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LEGISLATIVE ACTION

Senate

House

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Floor: WD

03/08/2012 05:14 PM

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Senator Smith moved the following:

1           **Senate Amendment to Amendment (917396) (with title**  
2 **amendment)**

3  
4           Between lines 164 and 165  
5 insert:

6           Section 6. Section 627.215, Florida Statutes, is amended to  
7 read:

8           627.215 Excessive profits for ~~workers' compensation,~~  
9 ~~employer's liability,~~ commercial property, and commercial  
10 casualty insurance prohibited.-

11           (1) (a) Each insurer group writing ~~workers' compensation and~~  
12 ~~employer's liability insurance as defined in s. 624.605(1)(c),~~  
13 commercial property insurance as defined in s. 627.0625,



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14 commercial umbrella liability insurance as defined in s.  
15 627.0625, or commercial casualty insurance as defined in s.  
16 627.0625 shall file with the office before ~~prior to~~ July 1 of  
17 each year, on a form prescribed by the commission, the following  
18 data for the component types of such insurance as provided in  
19 the form:

- 20 1. Calendar-year earned premium.
- 21 2. Accident-year incurred losses and loss adjustment  
22 expenses.
- 23 3. The administrative and selling expenses incurred in this  
24 state or allocated to this state for the calendar year.
- 25 4. Policyholder dividends applicable to the calendar year.

26  
27 This does not ~~Nothing herein is intended to~~ prohibit an insurer  
28 from filing on a calendar-year basis.

29 (b) The data filed for the group shall be a consolidation  
30 of the data of the individual insurers of the group. However, an  
31 insurer may elect to ~~either~~ consolidate commercial umbrella  
32 liability insurance data with commercial casualty insurance data  
33 or to separately file data for commercial umbrella liability  
34 insurance. Each insurer shall elect its method of filing  
35 commercial umbrella liability insurance at the time of filing  
36 data for accident year 1987 and shall thereafter continue filing  
37 under the same method. In the case of commercial umbrella  
38 liability insurance data reported separately, a separate  
39 excessive profits test shall be applied and the test period  
40 shall be 10 years. ~~In the case of workers' compensation and  
41 employer's liability insurance, the final report for the test  
42 period including accident years 1984, 1985, and 1986 must be~~



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43 ~~filed prior to July 1, 1988. In the case of commercial property~~  
44 ~~and commercial casualty insurance, the final report for the test~~  
45 ~~period including accident years 1987, 1988, and 1989 must be~~  
46 ~~filed prior to July 1, 1991.~~

47 ~~(2) Each insurer group writing workers' compensation and~~  
48 ~~employer's liability insurance shall also file a schedule of~~  
49 ~~Florida loss and loss adjustment experience for each of the 3~~  
50 ~~years previous to the most recent accident year. The incurred~~  
51 ~~losses and loss adjustment expenses shall be valued as of~~  
52 ~~December 31 of the first year following the latest accident year~~  
53 ~~to be reported, developed to an ultimate basis, and at two 12-~~  
54 ~~month intervals thereafter, each developed to an ultimate basis,~~  
55 ~~so that a total of three evaluations will be provided for each~~  
56 ~~accident year. The first year to be so reported shall be~~  
57 ~~accident year 1984, so that the reporting of 3 accident years~~  
58 ~~under this revised evaluation will not take place until accident~~  
59 ~~years 1985 and 1986 have become available. For reporting~~  
60 ~~purposes unrelated to determining excessive profits, the loss~~  
61 ~~and loss adjustment experience of each accident year shall~~  
62 ~~continue to be reported until each accident year has been~~  
63 ~~reported at eight stages of development.~~

64 (2)~~(3)~~(a) Each insurer group writing commercial property  
65 insurance or commercial casualty insurance shall also file a  
66 schedule of Florida loss and loss adjustment experience for each  
67 of the 3 years previous to the most recent accident year. The  
68 incurred losses and loss adjustment expenses shall be valued as  
69 of December 31 of the first year following the latest accident  
70 year, developed to an ultimate basis, and at two 12-month  
71 intervals thereafter, each developed to an ultimate basis, so



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72 that a total of 3 evaluations will be provided for each accident  
73 year. ~~The first year to be so reported shall be accident year~~  
74 ~~1987, which shall first be reported on or before July 1, 1989,~~  
75 ~~and the reporting of 3 accident years will not take place until~~  
76 ~~accident years 1988 and 1989 have become available. For medical~~  
77 ~~malpractice insurance, the first year to be so reported shall be~~  
78 ~~accident year 1990, which shall first be reported on or before~~  
79 ~~July 1, 1992, and the reporting of 3 accident years for full~~  
80 ~~inclusion of medical malpractice experience in commercial~~  
81 ~~casualty insurance will not take place until accident years 1991~~  
82 ~~and 1992 become available. Accordingly, no medical malpractice~~  
83 ~~insured shall be eligible for refunds or credits until the~~  
84 ~~reporting period ending with calendar accident year 1992. For~~  
85 reporting purposes unrelated to determining excess profits, the  
86 loss and loss adjustment experience of each accident year shall  
87 continue to be reported until each accident year has been  
88 reported at eight stages of development.

