

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 885 Residential Property Insurance

SPONSOR(S): Insurance & Banking Subcommittee, Wood

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee	13 Y, 1 N, As CS	Callaway	Cooper
2) Economic Affairs Committee	7 Y, 4 N	Callaway	Tinker

SUMMARY ANALYSIS

Section 627.0645, F.S, requires property insurance companies to make a rate filing containing the company's proposed rates with the Office of Insurance Regulation (OIR) each year (base rate filing). The OIR reviews the rate filing and either approves or disapproves the proposed rates.

Section 627.062(2)(k), F.S., enacted in 2009, allows property insurers to make a rate filing that is separate from the insurer's annual base rate filing and that is approved or disapproved by the OIR on an expedited basis. The OIR reviews the expedited rate filing within 45 days, rather than 90 days, to make sure the rates proposed are not excessive, inadequate, or unfairly discriminatory. Costs that can be included in an expedited rate filing to justify a rate change are more limited than those that can be included in a base rate filing. An expedited rate filing can only request rate changes due to the:

- recovery of reinsurance or financing costs to replace or finance payment of amounts covered by the Florida Hurricane Catastrophe Fund Temporary Increase in Coverage Limit (TICL) option coverage;
- recovery of reinsurance or financing costs to replace TICL option coverage due to the yearly TICL option coverage reductions;
- costs of the price increase of TICL option coverage; and
- costs of the price increase of Florida Hurricane Catastrophe Fund (FHCF) mandatory option coverage.

Reinsurance costs to be recouped by an expedited filing may not be more than 10 percent for any individual policyholder. An insurer can only make an expedited rate filing once every 12 months. Furthermore, an insurer cannot file an expedited rate filing if the insurer has implemented a rate increase in the six months before the expedited filing. In addition, an insurer cannot increase rates using the annual base rate filing for six months after the expedited rate filing.

The bill broadens the types of costs to be included in an expedited rate filing. All reinsurance costs, the cost of financing products used to replace reinsurance, the financing costs incurred in the purchase of reinsurance, or the costs of the price increase of the FHCF mandatory option coverage are allowed.

The bill also allows an insurer to request a rate increase of a maximum of 15 percent per policy, rather than 10 percent. Current law prohibiting insurers from including expenses or profits paid by the insurer in an expedited rate filing is deleted by the bill. As under current law, an insurer can only file an expedited rate filing once every 12 months. However, the bill removes current law that restricts insurers from using an expedited rate filing if the insurer has implemented a rate increase in the prior six months and restricts insurers from making any other rate filing for six months after the expedited rate filing.

The bill has no fiscal impact on state or local government. Policyholders may incur rate increases of 15 percent, rather than 10 percent, under the bill and may incur 15 percent rate increases more frequently than under current law. However, policyholders can incur a 15 percent rate increase under the expedited rate filing only once a year. Insurers will have more flexibility in rate making and will be able to increase rates up to 15 percent more quickly than under current law, if the insurer incurs the costs allowed to justify the rate increase.

The effective date of the bill is upon becoming a law.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0885b.EAC

DATE: 4/7/2011

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

“Property insurance,” as defined by s. 624.604, F.S., includes insurance covering personal lines residential risks, commercial lines residential risks, and commercial nonresidential risks as follows:

- Personal lines residential coverage - homeowner’s, mobile home owner’s, dwelling, tenant’s, condominium unit owner’s, cooperative unit owner’s and similar policies,
- Commercial lines residential coverage - coverage provided by condominium association, cooperative association, apartment building and similar policies, and
- Commercial nonresidential coverage - coverage provided by commercial business policies.¹

Generally, residential property insurance covers a policyholder’s residence or business, providing reimbursement due to damages sustained by the residence or business, including windstorm damage.

Ratemaking Regulation for Property, Casualty, and Surety Insurance

The rating law for property, casualty, and surety insurance is located in Part I of ch. 627, F.S., (ss. 627.011 – 627.311, F.S.). The primary purpose of the rating law is to ensure insurance rates are not excessive, inadequate, or unfairly discriminatory. This standard applies to every property insurance rate.

Section 627.0645, F.S., requires property insurance companies to make a rate filing with the Office of Insurance Regulation (OIR) each year (base rate filing).² The rate filing contains the insurance company’s proposed rates. The OIR reviews the rate filing and either approves or disapproves the proposed rates. If an insurance company does not want to change its rates one year, instead of a rate filing, the insurer can file a certification by an actuary that the existing rate level produces rates which are actuarially sound and which are not inadequate.

