

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 Banking and Insurance

BILL: SB 418

INTRODUCER: Senator Perry

SUBJECT: Insurance

DATE: February 20, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Thomas	Knudson	BI	Pre-meeting
2.			MS	
3.			RC	

I. Summary:

SB 418 amends several insurance-related statutes. Specifically, the bill:

- Allows a residential property insurer’s rate filing to estimate projected hurricane losses by using a weighted or straight average of two or more models approved by the Florida Commission on Hurricane Loss Projection Methodology;
- Provides that a designee of the Director of the Division of Emergency Management may be a member of the Commission on Hurricane Loss Projection Methodology in lieu of the Director;
- Authorizes an insurer to file a personal lines residential property insurance rating plan that provides premium discounts, credits, and other rate differentials based on windstorm construction standards developed by an independent, not-for-profit, scientific research organization;
- Limits the requirement that an insurer provide a policyholder who has an automatic bank withdrawal agreement with the insurer with 15 days advance written notice of any increase in policy premiums. Instead, notice will only be required for premium increases that will result in an increase in the automatic withdrawal of more than \$10 from the previous withdrawal amount;
- Requires an assignee provide the notice of intent to initiate litigation to the name and mailing address designated by the insurer in the policy forms if notice is sent by certified mail, return receipt requested, or to the e-mail address designated by the insurer in the policy forms if notice is sent by electronic delivery; and
- Requires an automobile policy that does not provide coverage for bodily injury liability and property damage liability include notice accompanying the declarations page that the policy does not provide such coverages and does not comply with any financial responsibility laws. Such policies generally cover antique motor vehicles.

The bill has no impact to state funds or expenditures.

The bill takes effect July 1, 2023.

II. Present Situation:

Regulation of Property Insurance Rates

Part I of ch. 627, F.S., is the Rating Law,¹ which governs property, casualty, and surety insurance covering the subjects of insurance resident, located, or to be performed in this state.² The rating law provides that the rates for all classes of insurance it governs may not be excessive, inadequate, or unfairly discriminatory.³ Though the terms “rate” and “premium” are often used interchangeably, the rating law specifies that “rate” is the unit charge that is multiplied by the measure of exposure or amount of insurance specified in the policy to determine the premium, which is the consideration paid by the consumer.⁴

All insurers or rating organizations must file rates with the Office of Insurance Regulation (OIR) either 90 days before the proposed effective date of a new rate, which is considered a “file and use” rate filing, or 30 days after the effective date of a new rate, which is considered a “use and file” rate filing.⁵

Upon receiving a rate filing, the OIR reviews the filing to determine if the rate is excessive, inadequate, or unfairly discriminatory. The OIR makes that determination in accordance with generally acceptable actuarial techniques and considers the following:

- Past and prospective loss experience;
- Past and prospective expenses;
- The degree of competition among insurers for the risk insured;
- Investment income reasonably expected by the insurer;
- The reasonableness of the judgment reflected in the rate filing;
- Dividends, savings, or unabsorbed premium deposits returned to policyholders;
- The adequacy of loss reserves;
- The cost of reinsurance;
- Trend factors, including trends in actual losses per insured unit for the insurer;
- Conflagration and catastrophe hazards;
- Projected hurricane losses;
- Projected flood losses, if the policy covers the risk of flood;
- The cost of medical services, if applicable;
- A reasonable margin for underwriting profit and contingencies; and
- Other relevant factors that affect the frequency or severity of claims or expenses.⁶

¹ Section 627.011, F.S.

² Section 627.021(1), F.S.

³ Section 627.062(1), F.S.

⁴ Section 627.041, F.S.

⁵ Section 627.062, F.S.

⁶ Section 627.062(2)(b), F.S.

Florida Commission on Hurricane Loss Projection Methodology

Projected hurricane losses in a rate filing must be estimated using a model or method found to be acceptable or reliable by the Florida Commission on Hurricane Loss Projection Methodology (Commission).⁷ The Commission consists of 12 members with expertise in the elements used to develop computer models to estimate hurricane and flood loss. Members of the Commission include State University System faculty experts in insurance finance, statistics, computer system design, meteorology, and structural engineering; three actuaries; the insurance consumer advocate; the Director of the Florida Hurricane Catastrophe Fund; the Executive Director of Citizens Property Insurance Corporation; and the Director of the Division of Emergency Management.⁸

Residential Property Insurance Mitigation Credits, Discounts, or Other Rate Differentials

