

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

BILL: CS/SB 916

INTRODUCER: Banking and Insurance Committee and Senator Montford

SUBJECT: Commercial Insurer Rate Filing Procedures

DATE: March 27, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Billmeier</u>	<u>Knudson</u>	<u>BI</u>	<u>Fav/CS</u>
2.	<u>Askey</u>	<u>McKay</u>	<u>CM</u>	<u>Favorable</u>
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 916 amends certification requirements for certain types of commercial insurance by limiting the certification requirement to residential property insurance rate filings. Most commercial nonresidential property insurers, which are not statutorily required to make rate filings, will no longer have to complete certifications.

This bill revises the types of commercial property and casualty insurance for which annual base rate filings are not required by exempting commercial nonresidential multiperil insurance and commercial motor vehicle insurance from the annual base rate filing requirement.

II. Present Situation:

Rate Filing for Property, Casualty, and Surety Insurance

The rating requirements for property, casualty, and surety insurance are located in part I of ch. 627, F.S., entitled the "Rating Law," and apply to property, casualty, and surety insurance. The law states that the rates for all classes to which part I applies "shall not be excessive, inadequate, or unfairly discriminatory."¹ The Office of Insurance Regulation (OIR) has the responsibility to review and approve or disapprove rates charged by insurance companies to ensure compliance with the rate standards.

¹ Section 627.062(1), F.S.

Section 627.062(2)(a), F.S., describes the filing process and time frames that must be followed by all insurers subject to its provisions. Generally, insurers may choose to submit their rate to the OIR pursuant to either the “file and use” method or the “use and file” method. Under “file and use,” the insurer submits its proposed rate to the OIR at least 90 days before the rate’s effective date but does not implement the rate until it is approved. Under “use and file,” the insurer may implement the rate before filing for approval, but must submit the filing within 30 days of the rate’s effective date. Under “use and file,” if a portion of the rate is subsequently found to be excessive, the insurer must refund to policyholders the portion of the rate that is excessive.

For those insurers that file under s. 627.062(2)(a), F.S., the OIR applies the following factors in determining whether a rate is excessive, inadequate, or unfairly discriminatory:

- Past and prospective loss experience in Florida and in other jurisdictions;
- Past and prospective expenses;
- Degree of competition to insure the risk;
- Investment income reasonably expected by the insurer;
- Reasonableness of the judgment reflected in the filing;
- Dividends, savings, or unabsorbed premium deposits returned to Florida insureds;
- Adequacy of loss reserves;
- Cost of reinsurance;
- Trend factors, including those for actual losses per insured unit;
- Catastrophe and conflagration hazards, when applicable;
- Projected hurricane losses, if applicable;
- A reasonable margin for underwriting profit and contingencies;
- Cost of medical services, when applicable; and
- Other relevant factors impacting frequency and severity of claims or expenses.

Insurance Exemptions from Rate Filing and Review Requirements

The following types of insurance are exempt from the filing and review requirements of s. 627.062(2)(a), F.S.:

- Excess or umbrella;
- Surety and fidelity;
- Boiler and machinery and leakage and fire-extinguishing equipment;
- Errors and omissions;
- Directors and officers, employment practices and management liability;
- Intellectual property and patent infringement liability;
- Advertising injury and Internet liability;
- Property risks rated under a highly protected risks rating plan;
- General liability;
- Nonresidential property, except for collateral protection insurance;²
- Nonresidential multiperil;
- Excess property;

² Section 624.6085, F.S., defines “collateral protection insurance” to mean commercial property insurance under which a creditor is the primary beneficiary and policyholder and which protects or covers an interest of the creditor arising out of a credit transaction secured by real or personal property.

- Burglary and theft;
- Certain types of medical malpractice insurance; and
- Any other commercial lines categories of insurance or commercial lines risks that the OIR determines should not be subject to the filing and review requirements because of the existence of a competitive market for such insurance or to improve the general operational efficiency of the OIR.

These types of insurance coverages continue to be subject to the requirement that rates shall not be excessive, inadequate, or unfairly discriminatory. An insurer or rating organization covered by the exemption must notify the OIR within 30 days after the effective date of a rate change. Notice is limited to the name of the insurer, the type or kind of insurance, and the statewide percentage change in rates. The OIR, at its discretion, may review the rates for compliance with the statutory requirements.³

Rate Filing Certification Requirements

Current law requires the chief executive officer or chief financial officer and the chief actuary of a property insurer to certify, under oath, that they have reviewed a rate filing and that it:

- Is accurate;
- Fairly represents the basis for the filing;
- Reflects all premium savings reasonably expected to result from legislative enactments; and
- Is compliant with generally accepted and reasonable actuarial techniques.⁴

The certification requirement applies to all property insurance even though rate filings are not required for all property insurance.

Annual Base Rate Filing

Current law requires every insurer writing any line of property or casualty insurance, except workers' compensation, employer's liability and specified commercial property and casualty insurance, to make an annual base rate filing for each line of insurance written. If no rate change is proposed, the insurer may submit a certification from an actuary, in lieu of the base rate filing, which states that the existing rate is actuarially sound and is not inadequate.⁵

The current exemption from the requirement to make an annual base rate filing does not cover all types of insurance that are exempt from rate filing and approval requirements.

Rate Filing for Motor Vehicle Insurance

The rate filing and review process for motor vehicle insurance rates is similar to the rating law for other property and casualty lines of insurance.⁶ Under s. 627.0651(14), F.S., commercial motor vehicle insurance is not subject to these requirements, or the requirement to make an

³ Section 627.062(3)(d)1., F.S.

⁴ Section 627.062(8)(a), F.S.

⁵ Section 627.0645, F.S.

⁶ Section 627.0651, F.S.

annual base rate filing. Section 627.0645, F.S., however, indicates that commercial motor vehicle insurers do have to make the annual base rate filing, creating a statutory conflict.

III. Effect of Proposed Changes:

Section 1 of this bill amends s. 627.062(8)(a), F.S., to limit the certification requirements to property insurance rate filings. Most commercial nonresidential property insurers, which are not statutorily required to make rate filings, will no longer have to complete certifications.

Section 2 of this bill revises the types of commercial property and casualty insurance for which annual base rate filings are not required by exempting commercial nonresidential multiperil insurance and commercial motor vehicle insurance from the annual base rate filing requirement. These exemptions are only for types of insurance that are already exempt from rate filing and approval requirements required under current law.

Section 3 provides an effective date of July 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may result in a nominal reduction in costs to insurers.

C. Government Sector Impact:

The Office of Financial Regulation indicated that the bill has no impact on the agency.⁷

⁷ Email from C. Michael Marschall, Assistant General Counsel, Florida Office of Financial Regulation, to Ross Nobles (March 4, 2015) available at <http://abar.laspbs.state.fl.us/ABAR/Attachment.aspx?ID=6429> (last visited March 26, 2015) (on file with the Senate Committee on Banking and Insurance and the Senate Committee on Commerce and Tourism).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 627.062 and 627.0645.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Banking and Insurance on March 10, 2015:

The CS requires a certification only of residential property insurance rate filings and removes the requirement for an annual base rate filing for commercial nonresidential multiperil insurance.

- B. **Amendments:**

None.