

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 Military and Veterans Affairs, Space, and Domestic Security

BILL: CS/SB 418

INTRODUCER: Banking and Insurance Committee and Senator Perry

SUBJECT: Insurance

DATE: March 6, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Thomas</u>	<u>Knudson</u>	<u>BI</u>	<u>Fav/CS</u>
2.	<u>Proctor</u>	<u>Proctor</u>	<u>MS</u>	<u>Pre-Meeting</u>
3.	<u> </u>	<u> </u>	<u>RC</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

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

- Provides that a residential property insurer’s rate filing may 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, in lieu of themselves, the Executive Director of the Citizens Property Insurance Corporation and the Director of the Division of Emergency Management, respectively, may appoint a designee to be a member of the Commission on Hurricane Loss Projection Methodology.
- Provides that an insurer may 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, nonprofit 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 result in an increase in the automatic withdrawal of more than \$10 from the previous withdrawal amount.
- Expands the type of documents and policies that may be delivered to a policyholder by electronic transmission to include individual and group health insurance policies and select health contracts.
- Revises the mandated deductibles that must be offered for hurricane loss when issuing a personal lines residential property insurance policy. For policies with a dwelling limit of at

least \$1 million, the bill no longer requires the offer of the current mandated deductibles of 2 percent, 5 percent, and 10 percent of the dwelling limit. Instead, the bill provides that an insurer may offer deductibles of up to:

- Ten percent for a policy covering a risk with dwelling limits of at least \$1 million, but less than \$3 million.
- Fifteen percent for a policy covering a risk with dwelling limits greater than \$3 million.
- Revises the requirement that the waiver by a policyholder of residential windstorm coverage or contents coverage be in the policyholder's own handwriting by also allowing the waiver to be typed.
- Eliminates the requirement that a notice be stamped on the declarations page of limited coverage automobile policies. Such policies generally cover antique motor vehicles.

The bill is not anticipated to have an impact on state revenues or expenditures.

The bill provides an effective date of July 1, 2023.

II. Present Situation:

Regulation of Property Insurance Rates

Part I of ch. 627, F.S., the Rating Law,¹ 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 within 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;

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.

- 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

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

⁶ Section 627.062(2)(b), F.S.

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.*

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 at least 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 at least 10 days advance written notice before 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

Delivery of Insurance Policies and Claims Communications

Section 627.421, F.S., requires most insurers¹⁶ to deliver, mail, or electronically transmit the insurance policy to the policyholder within 60 days after such coverage taking effect. Policyholders of personal lines policies may elect electronic transmission of policy documents; however, for commercial lines policies, policy documents are sent via electronic transmission unless the policyholder declines electronic transmission by written or electronic communication to the insurer. The policyholder is further entitled to a paper copy of the policy upon request.¹⁷ An insurer that electronically transmits policy documents must include notice of the right to receive a paper copy of the policy via United States mail.¹⁸

Property Insurance Deductibles and Coverages

A hurricane deductible is the amount paid by the policyholder before the insurer issues any payment for damaged caused by a hurricane.¹⁹ With certain exceptions, prior to issuing a personal lines residential property insurance policy, the insurer must offer alternative deductible amounts applicable to hurricane losses equal to \$500, 2 percent, 5 percent, and 10 percent of the policy dwelling limits.²⁰ If the policy covers a risk with dwelling limits of \$250,000 or more, the insurer is not required to offer the \$500 hurricane deductible.²¹

Under Florida law, the hurricane deductible is capped at 10 percent of the policy dwelling limits for a covered risk valued at less than \$500,000, unless the policyholder affirmatively rejects the

¹³ Section 627.0665, F.S.

¹⁴ *Id.*

¹⁵ 12 CFR 1005.10(d).

¹⁶ Part II of ch. 627, F.S., exempts reinsurers, wet marine and transportation, title, and credit life or credit disability insurers from the delivery provisions of s. 627.421, F.S.

¹⁷ Section 627.421(1), F.S.

¹⁸ *Id.*

¹⁹ Department of Financial Services, *Florida's Hurricane Deductible*, available at https://myfloridacfo.com/docs-sf/consumer-services-libraries/consumerservices-documents/understanding-coverage/consumer-guides/english---florida's-hurricane-deductible.pdf?sfvrsn=28cdcf12_4 (last visited February 27, 2023).

²⁰ Section 627.701(3)(a), F.S.

²¹ Section 627.701(3)(d), F.S.

statutory hurricane deductible limit.²² In order to do so, the policyholder must provide the insurer the following statement: “I do not want the insurance on my home to pay for the first (specify dollar value) of damage from hurricanes. I will pay those costs. My insurance will not.” The policyholder and each named insured on the policy must sign and date the statement.²³

Florida law also requires a residential property insurance policy to include windstorm coverage²⁴, unless the policyholder affirmatively rejects the coverage.²⁵ If the policyholder is a natural person, the policyholder must personally write and provide the insurer the following statement in his or her own handwriting: “I do not want the insurance on my home (home/mobile home/condominium unit) to pay for damage from windstorms. I will pay those costs. My insurance will not.” The policyholder and each named insured on the policy must sign and date the statement.²⁶

A similar provision exists for exclusion of contents coverage under a residential property insurance policy, except for a condominium unit owner policy or a tenant policy.²⁷ If the policy holder chooses such an exclusion, the policyholder must personally write and provide the insurer the following statement in his or her own handwriting: “I do not want the insurance on my home (home/mobile) to pay for costs to repair or replace any contents that are damaged. I will pay those costs. My insurance will not.”²⁸ The policyholder and each named insured on the policy must sign and date the statement.

