

Amendment No.

CHAMBER ACTION

Senate

House



1 Representative(s) Saunders offered the following:

2

3 **Amendment (with title amendment)**

4 Remove line(s) 202-312 and insert:

5 Section 8. Section 627.062, Florida Statutes, is amended  
6 to read:

7 627.062 Rate standards.--

8 (1) The rates for all classes of insurance to which the  
9 provisions of this part are applicable shall not be excessive,  
10 inadequate, or unfairly discriminatory.

11 (2) As to all such classes of insurance:

12 (a) Insurers or rating organizations shall establish and  
13 use rates, rating schedules, or rating manuals to allow the  
14 insurer a reasonable rate of return on such classes of insurance  
15 written in this state. A copy of rates, rating schedules,  
16 rating manuals, premium credits or discount schedules, and

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17 surcharge schedules, and changes thereto, shall be filed with  
18 the office ~~under one of the following procedures:~~

19 1. ~~If the filing is made at least 90 days before the~~  
20 ~~proposed effective date and the filing may not be ~~is not~~~~  
21 ~~implemented during the office's review of the filing and any~~  
22 ~~proceeding and judicial review, then such filing shall be~~  
23 ~~considered a "file and use" filing. In such case, The office~~  
24 ~~shall finalize its review by issuance of a notice of intent to~~  
25 ~~approve or a notice of intent to disapprove within 90 days after~~  
26 ~~receipt of the filing. The notice of intent to approve and the~~  
27 ~~notice of intent to disapprove constitute agency action for~~  
28 ~~purposes of the Administrative Procedure Act. Requests for~~  
29 ~~supporting information, requests for mathematical or mechanical~~  
30 ~~corrections, or notification to the insurer by the office of its~~  
31 ~~preliminary findings shall not toll the 90-day period during any~~  
32 ~~such proceedings and subsequent judicial review. The rate shall~~  
33 ~~be deemed approved if the office does not issue a notice of~~  
34 ~~intent to approve or a notice of intent to disapprove within 90~~  
35 ~~days after receipt of the filing.~~

36 2. ~~If the filing is not made in accordance with the~~  
37 ~~provisions of subparagraph 1., such filing shall be made as soon~~  
38 ~~as practicable, but no later than 30 days after the effective~~  
39 ~~date, and shall be considered a "use and file" filing. An~~  
40 ~~insurer making a "use and file" filing is potentially subject to~~  
41 ~~an order by the office to return to policyholders portions of~~  
42 ~~rates found to be excessive, as provided in paragraph (h).~~

43 (b) Upon receiving a rate filing, the office shall review  
44 the rate filing to determine if a rate is excessive, inadequate,  
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45 or unfairly discriminatory. In making that determination, the  
46 office shall, in accordance with generally accepted and  
47 reasonable actuarial techniques, consider the following factors:

48 1. Past and prospective loss experience within and without  
49 this state.

50 2. Past and prospective expenses.

51 3. The degree of competition among insurers for the risk  
52 insured.

53 4. Investment income reasonably expected by the insurer,  
54 consistent with the insurer's investment practices, from  
55 investable premiums anticipated in the filing, plus any other  
56 expected income from currently invested assets representing the  
57 amount expected on unearned premium reserves and loss reserves.  
58 The commission may adopt rules utilizing reasonable techniques  
59 of actuarial science and economics to specify the manner in  
60 which insurers shall calculate investment income attributable to  
61 such classes of insurance written in this state and the manner  
62 in which such investment income shall be used in the calculation  
63 of insurance rates. Such manner shall contemplate allowances  
64 for an underwriting profit factor and full consideration of  
65 investment income which produce a reasonable rate of return;  
66 however, investment income from invested surplus shall not be  
67 considered.

68 5. The reasonableness of the judgment reflected in the  
69 filing.

70 6. Dividends, savings, or unabsorbed premium deposits  
71 allowed or returned to Florida policyholders, members, or  
72 subscribers.

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73           7. The adequacy of loss reserves.

74           8. The cost of reinsurance.

75           9. Trend factors, including trends in actual losses per  
76 insured unit for the insurer making the filing.

77           10. Conflagration and catastrophe hazards, if applicable.

78           11. A reasonable margin for underwriting profit and  
79 contingencies. For that portion of the rate covering the risk of  
80 hurricanes and other catastrophic losses for which the insurer  
81 has not purchased reinsurance and has exposed its capital and  
82 surplus to such risk, the office must approve a rating factor  
83 that provides the insurer a reasonable rate of return that is  
84 commensurate with such risk.

85           12. The cost of medical services, if applicable.

86           13. Other relevant factors which impact upon the frequency  
87 or severity of claims or upon expenses.

88           (c) In the case of fire insurance rates, consideration  
89 shall be given to the availability of water supplies and the  
90 experience of the fire insurance business during a period of not  
91 less than the most recent 5-year period for which such  
92 experience is available.

93           (d) If conflagration or catastrophe hazards are given  
94 consideration by an insurer in its rates or rating plan,  
95 including surcharges and discounts, the insurer shall establish  
96 a reserve for that portion of the premium allocated to such  
97 hazard and shall maintain the premium in a catastrophe reserve.  
98 Any removal of such premiums from the reserve for purposes other  
99 than paying claims associated with a catastrophe or purchasing  
100 reinsurance for catastrophes shall be subject to approval of the  
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101 office. Any ceding commission received by an insurer purchasing  
102 reinsurance for catastrophes shall be placed in the catastrophe  
103 reserve.