89 (b) Each insurer group writing commercial umbrella  
90 liability insurance which elects to file separate data for such  
91 insurance shall also file a schedule of Florida loss and loss  
92 adjustment experience for each of the 10 years previous to the  
93 most recent accident year. The incurred losses and loss  
94 adjustment expenses shall be valued as of December 31 of the  
95 first year following the latest accident year, developed to an  
96 ultimate basis, and at nine 12-month intervals thereafter, each  
97 developed to an ultimate basis, so that a total of 10  
98 evaluations will be provided for each accident year. ~~The first~~  
99 ~~year to be so reported shall be accident year 1987, which shall~~  
100 ~~first be reported on or before October 1, 1989, and the~~



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101 ~~reporting of 10 accident years will not take place until~~  
102 ~~accident year 1996 data is reported.~~

103       (3)~~(4)~~ Each insurer group's underwriting gain or loss for  
104 each calendar-accident year shall be computed as follows: The  
105 sum of the accident-year incurred losses and loss adjustment  
106 expenses as of December 31 of the year, developed to an ultimate  
107 basis, plus the administrative and selling expenses incurred in  
108 the calendar year, plus policyholder dividends applicable to the  
109 calendar year, shall be subtracted from the calendar-year earned  
110 premium to determine the underwriting gain or loss.

111       (4)~~(5)~~ For the 3 most recent calendar-accident years for  
112 which data is to be filed under this section, the underwriting  
113 gain or loss shall be compared to the anticipated underwriting  
114 profit, except in the case of separately reported commercial  
115 umbrella liability insurance for which such comparison shall be  
116 made for the 10 most recent calendar-accident years.

117       ~~(6) For those insurer groups writing workers' compensation~~  
118 ~~and employer's liability insurance during the years 1984, 1985,~~  
119 ~~1986, 1987, and 1988, an excessive profit has been realized if~~  
120 ~~underwriting gain is greater than the anticipated underwriting~~  
121 ~~profit plus 5 percent of earned premiums for the 3 most recent~~  
122 ~~calendar years for which data is to be filed under this section.~~  
123 ~~Any excess profit of an insurance company offering workers'~~  
124 ~~compensation or employer's liability insurance during this~~  
125 ~~period of time, shall be returned to policyholders in the form~~  
126 ~~of a cash refund or a credit toward future purchase of~~  
127 ~~insurance. The excessive amount shall be refunded on a pro rata~~  
128 ~~basis in relation to the final compilation year earned premiums~~  
129 ~~to the workers' compensation policyholders of record of the~~



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130 ~~insurer group on December 31 of the final compilation year.~~

131 (5)~~(7)~~ (a) Beginning with the July 1, 1991, report for  
132 ~~workers' compensation insurance, employer's liability insurance,~~  
133 commercial property insurance, and commercial casualty  
134 insurance, an excessive profit has been realized if the net  
135 aggregate underwriting gain for ~~all~~ these lines combined is  
136 greater than the net aggregate anticipated underwriting profit  
137 for these lines plus 5 percent of earned premiums for the 3 most  
138 recent calendar years for which data is to be filed under this  
139 section. For calculation purposes commercial property insurance  
140 and commercial casualty insurance shall be broken down into  
141 sublines in order to ascertain the anticipated underwriting  
142 profit factor versus the actual underwriting gain for the given  
143 subline.

144 (b) Beginning with the July 1, 1998, report for commercial  
145 umbrella liability insurance, if an insurer has elected to file  
146 data separately for such insurance, an excessive profit has been  
147 realized if the underwriting gain for such insurance is greater  
148 than the anticipated underwriting profit for such insurance plus  
149 5 percent of earned premiums for the 10 most recent calendar  
150 years for which data is to be filed under this section.