Property insurance rate filings can be made on a “file and use” or “use and file” basis.³ Under a “file and use” rate filing, an insurer submits the rate filing to the OIR for approval before implementing the rate. The OIR has 90 days to review the rate filing and approve or disapprove the filing. The rate filing is deemed approved by the OIR if the OIR does not approve or disapprove the filing during the 90-day period. Under a “use and file” rate filing, an insurer implements the rate and submits the filing to the OIR for approval no more than 30 days after implementing the rate. Refunds to policyholders are required if the OIR disapproves the rate.

Expedited Rate Filing

Section 627.062(2)(k), F.S., enacted in 2009,⁴ allows property insurance companies to make a rate filing that is separate from the insurer’s annual base rate filing and that is approved or disapproved by the OIR on an expedited basis (i.e., within 45 days of the filing, rather than 90 days). The OIR reviews the expedited rate filing to make sure the rates proposed in the filing are not excessive, inadequate, or unfairly discriminatory, the same review standards that apply to a base rate filing. Unlike a base rate filing, if the OIR does not approve or disapprove the expedited rate filing within the 45-day period, the rate requested is not deemed approved.

¹ s. 627.4025, F.S.

² Property or casualty insurers do not have to make an annual rate filing for workers’ compensation, employer’s liability, and commercial property and casualty insurance (except commercial motor vehicle and multi-line insurance).

³ s. 627.062(2), F.S.

⁴ Section 7, Ch. 2009- 87, L.O.F.

Costs that can be included in an expedited rate filing to justify a rate change are more limited than those that can be included in a base rate filing. An expedited rate filing can only request rate changes due to:

- the recovery of reinsurance or financing costs to replace or finance payment of amounts covered by the Florida Hurricane Catastrophe Fund Temporary Increase in Coverage Limit (TICL) option coverage;⁵
- the recovery of reinsurance or financing costs to replace TICL option coverage due to the yearly TICL option coverage reductions;⁶
- the costs of the price increase of TICL option coverage;⁷ and
- the costs of the price increase of the Florida Hurricane Catastrophe Fund mandatory option coverage.⁸

Reinsurance costs to be recouped by an expedited filing may not be more than 10 percent for any individual policyholder. Thus, the maximum rate increase that can be implemented with an expedited rate filing is 10 percent per policyholder.

The insurance company must submit proof of the purchase of reinsurance or other financing product in order to recoup these costs in an expedited rate filing. The insurer cannot use company expenses or profits to justify a rate increase with an expedited rate filing. The OIR may disapprove an expedited rate filing as excessive, inadequate or unfairly discriminatory. An insurer can only make an expedited rate filing once every 12 months. Furthermore, an insurer cannot file an expedited rate filing if the insurer has implemented a rate increase in the six months before the expedited filing. In addition, an insurer cannot increase rates using the annual base rate filing for six months after the expedited rate filing.

Expedited Rate Filings Approved in 2010

In 2010, property insurers submitted 20 expedited rate filings to increase rates for property insurance. Nine of the 20 filings were withdrawn before the OIR made a decision on them. The remaining 11 rate filings were approved by the OIR. In every approved rate filing, the rate increase approved by the OIR equaled the rate increase the insurer requested. None of the expedited rate filings requested rate increases more than the 10 percent allowed by law. The following expedited rate increases were approved in 2010:

- 9.9 percent increase for two filings;
- 7.2 percent increase for two filings;
- 6.2 percent increase for two filings;
- 4.6 percent increase for one filing; and
- 3.9 percent increase for four filings.

For the 11 expedited rate increases approved in 2010, the fastest approval time by the OIR was 13 days from the date the filing was received by the OIR to the final approval and the longest approval time was 44 days. The average approval time was 37 days. By law, the OIR has 45 days to approve an expedited rate filing, so all expedited rate filings were approved by the OIR within the required statutory time.

Effect of Bill

The bill amends the expedited rate filing law enacted in 2009. The bill allows more types of costs to be included in an expedited rate filing than under current law. All reinsurance costs, the cost of financing

⁵ The Temporary Increase in Coverage Limit option coverage offers reinsurance from the Florida Hurricane Catastrophe Fund for insurers above the Fund's mandatory coverage. When this coverage was initially enacted in 2007, it provided an additional \$12 billion in coverage. Starting in 2009, however, the coverage amount is decreased each year by \$2 billion until it reaches zero in 2013.

⁶ Legislation enacted in 2009 (Ch. 2009-87, L.O.F.) reduced the TICL option \$2 billion a year for six years starting in the 2009-2010 contract year (June 1, 2009-May 31, 2010).