Notice of Limited Coverage for Antique Vehicles

Some insurers²⁹ offer motor vehicle insurance coverage for antique vehicles³⁰ which does not include mandatory personal injury protection³¹ and property damage liability³² 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.³³ 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

²² Section 627.701(4)(d), F.S.

²³ *Id.*

²⁴ This requirement does not apply to a risk that is eligible for wind-only coverage from Citizens Property Insurance Corporation. Nor does the requirement apply to a risk that is ineligible for Citizens coverage because the risk: (1) is a structure that has a dwelling replacement cost of \$700,000 or more; (2) is a single condominium unit with a combined dwelling and contents replacement cost of \$700,000 or more; or (3) is located in the “wind-borne” debris region and has an insured value on the structure of \$750,000 or more. *See* ss. 627.351(6)(a)3.d. and 5.a., F.S.

²⁵ Section 627.712, F.S.

²⁶ Section 627.712(2)(a)1., F.S.

²⁷ Section 627.712(3), F.S.

²⁸ *Id.*

²⁹ State Farm, *Collector and Classic Car Insurance*, available at <https://www.statefarm.com/insurance/auto/antique-classic-cars> (last visited February 27, 2023).

³⁰ *See* section 320.086, F.S.

³¹ Section 627.733, F.S.

³² Section 324.022, F.S.

³³ Section 627.7276(1), F.S.

policy declaration page and on the back of the policy.³⁴ 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, in lieu of themselves, the Executive Director of the Citizens Property Insurance Corporation and the Director of the Division of Emergency Management, respectively, may appoint a designee to be a member of the Commission on Hurricane Loss Projection Methodology.

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 OIR a personal lines residential rating plan that provides premium discounts, credits, and other rate differentials based on windstorm construction standards developed by an independent, nonprofit 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 required for premium increases that will result in an increase of the automatic withdrawal of more than \$10 from the previous withdrawal amount.

Delivery of Insurance Policies and Claims Communications

Section 5 amends s. 627.421, F.S., to expand the type of documents and policies that may be delivered by electronic transmission to include related notices and other documents for individual and group health insurance policies or certificates of coverage, health maintenance contracts or certificates of coverage, and prepaid limited health service contracts. The bill removes the requirement that electronic transmission must include notice of the right to receive the policy via U.S. mail rather than by electronic transmission.

Property Insurance Deductibles and Coverages

Section 6 amends s. 627.701, F.S., to revise the mandated deductibles that must be offered for hurricane loss when issuing a personal lines residential property insurance policy. For policies

³⁴ Section 627.7276(2), F.S.

with a dwelling limit of at least \$1 million, the bill no longer requires the offer of the current mandated deductibles of 2 percent, 5 percent, and 10 percent of the dwelling limit. Instead, the bill provides that an insurer may offer deductibles of up to:

- Ten percent for a policy covering a risk with dwelling limits of at least \$1 million, but less than \$3 million;
- Fifteen percent for a policy covering a risk with dwelling limits greater than \$3 million.

The bill provides that an insurer, between July 1, 2023, and July 1, 2024, may make an additional filing with the OIR to implement changes made to s. 627.701, F.S., by the bill.

Section 7 amends s. 627.712, F.S., providing that a policyholder's waiver of residential windstorm coverage or waiver of coverage to pay for the costs to repair or replace any contents that are damaged may be typed by the policyholder or in the policyholder's own handwriting.

Notice of Limited Coverage for Antique Vehicles

Section 8 amends s. 627.7276, F.S., eliminates the requirement that a notice be stamped on the declarations page of limited coverage automobile policies. Such policies generally cover antique motor vehicles. 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. The stamping requirement is antiquated and prevents these types of policies from being 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 an impact on state revenues or expenditures.

VI. Technical Deficiencies:

Section 6 of the bill amends s. 627.701, F.S., authorizing an insurer, when issuing a personal lines residential property insurance policy for hurricane loss, to offer deductibles of up to:

- Ten percent for a policy covering a risk with dwelling limits of at least \$1 million, but less than \$3 million;
- Fifteen percent for a policy covering a risk with dwelling limits greater than \$3 million.

The language does not cover a policy covering a risk with dwelling limits of exactly \$3 million.

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, 627.421, 627.701, 627.712 and 627.7276.

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 Committee on February 21, 2023:

The committee substitute makes the following changes:

- Revises provisions regarding the delivery of a policy to a policyholder by expanding the type of policies authorized to be delivered by electronic transmission to include individual and group health insurance policies; removes the requirement that electronic transmission must include notice of the right to receive the policy via U.S. mail rather than by electronic transmission.
- Revises the mandated deductibles that must be offered for hurricane loss when issuing a personal lines residential property insurance policy. Insurers need no longer

offer the current mandated deductibles of 2 percent, 5 percent, and 10 percent, and instead may offer deductibles of up to:

- Ten percent for a policy covering a risk with dwelling limits of at least \$1 million, but less than \$3 million; or
- Fifteen percent for a policy covering a risk with dwelling limits greater than \$3 million.
- Removes the requirement that the waiver by a policyholder of windstorm coverage, or of coverage to pay for the costs to repair or replace any contents that are damaged, must be in the policy holder's own handwriting, allowing the waiver to be typed.
- Provides that the Executive Director of the Citizens Property Insurance Corporation may designate a full-time employee of the Corporation as the Director's designee to the Commission on Hurricane Loss Projection Methodology.

B. Amendments:

None.