

CHAPTER 2011-160

Committee Substitute for Committee Substitute for House Bill No. 99

An act relating to commercial insurance rates; amending s. 627.062, F.S.; exempting additional categories or kinds of insurance and types of commercial lines risks from being subject to certain otherwise applicable rate filing requirements; deleting a requirement that an insurer's rate change notice include total premium written for an exempt class of insurance; removing a requirement that specified types of records and information related to a rate change be retained by an insurer; requiring actuarial data regarding a rate change for an exempt class of insurance be retained by an insurer for a specified time; requiring the insurer to incur examination expenses; removing a requirement that a rating organization maintain certain statistics related to changes to loss cost for exempt classes of insurance; requiring certain actuarial data related to loss cost be retained by a rating organization for a specified time; requiring a rating organization to incur examination expenses; deleting authority for the Office of Insurance Regulation to require all necessary information from an insurer in order to evaluate a rate change; amending s. 627.0651, F.S.; expanding an exemption from certain otherwise applicable rate filing requirements to include all commercial motor vehicle insurance; deleting a requirement that a commercial motor vehicle insurer's rate change notice include total premium written; removing a requirement that specified types of records and information related to a commercial motor vehicle insurance rate change be retained by an insurer; requiring actuarial data regarding a commercial motor vehicle insurance rate change be retained by an insurer for a specified time; requiring an insurer for commercial motor vehicle insurance to incur examination expenses; removing a requirement that a rating organization maintain certain statistics related to changes to loss cost for commercial motor vehicle insurance; requiring actuarial data related to loss cost for commercial motor vehicle insurance be retained by a rating organization for a specified time; requiring a rating organization for commercial motor vehicle insurance to incur examination expenses; deleting authority for the Office of Insurance Regulation to require all necessary information from an commercial motor vehicle insurer in order to evaluate a rate change; providing an effective date.

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

Section 1. Paragraph (d) of subsection (3) of section 627.062, Florida Statutes, is amended to read:

627.062 Rate standards.—

(3)

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

- a. Excess or umbrella.
- b. Surety and fidelity.
- c. Boiler and machinery and leakage and fire extinguishing equipment.
- d. Errors and omissions.
- e. Directors and officers, employment practices, fiduciary liability, and management liability.
- f. Intellectual property and patent infringement liability.
- g. Advertising injury and Internet liability insurance.
- h. Property risks rated under a highly protected risks rating plan.
- i. General liability.
- j. Nonresidential property, except for collateral protection insurance as defined in s. 624.6085.
- k. Nonresidential multiperil.
- l. Excess property.
- m. Burglary and theft.

n.i. Any other commercial lines categories or kinds of insurance or types of commercial lines risks that the office determines should not be subject to paragraph (2)(a) or paragraph (2)(f) because of the existence of a competitive market for such insurance, similarity of such insurance to other categories or kinds of insurance not subject to paragraph (2)(a) or paragraph (2)(f), or to improve the general operational efficiency of the office.

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

3. An insurer must notify the office of any changes to rates for insurance and risks described in subparagraph 1. no later than 30 days after the effective date of the change. The notice must include the name of the insurer, the type or kind of insurance subject to rate change, ~~total premium written during the immediately preceding year by the insurer for the type or kind of insurance subject to the rate change,~~ and the average statewide percentage change in rates. Actuarial data Underwriting files, premiums, losses, and expense statistics with regard to rates for insurance and risks described in subparagraph 1. written by an insurer shall be maintained by the insurer for

2 years after the effective date of changes to those rates and are subject to examination by the office. The office may require the insurer to incur the costs associated with an examination. Upon examination, the office shall, in accordance with generally accepted and reasonable actuarial techniques, consider the rate factors in paragraphs (2)(b), (c), and (d) and the standards in paragraph (2)(e) to determine if the rate is excessive, inadequate, or unfairly discriminatory.

