

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 505 Insurance
SPONSOR(S): Insurance & Banking Subcommittee, Berfield
TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee	18 Y, 0 N, As CS	Fortenberry	Lloyd
2) State Administration & Technology Appropriations Subcommittee	14 Y, 0 N	Perez	Topp
3) Commerce Committee			

SUMMARY ANALYSIS

The bill makes the following changes regarding insurance:

- **Hurricane Modeling** – provides that a property insurer may use a weighted or straight average of two or more approved hurricane models in a rate filing.
- **Commission on Hurricane Loss Projection Methodology (Commission)** – provides that designees of the Executive Director of Citizens Property Insurance Corporation and the Director of the Division of Emergency Management may be members of the Commission in lieu of the directors.
- **Mitigation Credits in Residential Property Insurance Rate Filings** – allows residential property insurers to give mitigation credit for evaluation by, and compliance with, standards developed by an independent, not-for-profit, scientific research organization.
- **Automatic Withdrawal of Premium** – modifies the notice requirement for a change in the amount of premium by automatic bank withdrawal from an increase of any amount to increases greater than \$10 and also changes the number of days' notice that must be given from 15 to 10 to match federal law.
- **Policy Documents** – allows the electronic delivery of health insurance policy documents; removes requirements regarding paper insurance policy documents; revises notice requirements for certain limited-coverage automobile insurance policies.
- **Declination of Wind and Contents Coverage** – Allows policyholders to type their intent to decline wind and contents coverage in their property insurance policies, rather than requiring them to write it in their own hand, as currently required.

The bill has no impact on state or local government revenues or expenditures. It has an unknown direct economic impact on the private sector.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Commission on Hurricane Loss Projection Methodology

The Florida Commission on Hurricane Loss Projection Methodology (Commission) is a panel of experts created to provide “actuarially sophisticated guidelines as standards for projection of hurricane losses possible, given the current state of actuarial science.”¹ The Commission consists of 12 members including the Executive Director of Citizens Property Insurance Corporation (Citizens Director) and the Director of the Division of Emergency Management (Emergency Management Director).² However, the Emergency Management Director has indicated that he is sometimes unavailable to attend the Commission’s meetings and would like the discretion to send a designee to those meetings. The Citizens Director has indicated that he would like to be able to send a member of his senior management team or someone with actuarial experience to attend those meetings.

Effect of the Bill

The bill allows the Emergency Management Director to designate a full-time employee of the Division of Emergency Management to be a member of the Commission. It also allows the Citizens Director to designate a full-time employee with either actuarial science experience or senior operations management experience to be a member of the Commission.

Use of Hurricane Models in Residential Property Insurance Rate Filings

The law regarding the Office of Insurance Regulation’s (OIR) review and approval of residential property insurance rate filings requires that a rate filing consider mitigation measures that policyholders undertake to reduce hurricane losses.³ It sets forth the criteria under which OIR may disapprove rate filings, including disapproval of rates that it determines to be excessive, inadequate, or unfairly discriminatory.⁴ The law also establishes criteria for the Commission’s consideration, and approval, of hurricane loss models and prescribes how those models affect OIR’s approval of property insurance rate filings.⁵

Effect of the Bill

The bill amends the parameters for OIR’s approval or disapproval of rate filings by providing that, with respect to residential property insurance rate filings, the rate filing may use a modeling indication that is the weighted or straight average of two or more hurricane loss models found to be accurate or reliable by the Commission.

Mitigation Credits in Residential Property Insurance Rate Filings

Current law requires residential property insurers to include “positive and negative rate factors that reflect the manner in which building code enforcement in a particular jurisdiction addresses the risk of wind damage” in their rate filings that are filed with, and approved by, OIR.⁶ Insurers utilize factors that statewide organizations develop to indicate how building code enforcement units evaluate risk in particular geographical areas.⁷ However, these factors are often flawed and not an accurate depiction of actual building code enforcement activity in a jurisdiction.

¹ S. 627.0628(1)(c), F.S.

² S. 627.0628(2)(b), F.S.

³ S. 627.062(2)(j), F.S.

⁴ S. 627.062(2)(b), F.S.

⁵ Ss. 627.0628-627.06281, F.S.

⁶ S. 627.0629(2)(b), F.S.

⁷ See, e.g., ISO Mitigation, *ISO’s Building Code Effectiveness Grading Schedule (BCEGS)*, <https://www.isomitigation.com/bcegs/> (last visited Mar. 1, 2023). BCEGS is a program that provides these rating factors.

Since 2003, residential property insurers have been required to provide credits, discounts, and other rate differentials to reduce insurance premiums for properties with mitigation features.⁸ Mitigation features are construction techniques used or items installed to protect a structure against windstorm damage or loss.⁹ Examples of mitigation features include hurricane shutters, a hip roof, or a specific type of roof covering.

Code-plus programs help property owners avoid or reduce damage caused by natural hazards and other risks by implementing additional levels of resilience to hazards beyond those required by building codes.¹⁰ Presently, insurers are unable to submit rating plans for review and approval by OIR that include mitigation credits for those insureds that are evaluated by, and comply with, code-plus standards established by independent, not-for-profit, scientific research organizations.¹¹

Effect of the Bill

The bill allows insurers to file a rating plan (plan) with OIR in which it offers additional windstorm mitigation credits based on standards established by an independent, not-for-profit, scientific research organization that meets the requirements of the rate filing statute.

