

**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.)

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Prepared By: The Professional Staff of the Committee on Banking and Insurance

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BILL: SB 916

INTRODUCER: Senator Montford

SUBJECT: Commercial Insurer Rate Filing Procedures

DATE: March 9, 2015

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Billmeier	Knudson	BI	<b>Pre-meeting</b>
2.			CM	
3.			RC	

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**I. Summary:**

SB 916 amends certification requirements for certain types of commercial insurance. 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 company rate filing and certify that it is accurate, that fairly represents the basis for the filing, reflects all premium savings reasonably expected to result from legislative enactments; and that it is compliant with generally accepted and reasonable actuarial techniques. This bill limits the certification requirements to residential property rate filings. Commercial property insurers, which generally do not 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 s. 627.0645, F.S. The bill exempts commercial multiperil insurance and commercial residential multiperil insurance from the annual base rate filing requirement and clarifies that commercial motor vehicle insurance is also exempt.

**II. Present Situation:**

**Ratemaking Regulation 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., which is entitled the "Rating Law,"<sup>1</sup> and applies to property, casualty, and surety insurance.<sup>2</sup> Section 627.062(1), F.S., specifies that the rates for all classes to which part I applies "shall not be excessive, inadequate, or unfairly discriminatory."

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

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<sup>1</sup> See s. 627.011, F.S.

<sup>2</sup> See s. 627.021(1), F.S.

Office of Insurance Regulation (“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.<sup>3</sup> 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.<sup>4</sup> 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.<sup>5</sup>

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, saving, 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.
- Other relevant factors impacting frequency and severity of claims or expenses.

### **Types of Insurance Exempt from 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 as defined in s. 624.6085, F.S.
- Nonresidential multiperil.
- Excess property.

<sup>3</sup> See s. 627.062(2)(a)1., F.S.

<sup>4</sup> See s. 627.062(2)(a)2., F.S.

<sup>5</sup> *Id.*

- Burglary and theft.
- Certain types of medical malpractice insurance.
- 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 s. 627.062(1), F.S., which requires that rates shall not be excessive, inadequate, or unfairly discriminatory.

Section 627.062(8)(a), F.S., 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.

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

Section 627.0645, F.S., 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.<sup>6</sup> The current exemption from the requirement to make an annual base rating does not cover all types of insurance that are exempt from rate filing and approval requirements.

Section 627.0651, F.S., provides the rate review process for motor vehicle insurance rates. The rate submission and review process is similar to the rating law in s. 627.062, F.S., for other property and casualty lines of insurance. Motor vehicle rate filings must be submitted to the OIR either by the "file and use" or "use and file" method.<sup>7</sup> Upon receiving notice of the rate filing, the OIR reviews the rate to determine if it is excessive, inadequate or unfairly discriminatory.<sup>8</sup> In reviewing a rate filing, the OIR may require the insurer to provide at the insurer's expense all information necessary to evaluate the condition of the company and the reasonableness of the rate filing.<sup>9</sup> Under s. 627.0651(14), F.S., commercial motor vehicle insurance is not subject to these requirements or the requirement to make an annual base rate filing under s. 627.0645, F.S., however, the latter statute indicates that commercial motor vehicle insurers do have to make the annual base rate filing, thus creating a statutory conflict.

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<sup>6</sup> See s. 627.0645(3)(b), F.S.

<sup>7</sup> Section 627.0651(1), F.S.

<sup>8</sup> Section 627.0651(2), F.S.

<sup>9</sup> Section 627.0651(9), F.S.

### III. Effect of Proposed Changes:

**Section 1** of this bill amends s. 627.062(8)(a), F.S., to limit the certification requirements to residential property rate filings. Commercial property insurers, which generally do not make rate filings, will no longer have to complete certifications. This would have the effect of eliminating the certification requirement for collateral protection insurance.<sup>10</sup>

**Section 2** of this bill revises the definitions of commercial property and casualty insurance for which annual base rate filings are not required by s. 627.0645, F.S. The bill also exempts commercial residential multiperil insurance, which is a type of insurance that is subject to rate review and approval. The section also clarifies that commercial motor vehicle insurers are not required to make an annual base rate filing.

**Section 4** 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:

According to an analysis provided by the OIR (on file with committee staff), this bill will have no fiscal impact on the OIR.

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<sup>10</sup> Section 624.6085, F.S., defines “collateral protection insurance” as “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. Initiation of such coverage is triggered by the mortgagor’s failure to maintain insurance coverage as required by the mortgage or other lending document.”

**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.

This bill reenacts section 627.0651 of the Florida Statutes.

**IX. Additional Information:****A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.