Residential property insurance rate filings must account for mitigation measures undertaken by policyholders to reduce hurricane losses.⁹ Specifically, the rate filings must include actuarially reasonable discounts, credits, or other rate differentials or appropriate reductions in deductibles to consumers who implement windstorm damage mitigation techniques to their properties.¹⁰ Upon their filing by an insurer or rating organization, the OIR determines the discounts, credits, other rate differentials and appropriate reductions in deductibles that reflect the full actuarial value of such revaluation,¹¹ which in turn may be used in rate filings under the rating law. Windstorm mitigation measures that must be evaluated for purposes of mitigation discounts include fixtures or construction techniques that enhance roof strength, roof covering performance, roof-to-wall strength, wall-to-floor-to-foundation strength, opening protection, and window, door, and skylight strength.¹²

Automatic Bank Withdrawal Agreements in the Insurance Context

Florida law allows insurers and policyholders to enter into automatic bank withdrawal agreements for the purpose of paying insurance premiums.¹³ Policyholders generally have the option of selecting between payment plans that divide the premium into two or four separate payments or in monthly installments. Under current law, insurers must provide the policyholder with 15 days advance written notice prior to any automatic bank withdrawal if the premium payment increases from the previous withdrawal period by any amount.¹⁴

By contrast, federal law requires financial institutions to provide 10 days advance written notice prior to any automatic bank withdrawal either when the amount varies from the previous withdrawal amount, when the amount varies outside a specified range of amounts, or when the amount varies from the previous withdrawal amount by an agreed-upon amount.¹⁵

⁷ Section 627.062(2)(b)11., F.S.

⁸ Section 627.0628(2)(b), F.S.

⁹ Section 627.062(2)(j), F.S.

¹⁰ Section 627.0629(1), F.S.

¹¹ *Id.*

¹² *Id.*

¹³ Section 627.0665, F.S.

¹⁴ *Id.*

¹⁵ 12 CFR 1005.10(d).

Notice of Limited Coverage for Antique Vehicles

Some insurers¹⁶ offer motor vehicle insurance coverage for antique vehicles¹⁷ which does not include mandatory personal injury protection¹⁸ and property damage liability¹⁹ coverages. In those cases, Florida law requires the automobile policy to provide notice to the policyholder of the limited coverage and its noncompliance with any financial responsibility law.²⁰ This coverage is generally appropriate for antique vehicles that are stored in a private collection or as part of a public display and are not driven on the roadways of this state. The notice must be stamped or printed in contrasting color from the color used on the policy and placed on the policy declaration page and on the back of the policy.²¹ The stamping requirement is antiquated and prevents these types of policies from being delivered electronically.

III. Effect of Proposed Changes:

Hurricane Model Averaging and Weighting

Section 1 amends s. 627.062, F.S., to provide that a residential property insurer's rate filing may estimate projected hurricane losses by using a weighted or straight average of two or more methods or models approved by the Commission on Hurricane Loss Projection Methodology.

Florida Commission on Hurricane Loss Projection Methodology

Section 2 amends s. 627.0628, F.S., to provide that the Director of the Division of Emergency Management may designate a full-time employee of the Division to be a member of the Commission in lieu of the Director.

Residential Property Insurance Mitigation Credits, Discounts, or Other Rate Differentials

Section 3 amends s. 627.0629, F.S., to provide that an insurer may file with the Office of Insurance Regulation a personal lines residential rating plan that provides premium discounts, credits, and other rate differentials based on windstorm construction standards developed by an independent, not-for-profit, scientific research organization, if such standards meet statutory requirements.

Required Notifications of Automatic Bank Withdrawals

Section 4 amends s. 627.0665, F.S., governing automatic bank withdrawal agreements between insurers and policyholders, to limit the requirement that an insurer provide a policyholder 15 days advance written notice of any increase in policy premiums. Instead, notice will only be

¹⁶ <https://www.statefarm.com/insurance/auto/antique-classic-cars> (last visited Feb. 13, 2023).

¹⁷ See section 320.086, F.S.

¹⁸ Section 627.733, F.S.

¹⁹ Section 324.022, F.S.

²⁰ Section 627.7276(1), F.S.

²¹ Section 627.7276(2), F.S.

required for premium increases that will result in an increase of the automatic withdrawal of more than \$10 from the previous withdrawal amount.

Notice of Limited Coverage for Antique Vehicles

Section 5 amends s. 627.7276, F.S., to require that an automobile policy that does not provide coverage for bodily injury liability and property damage liability include notice accompanying the declarations page that the policy does not provide such coverages and does not comply with any financial responsibility laws. Such policies generally cover antique motor vehicles. The bill eliminates the requirement that the notice be stamped on the declarations page of limited coverage automobile policies. Instead, the notice must accompany the declarations page and must be typed in a font at least as large as the font used in the declarations page. This change will allow these types of policies to be delivered electronically.

The bill is effective July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may lead to the expansion of premium discounts, credits, and other rate differentials based on windstorm construction standards.

C. Government Sector Impact:

The bill is not anticipated to have any significant impact on state or local government.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 627.062, 627.0628, 627.0629, 627.0665, and 627.7276.

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.