

By the Committee on Banking and Insurance; and Senator Hukill

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1                   A bill to be entitled  
2           An act relating to property and casualty insurance  
3           rates and forms; amending s. 627.062, F.S.; exempting  
4           medical malpractice insurance that covers certain  
5           providers and practitioners from specified rate filing  
6           requirements; revising provisions relating to  
7           notification of rate changes to codify the amendments  
8           made to s. 627.062(3)(d)3., F.S., by s. 1, ch. 2011-  
9           160, Laws of Florida, in lieu of the amendments made  
10          by s. 12, ch. 2011-39, Laws of Florida, and making  
11          editorial changes; amending s. 627.410, F.S.;  
12          conforming provisions to changes made by the act;  
13          creating s. 627.4102, F.S.; providing for an  
14          informational filing of certain forms that are exempt  
15          from the Office of Insurance Regulation's approval  
16          process; requiring an informational filing to include  
17          a notarized certification from the insurer and  
18          providing a statement that must be included in the  
19          certification; authorizing the office to require prior  
20          review and approval of a form that is not in  
21          compliance; requiring a Notice of Change In Policy  
22          Terms form to be filed with a changed renewal policy;  
23          providing for construction and applicability;  
24          providing an effective date.

25  
26 Be It Enacted by the Legislature of the State of Florida:

27  
28           Section 1. Paragraph (d) of subsection (3) and paragraph  
29           (e) of subsection (7) of section 627.062, Florida Statutes, are

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30 amended to read:

31 627.062 Rate standards.—

32 (3)

33 (d)1. The following categories or kinds of insurance and  
34 types of commercial lines risks are not subject to paragraph  
35 (2) (a) or paragraph (2) (f):

36 a. Excess or umbrella.

37 b. Surety and fidelity.

38 c. Boiler and machinery and leakage and fire extinguishing  
39 equipment.

40 d. Errors and omissions.

41 e. Directors and officers, employment practices, fiduciary  
42 liability, and management liability.

43 f. Intellectual property and patent infringement liability.

44 g. Advertising injury and Internet liability insurance.

45 h. Property risks rated under a highly protected risks  
46 rating plan.

47 i. General liability.

48 j. Nonresidential property, except for collateral  
49 protection insurance as defined in s. 624.6085.

50 k. Nonresidential multiperil.

51 l. Excess property.

52 m. Burglary and theft.

53 n. Medical malpractice for a facility that is not a  
54 hospital licensed under chapter 395, a nursing home licensed  
55 under part II of chapter 400, or an assisted living facility  
56 licensed under part I of chapter 429.

57 o. Medical malpractice for a health care practitioner who  
58 is not a dentist licensed under chapter 466, a physician

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59 licensed under chapter 458, an osteopathic physician licensed  
60 under chapter 459, a chiropractic physician licensed under  
61 chapter 460, or a podiatric physician licensed under chapter  
62 461.

63 ~~p.n.~~ Any other commercial lines categories or kinds of  
64 insurance or types of commercial lines risks that the office  
65 determines should not be subject to paragraph (2)(a) or  
66 paragraph (2)(f) because of the existence of a competitive  
67 market for such insurance, similarity of such insurance to other  
68 categories or kinds of insurance not subject to paragraph (2)(a)  
69 or paragraph (2)(f), or to improve the general operational  
70 efficiency of the office.

71 2. Insurers or rating organizations shall establish and use  
72 rates, rating schedules, or rating manuals to allow the insurer  
73 a reasonable rate of return on insurance and risks described in  
74 subparagraph 1. which are written in this state.

75 3. An insurer shall ~~must~~ notify the office of any changes  
76 to rates for insurance and risks described in subparagraph 1.  
77 within 30 days after the effective date of the change. The  
78 notice must include the name of the insurer, the type or kind of  
79 insurance subject to rate change, ~~total premium written during~~  
80 ~~the immediately preceding year by the insurer for the type or~~  
81 ~~kind of insurance subject to the rate change,~~ and the average  
82 statewide percentage change in rates. Actuarial data  
83 ~~Underwriting files, premiums, losses, and expense statistics~~  
84 with regard to rates for such insurance and risks ~~written by an~~  
85 ~~insurer~~ must be maintained by the insurer for 2 years after the  
86 effective date of changes to those rates and are subject to  
87 examination by the office. The office may require the insurer to

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88 incur the costs associated with an examination. Upon  
89 examination, the office, in accordance with generally accepted  
90 and reasonable actuarial techniques, shall consider the rate  
91 factors in paragraphs (2) (b), (c), and (d) and the standards in  
92 paragraph (2) (e) to determine if the rate is excessive,  
93 inadequate, or unfairly discriminatory.

