial change in the risk covered by the policy or unless
219 the cancellation is for all insureds under such policies for a
220 given class of insureds. This subparagraph does not apply to
221 individually rated risks that have a policy term of less than 90
222 days.

223 4. After a policy or contract has been in effect for more
224 than 90 days, the insurer may not cancel or terminate the policy
225 or contract based on credit information available in public
226 records.

227 ~~5. The requirement for providing written notice by June 1~~
228 ~~of any nonrenewal that would be effective between June 1 and~~
229 ~~November 30 does not apply to the following situations, but the~~
230 ~~insurer remains subject to the requirement to provide such~~
231 ~~notice at least 100 days before the effective date of~~
232 ~~nonrenewal:~~

22-00261B-15

2015258__

233 ~~a. A policy that is nonrenewed due to a revision in the~~
234 ~~coverage for sinkhole losses and catastrophic ground cover~~
235 ~~eollapse pursuant to s. 627.706.~~

236 5.b. A policy that is nonrenewed by Citizens Property
237 Insurance Corporation, pursuant to s. 627.351(6), for a policy
238 that has been assumed by an authorized insurer offering
239 replacement coverage to the policyholder is exempt from the
240 notice requirements of paragraph (a) and this paragraph. In such
241 cases, the corporation must give the named insured written
242 notice of nonrenewal at least 45 days before the effective date
243 of the nonrenewal.

244
245 ~~After the policy has been in effect for 90 days, the policy may~~
246 ~~not be canceled by the insurer unless there has been a material~~
247 ~~misstatement, a nonpayment of premium, a failure to comply with~~
248 ~~underwriting requirements established by the insurer within 90~~
249 ~~days after the date of effectuation of coverage, a substantial~~
250 ~~change in the risk covered by the policy, or the cancellation is~~
251 ~~for all insureds under such policies for a given class of~~
252 ~~insureds. This paragraph does not apply to individually rated~~
253 ~~risks that have a policy term of less than 90 days.~~

254 6. Notwithstanding any other provision of law, an insurer
255 may cancel or nonrenew a property insurance policy after at
256 least 45 days' notice if the office finds that the early
257 cancellation of some or all of the insurer's policies is
258 necessary to protect the best interests of the public or
259 policyholders and the office approves the insurer's plan for
260 early cancellation or nonrenewal of some or all of its policies.
261 The office may base such finding upon the financial condition of

22-00261B-15

2015258__

262 the insurer, lack of adequate reinsurance coverage for hurricane
263 risk, or other relevant factors. The office may condition its
264 finding on the consent of the insurer to be placed under
265 administrative supervision pursuant to s. 624.81 or to the
266 appointment of a receiver under chapter 631.

267 7. A policy covering both a home and a motor vehicle may be
268 nonrenewed for any reason applicable to the property or motor
269 vehicle insurance after providing 90 days' notice.

270 Section 6. Subsection (1) of section 627.421, Florida
271 Statutes, is amended to read:

272 627.421 Delivery of policy.—

273 (1) Subject to the insurer's requirement as to payment of
274 premium, every policy shall be mailed, delivered, or
275 electronically transmitted to the insured or to the person
276 entitled thereto not later than 60 days after the effectuation
277 of coverage. Notwithstanding any other provision of law, an
278 insurer may allow a policyholder of personal lines insurance to
279 affirmatively elect delivery of the policy documents, including,
280 but not limited to, policies, endorsements, notices, or
281 documents, by electronic means in lieu of delivery by mail.

282 Electronic transmission of a policy for commercial risks,
283 including, but not limited to, workers' compensation and
284 employers' liability, commercial automobile liability,
285 commercial automobile physical damage, commercial lines
286 residential property, commercial nonresidential property,
287 farmowners insurance, and the types of commercial lines risks
288 set forth in s. 627.062(3)(d), constitutes ~~shall constitute~~
289 delivery to the insured or to the person entitled to delivery,
290 unless the insured or the person entitled to delivery

22-00261B-15

2015258__

291 communicates to the insurer in writing or electronically that he
292 or she does not agree to delivery by electronic means.
293 Electronic transmission shall include a notice to the insured or
294 to the person entitled to delivery of a policy of his or her
295 right to receive the policy via United States mail rather than
296 via electronic transmission. A paper copy of the policy shall be
297 provided to the insured or to the person entitled to delivery at
298 his or her request.