4. A rating organization must notify the office of any changes to loss cost for insurance and risks described in subparagraph 1. no later than 30 days after the effective date of the change. The notice must include the name of the rating organization, the type or kind of insurance subject to a loss cost change, loss costs during the immediately preceding year for the type or kind of insurance subject to the loss cost change, and the average statewide percentage change in loss cost. Actuarial data Loss and exposure statistics with regard to changes to loss cost for risks applicable to loss costs for a rating organization not subject to paragraph (2)(a) or paragraph (2)(f) shall be maintained by the rating organization for 2 years after the effective date of the change and are subject to examination by the office. The office may require the rating organization to incur the costs associated with an examination. Upon examination, the office shall, in accordance with generally accepted and reasonable actuarial techniques, consider the rate factors in paragraphs (2)(b)-(d) and the standards in paragraph (2)(e) to determine if the rate is excessive, inadequate, or unfairly discriminatory.

~~5.— In reviewing a rate, the office may require the insurer to provide at the insurer's expense all information necessary to evaluate the condition of the company and the reasonableness of the rate according to the applicable criteria described in this section.~~

Section 2. Subsection (14) of section 627.0651, Florida Statutes, is amended to read:

627.0651 Making and use of rates for motor vehicle insurance.—

(14)(a) Commercial motor vehicle insurance ~~covering a fleet of 20 or more self-propelled vehicles~~ is not subject to subsection (1), subsection (2), or subsection (9) or s. 627.0645.

(b) The rates for insurance described in this subsection may not be excessive, inadequate, or unfairly discriminatory.

(c) Insurers shall establish and use rates, rating schedules, or rating manuals to allow the insurer a reasonable rate of return on commercial motor vehicle insurance written in this state ~~covering a fleet of 20 or more self-propelled vehicles.~~

(d) An insurer must notify the office of any changes to rates for type of insurance described in this subsection no later than 30 days after the effective date of the change. The notice shall include the name of the insurer,

the type or kind of insurance subject to rate change, ~~total premium written during the immediately preceding year by the insurer for the type or kind of insurance subject to the rate change,~~ and the average statewide percentage change in rates. Actuarial data with regard to rates for risks Underwriting files, premiums, losses, and expense statistics for the type of insurance described in this subsection shall be maintained by the insurer for 2 years after the effective date of changes to those rates and are subject to examination by the office. The office may require the insurer to incur the costs associated with an examination. Upon examination, the office shall, in accordance with generally accepted and reasonable actuarial techniques, consider the factors in paragraphs (2)(a)-(1) and apply subsections (3)-(8) to determine if the rate is excessive, inadequate, or unfairly discriminatory.

(e) A rating organization must notify the office of any changes to loss cost for the type of insurance described in this subsection no later than 30 days after the effective date of the change. The notice shall include the name of the rating organization, the type or kind of insurance subject to a loss cost change, loss costs during the immediately preceding year for the type or kind of insurance subject to the loss cost change, and the average statewide percentage change in loss cost. Actuarial data Loss and exposure statistics with regard to changes to loss cost for risks applicable to loss costs for a rating organization not subject to subsection (1), subsection (2), or subsection (9) shall be maintained by the rating organization for 2 years after the effective date of the change and are subject to examination by the office. The office may require the rating organization to incur the costs associated with an examination. Upon examination, the office shall, in accordance with generally accepted and reasonable actuarial techniques, consider the rate factors in paragraphs (2)(a)-(1) and apply subsections (3)-(8) to determine if the rate is excessive, inadequate, or unfairly discriminatory.

~~(f) In reviewing the rate, the office may require the insurer to provide at the insurer's expense all information necessary to evaluate the condition of the company and the reasonableness of the rate according to the applicable criteria described herein.~~

Section 3. This act shall take effect October 1, 2011.

Approved by the Governor June 17, 2011.

Filed in Office Secretary of State June 17, 2011.