104 (e) After consideration of the rate factors provided in  
105 paragraphs (b), (c), and (d), a rate may be found by the office  
106 to be excessive, inadequate, or unfairly discriminatory based  
107 upon the following standards:

108 1. Rates shall be deemed excessive if they are likely to  
109 produce a profit from Florida business that is unreasonably high  
110 in relation to the risk involved in the class of business or if  
111 expenses are unreasonably high in relation to services rendered.

112 2. Rates shall be deemed excessive if, among other things,  
113 the rate structure established by a stock insurance company  
114 provides for replenishment of surpluses from premiums, when the  
115 replenishment is attributable to investment losses.

116 3. Rates shall be deemed inadequate if they are clearly  
117 insufficient, together with the investment income attributable  
118 to them, to sustain projected losses and expenses in the class  
119 of business to which they apply.

120 4. A rating plan, including discounts, credits, or  
121 surcharges, shall be deemed unfairly discriminatory if it fails  
122 to clearly and equitably reflect consideration of the  
123 policyholder's participation in a risk management program  
124 adopted pursuant to s. 627.0625.

125 5. A rate shall be deemed inadequate as to the premium  
126 charged to a risk or group of risks if discounts or credits are  
127 allowed which exceed a reasonable reflection of expense savings

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128 and reasonably expected loss experience from the risk or group  
129 of risks.

130 6. A rate shall be deemed unfairly discriminatory as to a  
131 risk or group of risks if the application of premium discounts,  
132 credits, or surcharges among such risks does not bear a  
133 reasonable relationship to the expected loss and expense  
134 experience among the various risks.

135 (f) In reviewing a rate filing, the office may require the  
136 insurer to provide at the insurer's expense all information  
137 necessary to evaluate the condition of the company and the  
138 reasonableness of the filing according to the criteria  
139 enumerated in this section.

140 (g) The office may at any time review a rate, rating  
141 schedule, rating manual, or rate change; the pertinent records  
142 of the insurer; and market conditions. If the office finds on a  
143 preliminary basis that a rate may be excessive, inadequate, or  
144 unfairly discriminatory, the office shall initiate proceedings  
145 to disapprove the rate and shall so notify the insurer. However,  
146 the office may not disapprove as excessive any rate for which it  
147 has given final approval or which has been deemed approved for a  
148 period of 1 year after the effective date of the filing unless  
149 the office finds that a material misrepresentation or material  
150 error was made by the insurer or was contained in the filing.  
151 Upon being so notified, the insurer or rating organization  
152 shall, within 60 days, file with the office all information  
153 which, in the belief of the insurer or organization, proves the  
154 reasonableness, adequacy, and fairness of the rate or rate  
155 change. The office shall issue a notice of intent to approve or  
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156 a notice of intent to disapprove pursuant to the procedures of  
157 paragraph (a) within 90 days after receipt of the insurer's  
158 initial response. In such instances and in any administrative  
159 proceeding relating to the legality of the rate, the insurer or  
160 rating organization shall carry the burden of proof by a  
161 preponderance of the evidence to show that the rate is not  
162 excessive, inadequate, or unfairly discriminatory. After the  
163 office notifies an insurer that a rate may be excessive,  
164 inadequate, or unfairly discriminatory, unless the office  
165 withdraws the notification, the insurer shall not alter the rate  
166 except to conform with the office's notice until the earlier of  
167 120 days after the date the notification was provided or 180  
168 days after the date of the implementation of the rate. The  
169 office may, subject to chapter 120, disapprove without the 60-  
170 day notification any rate increase filed by an insurer within  
171 the prohibited time period or during the time that the legality  
172 of the increased rate is being contested.

173 (h) In the event the office finds that a rate or rate  
174 change is excessive, inadequate, or unfairly discriminatory, the  
175 office shall issue an order of disapproval specifying that a new  
176 rate or rate schedule which responds to the findings of the  
177 office be filed by the insurer. ~~The office shall further order,~~  
178 ~~for any "use and file" filing made in accordance with~~  
179 ~~subparagraph (a)2., that premiums charged each policyholder~~  
180 ~~constituting the portion of the rate above that which was~~  
181 ~~actuarially justified be returned to such policyholder in the~~  
182 ~~form of a credit or refund. If the office finds that an~~  
183 ~~insurer's rate or rate change is inadequate, the new rate or~~

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(LATE FILED)

HOUSE AMENDMENT

Bill No. CS/HB 1A

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184 ~~rate schedule filed with the office in response to such a~~  
185 ~~finding shall be applicable only to new or renewal business of~~  
186 ~~the insurer written on or after the effective date of the~~  
187 ~~responsive filing.~~

188

189 ===== T I T L E A M E N D M E N T =====

190 Remove line(s) 17-23 and insert:

191 F.S.; deleting provisions allowing property and casualty  
192 insurers to use and file rates; amending s. 627.0629, F.S. ;  
193 providing legislative

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