299 Section 7. Subsection (3) of section 627.7074, Florida
300 Statutes, is amended to read:

301 627.7074 Alternative procedure for resolution of disputed
302 sinkhole insurance claims.—

303 (3) Following the receipt of the report provided under s.
304 627.7073 or the denial of a claim for a sinkhole loss, the
305 insurer shall notify the policyholder of his or her right to
306 participate in the neutral evaluation program under this section
307 if there is coverage available under the policy and the claim
308 was submitted within the timeframe provided in s. 627.706(5).

309 Neutral evaluation supersedes the alternative dispute resolution
310 process under s. 627.7015 but does not invalidate the appraisal
311 clause of the insurance policy. The insurer shall provide to the
312 policyholder the consumer information pamphlet prepared by the
313 department pursuant to subsection (1) electronically or by
314 United States mail.

315 Section 8. Paragraph (a) of subsection (5) of section
316 627.736, Florida Statutes, is amended to read:

317 627.736 Required personal injury protection benefits;
318 exclusions; priority; claims.—

319 (5) CHARGES FOR TREATMENT OF INJURED PERSONS.—

22-00261B-15

2015258__

320 (a) A physician, hospital, clinic, or other person or
321 institution lawfully rendering treatment to an injured person
322 for a bodily injury covered by personal injury protection
323 insurance may charge the insurer and injured party only a
324 reasonable amount pursuant to this section for the services and
325 supplies rendered, and the insurer providing such coverage may
326 pay for such charges directly to such person or institution
327 lawfully rendering such treatment if the insured receiving such
328 treatment or his or her guardian has countersigned the properly
329 completed invoice, bill, or claim form approved by the office
330 upon which such charges are to be paid for as having actually
331 been rendered, to the best knowledge of the insured or his or
332 her guardian. However, such a charge may not exceed the amount
333 the person or institution customarily charges for like services
334 or supplies. In determining whether a charge for a particular
335 service, treatment, or otherwise is reasonable, consideration
336 may be given to evidence of usual and customary charges and
337 payments accepted by the provider involved in the dispute,
338 reimbursement levels in the community and various federal and
339 state medical fee schedules applicable to motor vehicle and
340 other insurance coverages, and other information relevant to the
341 reasonableness of the reimbursement for the service, treatment,
342 or supply.

343 1. The insurer may limit reimbursement to 80 percent of the
344 following schedule of maximum charges:

345 a. For emergency transport and treatment by providers
346 licensed under chapter 401, 200 percent of Medicare.

347 b. For emergency services and care provided by a hospital
348 licensed under chapter 395, 75 percent of the hospital's usual

22-00261B-15

2015258__

349 and customary charges.

350 c. For emergency services and care as defined by s. 395.002
351 provided in a facility licensed under chapter 395 rendered by a
352 physician or dentist, and related hospital inpatient services
353 rendered by a physician or dentist, the usual and customary
354 charges in the community.

355 d. For hospital inpatient services, other than emergency
356 services and care, 200 percent of the Medicare Part A
357 prospective payment applicable to the specific hospital
358 providing the inpatient services.

359 e. For hospital outpatient services, other than emergency
360 services and care, 200 percent of the Medicare Part A Ambulatory
361 Payment Classification for the specific hospital providing the
362 outpatient services.

363 f. For all other medical services, supplies, and care, 200
364 percent of the allowable amount under:

365 (I) The participating physicians fee schedule of Medicare
366 Part B, except as provided in sub-sub-subparagraphs (II) and
367 (III).

368 (II) Medicare Part B, in the case of services, supplies,
369 and care provided by ambulatory surgical centers and clinical
370 laboratories.

371 (III) The Durable Medical Equipment Prosthetics/Orthotics
372 and Supplies fee schedule of Medicare Part B, in the case of
373 durable medical equipment.

374

375 However, if such services, supplies, or care is not reimbursable
376 under Medicare Part B, as provided in this sub-subparagraph, the
377 insurer may limit reimbursement to 80 percent of the maximum

22-00261B-15

2015258__

378 reimbursable allowance under workers' compensation, as
379 determined under s. 440.13 and rules adopted thereunder which
380 are in effect at the time such services, supplies, or care is
381 provided. Services, supplies, or care that is not reimbursable
382 under Medicare or workers' compensation is not required to be
383 reimbursed by the insurer.