Notification of Automatic Withdrawal of Insurance Premiums

Insurers issuing personal lines residential and commercial property policies are required to provide premium payment options for quarterly and semiannual payments. They may, but are not required to, offer monthly payment plans.¹² Insurers and policyholders may enter into automatic bank withdrawal agreements for paying insurance premiums.¹³ Current law requires insurers to provide the policyholder with 15 days' advance written notice prior to any automatic bank withdrawal if the premium payment increases from the previous withdrawal period by any amount.

Federal law gives consumers the option of receiving notice of a change in an automatic bank withdrawal only when the withdrawal differs from the most recent withdrawal by more than an agreed-upon amount.¹⁴ Federal law also only requires that a policyholder receive 10 days' notice as opposed to 15 days' notice before a change in the amount withdrawn.¹⁵

Effect of the Bill

The bill changes the written notice requirement of any increase in policy premiums to require the notice only if the increase in policy premiums results in the next automatic withdrawal being increased by more than \$10. The bill also reduces the number of days' notice required before a change in a withdrawal from 15 days to 10 days to match federal law.

⁸ See s. 627.0629, F.S.

⁹ See *id.*

¹⁰ Whole Building Design Guide, *Code-Plus Program for Disaster Resistance*, <https://www.wbdg.org/resources/code-plus-programs-disaster-resistance> (last visited Mar. 1, 2023).

¹¹ See, e.g., Insurance Institute of Business & Home Safety, <https://ibhs.org/> (last visited Mar. 1, 2023).

¹² S. 627.4035(1)(a), F.S.

¹³ S. 627.0665, F.S.

¹⁴ 12 CFR 1005(10)(d).

¹⁵ *Id.*

Electronic Transmission of Policy Documents

The law requires that an insurance policy be mailed, delivered, or electronically transmitted to an insured or other person entitled to receive the policy (designated person) within 60 days of the policy taking effect.¹⁶ An insurer may allow a personal lines policyholder to elect delivery of policy documents by electronic means instead of by mail.¹⁷ Electronic delivery of commercial risks constitutes delivery to the insured or designated person, unless the insured or designated person notifies the insurer that he or she does not agree to electronic delivery.¹⁸ Current law does not include health insurance policies in the list of policies that may be delivered electronically.

If a policy is delivered electronically, the insurer must include with the policy, a notice of the right to receive the policy by mail rather than electronically.¹⁹ Additionally, an insurer must provide a paper copy of an insurance policy to an insured or designated person upon his or her request.²⁰

Effect of the Bill

The bill adds health insurance policies, and related documents, to the list of policies for which electronic delivery is permitted. It also removes requirements regarding the delivery of paper insurance policy documents.

Declination of Windstorm and Contents Coverage

Under current law, a policyholder may decline windstorm or contents coverage as part of a property insurance policy.²¹ However, when a policyholder declines such coverage, the policyholder is required to write the intent to decline windstorm and contents coverage in his or her own hand.²² This requirement is particularly antiquated when a policyholder elects to receive policy documents electronically.

Effect of the Bill

The bill allows policyholders to type their intent to decline windstorm and contents coverage in their property insurance policies, rather than requiring them to write it in their own hand.

Limited Coverage Notice Requirements

Automobile insurance policies that do not contain coverage for bodily injury and property damage²³ must be stamped on the policy declarations page with the following language in a font larger than the largest font otherwise used in the declarations page (notice):

THIS POLICY DOES NOT PROVIDE BODILY INJURY AND PROPERTY DAMAGE LIABILITY INSURANCE OR ANY OTHER COVERAGE FOR WHICH A SPECIFIC PREMIUM CHARGE IS NOT MADE, AND DOES NOT COMPLY WITH ANY FINANCIAL RESPONSIBILITY LAW.

The stamping requirement is antiquated and prevents these types of policies from being delivered electronically.

Effect of the Bill

¹⁶ S. 627.421(1), F.S.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ See s. 627.712, F.S.

²² *Id.*

²³ S. 627.7276, F.S. These limited policies are typically issued to certain antique cars.

The bill eliminates the requirement that the notice be stamped on the declarations page of limited coverage automobile policies. 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. This change will allow these types of policies to be delivered electronically.

B. SECTION DIRECTORY:

Section 1. Amends s. 627.062, F.S., relating to rate standards.

Section 2. Amends s. 627.0628, F.S., relating to Florida Commission on Hurricane Loss Projection Methodology; public records exemption; public meetings exemption.

Section 3. Amends s. 627.0629, F.S., relating to residential property insurance; rate filings.

Section 4. Amends s. 627.0665, F.S., relating to automatic bank withdrawal agreements; notification required.

Section 5. Amends s. 627.7276, F.S., relating to notice of limited coverage.

Section 6. Provides an effective date of July 1, 2023.

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:

The bill may have an unknown positive direct economic impact on the private sector through the application of mitigation credits to residential property insurance policies.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill neither authorizes nor requires administrative rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On March 9, 2023, the Insurance & Banking Subcommittee considered the bill, adopted one amendment, and reported the bill favorably as a committee substitute. The amendment made the following changes to the bill:

- Allows the Executive Director of Citizens Property Insurance to designate a person to serve on the Florida Commission on Hurricane Loss Projection Methodology in the executive director's place. The designee must be full-time employee with either actuarial science experience or senior operations management experience,
- Allows the electronic delivery of health insurance policy documents and removes requirements regarding paper insurance policy documents,
- Allows policyholders to type their intent to decline wind and contents coverage in their property insurance policies, rather than requiring them to write it in their own hand, as currently required, and
- Corrects a technical error made in a bill last year.

The analysis is drafted to the committee substitute as passed by the Insurance & Banking Subcommittee.