⁷ Legislation enacted in 2009 (Ch. 2009-87, L.O.F.) increased the price for TICL coverage each year for five years. The price increase is in conjunction with the TICL coverage decreases discussed in prior footnotes.

⁸ Legislation enacted in 2009 (Ch. 2009-87, L.O.F.) increased the price of the mandatory coverage from the Florida Hurricane Catastrophe Fund by requiring the Fund to include a cash build up factor of 5 percent in its reimbursement premium each year until the factor reaches 25 percent. When the factor reaches 25 percent (in 2013), it becomes a permanent part of the Fund's rate and is put into the rate yearly.

products used to replace reinsurance, the financing costs incurred in the purchase of reinsurance, or the costs of the price increase of the FHC mandatory option coverage are allowed to justify an expedited rate increase filing.

The bill allows an insurer to request a rate increase of a maximum of 15 percent per policy, rather than 10 percent, using an expedited rate filing. Current law prohibiting insurers from including expenses or profits paid by the insurer in an expedited rate filing is deleted by the bill. Thus, these expenses or profits will be allowed to justify an expedited rate increase.

As under current law, an insurer can only file an expedited rate filing once every 12 months. However, the bill removes current law that restricts insurers from using an expedited rate filing if the insurer has implemented a rate increase in the prior six months and restricts insurers from making any other rate filing for six months after the expedited rate filing.

Under current law, despite the two six month limitations in the expedited rate filing statute, an insurer can increase rates two times in a 12 month period - once with an expedited filing and once with an annual base rate filing. For example, under current law and in accordance with the two six month limitations in the expedited rate filing statute, an insurer can *implement* a base rate filing in January, *file and implement* an expedited rate filing in July, but cannot file another base rate filing until January of the next year. In this example, a consumer who renews a policy after July could incur two rate increases at renewal, one from the January base rate implementation and one from the July expedited rate implementation. However, according to the OIR, common practice is for insurers to file and implement only one rate filing in a 12 month period so that policyholders incur only one rate increase at renewal, with the insurer each year choosing whether to file an expedited rate filing or an annual base rate filing.

One advantage of an annual base rate filing is that the insurer can request a rate increase higher than 10 percent and can include numerous costs to justify an increase, but the compilation of data needed for the rate filing and assembly of the rate filing is time consuming and extensive and the OIR has 90 days to approve or disapprove the rate filing. Some advantages of an expedited rate filing are that the data compilation and assembly is easier and quicker than that needed in an annual base rate filing because only limited costs are included in the filing and the OIR has 45 days to approve or disapprove the rate filing (half the approval time for the annual base rate filing). Some disadvantages of an expedited rate filing are the filing can only request a rate increase up to 10 percent and limited costs can be used to justify the rate filing.

The bill repeals the restrictions in current law allowing an expedited rate filing only when insurers have not implemented a rate increase in the six months before the expedited rate filing and only if insurers do not file for a rate increase with an annual base rate filing for six months after the expedited filing. Repealing the six month restrictions allows insurers to continue to file an expedited and an annual rate filing in a 12 month period, but the rate filings no longer have to be six months apart and could occur closer together, with a 15 percent maximum rate increase allowed with an expedited rate filing.

B. SECTION DIRECTORY:

Section 1: Amends s. 627.062(2)(k), F.S., relating to expedited rate filings.

Section 2: Provides an effective date of upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:
None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:
None.
2. Expenditures:
None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Because the bill allows residential property insurers to increase rates a maximum of 15 percent, rather than 10 percent, using an expedited rate filing, policyholders could incur increased property insurance costs.

Because the bill allows additional types of costs and allows expenses and profits to justify an expedited rate filing, more expedited rate filings requesting the maximum rate increase allowed under an expedited rate filing (15 percent under the bill) could be filed and approved by the OIR.

Some policyholders could incur two rate increases at renewal because the bill repeals the two six month filing restrictions in current law for expedited rate filings. However, any rate increase due to the expedited rate filing is limited to 15 percent. In addition, under current law policyholders can incur two rate increases at renewal, but it is the practice of insurers to require policyholders to incur one rate increase.

Allowing more types of costs to be included in an expedited rate filing and raising the rate increase amount allowed by the filing to 15 percent allows property insurers more flexibility in ratemaking with a faster rate approval time.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:
None.

B. RULE-MAKING AUTHORITY:

None provided in the bill and none repealed by the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 30, 2011, the Insurance & Banking Subcommittee heard a proposed committee substitute and reported the proposed committee substitute favorably. The analysis was updated to reflect adoption of the proposed committee substitute.