94 4. A rating organization shall ~~must~~ notify the office of  
95 any changes to loss cost for insurance and risks described in  
96 subparagraph 1. within 30 days after the effective date of the  
97 change. The notice must include the name of the rating  
98 organization, the type or kind of insurance subject to a loss  
99 cost change, loss costs during the immediately preceding year  
100 for the type or kind of insurance subject to the loss cost  
101 change, and the average statewide percentage change in loss  
102 cost. Actuarial data with regard to changes to loss cost for  
103 risks not subject to paragraph (2) (a) or paragraph (2) (f) must  
104 be maintained by the rating organization for 2 years after the  
105 effective date of the change and are subject to examination by  
106 the office. The office may require the rating organization to  
107 incur the costs associated with an examination. Upon  
108 examination, the office, in accordance with generally accepted  
109 and reasonable actuarial techniques, shall consider the rate  
110 factors in paragraphs (2) (b)-(d) and the standards in paragraph  
111 (2) (e) to determine if the rate is excessive, inadequate, or  
112 unfairly discriminatory.

113 (7) The provisions of this subsection apply only to rates  
114 for medical malpractice insurance and control to the extent of  
115 any conflict with other provisions of this section.

116 (e) For medical malpractice rates subject to paragraph

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117 (2) (a), the ~~each~~ medical malpractice insurer shall ~~must~~ make a  
118 rate filing under this section, sworn to by at least two  
119 executive officers of the insurer, at least once each calendar  
120 year.

121 Section 2. Subsection (1) of section 627.410, Florida  
122 Statutes, is amended to read:

123 627.410 Filing, approval of forms.—

124 (1) A ~~No~~ basic insurance policy or annuity contract form,  
125 or application form where written application is required and is  
126 to be made a part of the policy or contract, ~~or~~ group  
127 certificates issued under a master contract delivered in this  
128 state, or printed rider or endorsement form or form of renewal  
129 certificate, may not ~~shall~~ be delivered or issued for delivery  
130 in this state, unless the form has been filed with the office by  
131 or on ~~in~~ behalf of the insurer that ~~which~~ proposes to use such  
132 form and has been approved by the office or filed pursuant to s.  
133 627.4102. This provision does not apply to surety bonds or to  
134 policies, riders, endorsements, or forms of unique character  
135 that ~~which~~ are designed for and used with ~~relation to~~ insurance  
136 on ~~upon~~ a particular subject, ~~(other than as to health~~  
137 ~~insurance)~~, or that ~~which~~ relate to the manner of distributing  
138 ~~distribution of~~ benefits or to the reservation of rights and  
139 benefits under life or health insurance policies and are used at  
140 the request of the individual policyholder, contract holder, or  
141 certificateholder. For ~~As to~~ group insurance policies  
142 effectuated and delivered outside this state but covering  
143 persons resident in this state, the group certificates to be  
144 delivered or issued for delivery in this state shall be filed  
145 with the office for information purposes only.

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146 Section 3. Section 627.4102, Florida Statutes, is created  
147 to read:

148 627.4102 Informational filing of forms.—

149 (1) Property and casualty forms, except workers'  
150 compensation forms, are exempt from the approval process  
151 required under s. 627.410 if:

152 (a) The form has been electronically submitted to the  
153 office in an informational filing made through I-File 30 days  
154 before the delivery or issuance for delivery of the form within  
155 this state; and

156 (b) At the time the informational filing is made, a  
157 notarized certification is attached to the filing that certifies  
158 that each form within the filing is in compliance with all  
159 applicable state laws and rules. The certification must be on  
160 the insurer's letterhead and signed and dated by the insurer's  
161 president, chief executive officer, general counsel, or an  
162 employee of the insurer responsible for the filing on behalf of  
163 the insurer. The certification must contain the following  
164 statement, and no other language: "I, ...[name]..., as  
165 ...[title]... of ...[insurer name]..., do hereby certify that  
166 this form filing has been thoroughly and diligently reviewed by  
167 me and by all appropriate company personnel, as well as company  
168 consultants, if applicable, and certify that each form contained  
169 within the filing is in compliance with all applicable Florida  
170 laws and rules. Should a form be found not to be in compliance  
171 with Florida laws and rules, I acknowledge that the Office of  
172 Insurance Regulation shall disapprove the form."

173 (2) If the filing contains a form that is not in compliance  
174 with state laws and rules, the form filing, at the discretion of

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175 the office, is subject to prior review and approval pursuant to  
176 s. 627.410, and the period for review and approval established  
177 under s. 627.410(2) begins to run on the date the office  
178 notifies the insurer of the discovery of the noncompliant form.

179 (3) A Notice of Change in Policy Terms form required under  
180 s. 627.43141(2) shall be filed as a part of the informational  
181 filing for a renewal policy that contains a change. If a renewal  
182 policy that was certified requires such form, the insurer must  
183 provide a sample copy of the form to the named insured's agent  
184 before or upon providing the form to the named insured.

185 (4) This section does not preclude an insurer from electing  
186 to file any form for approval under s. 627.410 that would  
187 otherwise be exempt under this section.

188 (5) The provisions of this section supersede and replace  
189 the existing order issued by the office exempting specified  
190 property and casualty forms from the requirements of s. 627.410.

191 Section 4. This act shall take effect July 1, 2013.