384 2. For purposes of subparagraph 1., the applicable fee
385 schedule or payment limitation under Medicare is the fee
386 schedule or payment limitation in effect on March 1 of the year
387 in which the services, supplies, or care is rendered and for the
388 area in which such services, supplies, or care is rendered, and
389 the applicable fee schedule or payment limitation applies from
390 March 1 until the last day of February ~~throughout the remainder~~
391 ~~of the following~~ that year, notwithstanding any subsequent
392 change made to the fee schedule or payment limitation, except
393 that it may not be less than the allowable amount under the
394 applicable schedule of Medicare Part B for 2007 for medical
395 services, supplies, and care subject to Medicare Part B.

396 3. Subparagraph 1. does not allow the insurer to apply any
397 limitation on the number of treatments or other utilization
398 limits that apply under Medicare or workers' compensation. An
399 insurer that applies the allowable payment limitations of
400 subparagraph 1. must reimburse a provider who lawfully provided
401 care or treatment under the scope of his or her license,
402 regardless of whether such provider is entitled to reimbursement
403 under Medicare due to restrictions or limitations on the types
404 or discipline of health care providers who may be reimbursed for
405 particular procedures or procedure codes. However, subparagraph
406 1. does not prohibit an insurer from using the Medicare coding

22-00261B-15

2015258__

407 policies and payment methodologies of the federal Centers for
408 Medicare and Medicaid Services, including applicable modifiers,
409 to determine the appropriate amount of reimbursement for medical
410 services, supplies, or care if the coding policy or payment
411 methodology does not constitute a utilization limit.

412 4. If an insurer limits payment as authorized by
413 subparagraph 1., the person providing such services, supplies,
414 or care may not bill or attempt to collect from the insured any
415 amount in excess of such limits, except for amounts that are not
416 covered by the insured's personal injury protection coverage due
417 to the coinsurance amount or maximum policy limits.

418 5. ~~Effective July 1, 2012,~~ An insurer may limit payment as
419 authorized by this paragraph only if the insurance policy
420 includes a notice at the time of issuance or renewal that the
421 insurer may limit payment pursuant to the schedule of charges
422 specified in this paragraph. A policy form approved by the
423 office satisfies this requirement. If a provider submits a
424 charge for an amount less than the amount allowed under
425 subparagraph 1., the insurer may pay the amount of the charge
426 submitted.

427 Section 9. Paragraphs (a) and (b) of subsection (2) of
428 section 627.744, Florida Statutes, are amended to read:

429 627.744 Required preinsurance inspection of private
430 passenger motor vehicles.—

431 (2) This section does not apply:

432 (a) To a policy for a policyholder who has been insured for
433 2 years or longer, without interruption, under a private
434 passenger motor vehicle policy that ~~which~~ provides physical
435 damage coverage for any vehicle,~~7~~ if the agent of the insurer

22-00261B-15

2015258__

436 verifies the previous coverage.

437 (b) To a new, unused motor vehicle purchased or leased from
438 a licensed motor vehicle dealer or leasing company. ~~if~~ The
439 insurer may require ~~is provided with~~:

440 1. A bill of sale, ~~or~~ buyer's order, or lease agreement
441 that ~~which~~ contains a full description of the motor vehicle,
442 ~~including all options and accessories; or~~

443 2. A copy of the title or registration that ~~which~~
444 establishes transfer of ownership from the dealer or leasing
445 company to the customer and a copy of the window sticker ~~or the~~
446 ~~dealer invoice showing the itemized options and equipment and~~
447 ~~the total retail price of the vehicle.~~

448
449 For the purposes of this paragraph, the physical damage coverage
450 on the motor vehicle may not be suspended during the term of the
451 policy due to the applicant's failure to provide or the
452 insurer's option not to require the ~~required~~ documents. However,
453 if the insurer requires a document under this paragraph at the
454 time the policy is issued, payment of a claim may be ~~is~~
455 conditioned upon the receipt by the insurer of the required
456 documents, and no physical damage loss occurring after the
457 effective date of the coverage may be ~~is~~ payable until the
458 documents are provided to the insurer.

459 Section 10. This act shall take effect July 1, 2015.