151 (6)~~(8)~~ As used in this section with respect to any 3-year  
152 period, or with respect to any 10-year period in the case of  
153 commercial umbrella liability insurance, "anticipated  
154 underwriting profit" means the sum of the dollar amounts  
155 obtained by multiplying, for each rate filing of the insurer  
156 group in effect during such period, the earned premiums  
157 applicable to such rate filing during such period by the  
158 percentage factor included in such rate filing for profit and



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159 contingencies, such percentage factor having been determined  
160 with due recognition to investment income from funds generated  
161 by Florida business, except that the anticipated underwriting  
162 profit for the purposes of this section shall be calculated  
163 using a profit and contingencies factor that is not less than  
164 zero. Separate calculations need not be made for consecutive  
165 rate filings containing the same percentage factor for profits  
166 and contingencies.

167 (7)~~(9)~~ If the insurer group has realized an excessive  
168 profit, the office shall order a return of the excessive amounts  
169 after affording the insurer group an opportunity for hearing and  
170 otherwise complying with the requirements of chapter 120. Such  
171 excessive amounts shall be refunded in all instances unless the  
172 insurer group affirmatively demonstrates to the office that the  
173 refund of the excessive amounts will render a member of the  
174 insurer group financially impaired or will render it insolvent  
175 under the provisions of the Florida Insurance Code.

176 (8)~~(10)~~ Any excess profit of an insurance company ~~as~~  
177 ~~determined on July 1, 1991, and thereafter~~ shall be returned to  
178 policyholders in the form of a cash refund or a credit toward  
179 the future purchase of insurance. The excessive amount shall be  
180 refunded on a pro rata basis in relation to the final  
181 compilation year earned premiums to the policyholders of record  
182 of the insurer group on December 31 of the final compilation  
183 year.

184 (9)~~(11)~~(a) Cash refunds to policyholders may be rounded to  
185 the nearest dollar.

186 (b) Data in required reports to the office may be rounded  
187 to the nearest dollar.



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188 (c) Rounding, if elected by the insurer, shall be applied  
189 consistently.

190 ~~(10)-(12)~~(a) Refunds shall be completed in one of the  
191 following ways:

192 1. If the insurer group elects to make a cash refund, the  
193 refund shall be completed within 60 days after ~~of~~ entry of a  
194 final order indicating that excessive profits have been  
195 realized.

196 2. If the insurer group elects to make refunds in the form  
197 of a credit to renewal policies, such credits shall be applied  
198 to policy renewal premium notices which are forwarded to  
199 insureds more than 60 calendar days after entry of a final order  
200 indicating that excessive profits have been realized. If an  
201 insurer group has made this election but an insured thereafter  
202 cancels her or his policy or otherwise allows the policy to  
203 terminate, the insurer group shall make a cash refund within ~~not~~  
204 ~~later than~~ 60 days after termination of such coverage.

205 (b) Upon completion of the renewal credits or refund  
206 payments, the insurer group shall immediately certify to the  
207 office that the refunds have been made.

208 ~~(11)-(13)~~ Any refund or renewal credit made pursuant to this  
209 section shall be treated as a policyholder dividend applicable  
210 to the year immediately succeeding the compilation period giving  
211 rise to the refund or credit, for purposes of reporting under  
212 this section for subsequent years.

213 ~~(12)-(14)~~ The application of this law to commercial property  
214 and commercial casualty insurance, which includes commercial  
215 umbrella liability insurance, ceases on January 1, 1997.

216 Section 7. Subsection (4) of section 628.6017, Florida



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217 Statutes, is amended to read:

218 628.6017 Converting assessable mutual insurer.—

219 (4) An assessable mutual insurer becoming a stock insurer  
220 or a nonassessable mutual insurer is ~~shall~~ not ~~be~~ subject to s.  
221 627.215 or s. 627.351(5) for 5 years following authorization of  
222 the conversion by the office. However, the converted stock  
223 insurer or nonassessable mutual insurer must ~~shall~~ file all  
224 necessary data required by s. 627.215. Such amounts otherwise  
225 subject to s. 627.215(8) must ~~627.215(10) shall~~ be maintained as  
226 surplus as to policyholders and are not ~~be~~ available for  
227 dividends for ~~a period of~~ 5 years.

228

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

230 And the title is amended as follows:

231 Delete line 182

232 and insert:

233 payment of workers' compensation; amending s. 627.215,  
234 F.S.; removing workers' compensation and employer's  
235 liability insurance from those types of insurance that  
236 must report and refund excess profits; deleting  
237 obsolete provisions; amending s. 628.6017, F.S.;

238 conforming a cross-reference;