

By the Committee on Banking and Insurance; and Senator Peaden

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1                   A bill to be entitled  
2           An act relating to commercial insurance rates;  
3           amending s. 627.062, F.S.; exempting certain  
4           categories or types of insurance and types of  
5           commercial lines risks from certain rate requirements;  
6           requiring that insurers or rating organizations  
7           establish and use rates, rating schedules, or rating  
8           manuals allowing for a reasonable rate of return on  
9           certain insurance and risks; requiring that an insurer  
10          notify the Office of Insurance Regulation of any  
11          changes to rates for certain insurance and risks;  
12          requiring that such notice contain certain  
13          information; requiring that an insurer maintain  
14          certain information; providing that such information  
15          is subject to examination by the office; requiring  
16          that the office consider certain rate factors and  
17          standards when examining such information for the  
18          purpose of determining whether the rate is excessive,  
19          inadequate, or unfairly discriminatory; requiring that  
20          a rating organization provide notice to the office of  
21          any changes to loss cost for certain types of  
22          insurance within a specified period after such change;  
23          providing requirements for such notification;  
24          requiring that a rating organization maintain certain  
25          information; providing that such information is  
26          subject to examination by the office; requiring that  
27          specified rate factors and standards be used in such  
28          examination; authorizing the office, when reviewing a  
29          rate, to require that an insurer provide certain

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30 information at the insurer's expense; amending s.  
31 627.0651, F.S.; exempting commercial motor vehicle  
32 insurance from certain motor vehicle insurance rate  
33 requirements; prohibiting certain insurance rates from  
34 being excessive, inadequate, or unfairly  
35 discriminatory; requiring that insurers or rating  
36 organizations establish and use rates, rating  
37 schedules, or rating manuals allowing for a reasonable  
38 rate of return on certain insurance and risks;  
39 requiring that an insurer notify the office of any  
40 changes to rates for certain insurance and risks;  
41 requiring that such notice contain certain  
42 information; requiring that an insurer maintain  
43 certain information; providing that such information  
44 is subject to examination by the office; requiring  
45 that the office consider certain rate factors and  
46 standards when examining such information for the  
47 purpose of determining whether the rate is excessive,  
48 inadequate, or unfairly discriminatory; requiring that  
49 a rating organization provide notice to the office of  
50 any changes to loss cost for certain types of  
51 insurance within a specified period after such change;  
52 providing requirements for such notification;  
53 requiring that a rating organization maintain certain  
54 information; providing that such information is  
55 subject to examination by the office; requiring that  
56 specified rate factors and standards be used in such  
57 examination; authorizing the office, when reviewing a  
58 rate, to require that an insurer provide certain

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59 information at the insurer's expense; providing an  
60 effective date.

61  
62 Be It Enacted by the Legislature of the State of Florida:

63  
64 Section 1. Paragraph (d) is added to subsection (3) of  
65 section 627.062, Florida Statutes, to read:

66 627.062 Rate standards.—

67 (3)

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

71 a. Excess or umbrella.

72 b. Surety and fidelity.

73 c. Boiler and machinery and leakage and fire extinguishing  
74 equipment.

75 d. Errors and omissions.

76 e. Directors and officers, employment practices, and  
77 management liability.

78 f. Intellectual property and patent infringement liability.

79 g. Advertising injury and Internet liability insurance.

80 h. Property risks rated under a highly protected risks  
81 rating plan.

82 i. Any other commercial lines categories or kinds of  
83 insurance or types of commercial lines risks that the office  
84 determines should not be subject to paragraph (2) (a) or  
85 paragraph (2) (f) because of the existence of a competitive  
86 market for such insurance, similarity of such insurance to other  
87 categories or kinds of insurance not subject to paragraph (2) (a)

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88 or paragraph (2)(f), or to improve the general operational  
89 efficiency of the office.

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

94 3. An insurer must notify the office of any changes to  
95 rates for insurance and risks described in subparagraph 1. no  
96 later than 30 days after the effective date of the change. The  
97 notice must include the name of the insurer, the type or kind of  
98 insurance subject to rate change, total premium written during  
99 the immediately preceding year by the insurer for the type or  
100 kind of insurance subject to the rate change, and the average  
101 statewide percentage change in rates. Underwriting files,  
102 premiums, losses, and expense statistics with regard to  
103 insurance and risks described in subparagraph 1. written by an  
104 insurer shall be maintained by the insurer and subject to  
105 examination by the office. Upon examination, the office shall,  
106 in accordance with generally accepted and reasonable actuarial  
107 techniques, consider the rate factors in paragraphs (2)(b), (c),  
108 and (d) and the standards in paragraph (2)(e) to determine if  
109 the rate is excessive, inadequate, or unfairly discriminatory.

110 4. A rating organization must notify the office of any  
111 changes to loss cost for insurance and risks described in  
112 subparagraph 1. no later than 30 days after the effective date  
113 of the change. The notice must include the name of the rating  
114 organization, the type or kind of insurance subject to a loss  
115 cost change, loss costs during the immediately preceding year  
116 for the type or kind of insurance subject to the loss cost

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117 change, and the average statewide percentage change in loss  
118 cost. Loss and exposure statistics with regard to risks  
119 applicable to loss costs for a rating organization not subject  
120 to paragraph (2) (a) or paragraph (2) (f) shall be maintained by  
121 the rating organization and are subject to examination by the  
122 office. Upon examination, the office shall, in accordance with  
123 generally accepted and reasonable actuarial techniques, consider  
124 the rate factors in paragraphs (2) (b)-(d) and the standards in  
125 paragraph (2) (e) to determine if the rate is excessive,  
126 inadequate, or unfairly discriminatory.

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

132 Section 2. Subsection (14) is added to section 627.0651,  
133 Florida Statutes, to read:

134 627.0651 Making and use of rates for motor vehicle  
135 insurance.—

136 (14) (a) Commercial motor vehicle insurance covering a fleet  
137 of five or more self-propelled vehicles is not subject to  
138 subsection (1), subsection (2), or subsection (9) or s.  
139 627.0645.

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

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

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146 vehicles.

147 (d) An insurer must notify the office of any changes to  
148 rates for type of insurance described in this subsection no  
149 later than 30 days after the effective date of the change. The  
150 notice shall include the name of the insurer, the type or kind  
151 of insurance subject to rate change, total premium written  
152 during the immediately preceding year by the insurer for the  
153 type or kind of insurance subject to the rate change, and the  
154 average statewide percentage change in rates. Underwriting  
155 files, premiums, losses, and expense statistics for the type of  
156 insurance described in this subsection shall be maintained by  
157 the insurer and subject to examination by the office. Upon  
158 examination, the office shall, in accordance with generally  
159 accepted and reasonable actuarial techniques, consider the  
160 factors in paragraphs (2) (a)-(1) and apply subsections (3)-(8)  
161 to determine if the rate is excessive, inadequate, or unfairly  
162 discriminatory.

163 (e) A rating organization must notify the office of any  
164 changes to loss cost for the type of insurance described in this  
165 subsection no later than 30 days after the effective date of the  
166 change. The notice shall include the name of the rating  
167 organization, the type or kind of insurance subject to a loss  
168 cost change, loss costs during the immediately preceding year  
169 for the type or kind of insurance subject to the loss cost  
170 change, and the average statewide percentage change in loss  
171 cost. Loss and exposure statistics with regard to risks  
172 applicable to loss costs for a rating organization not subject  
173 to subsection (1), subsection (2), or subsection (9) shall be  
174 maintained by the rating organization and are subject to

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175 examination by the office. Upon examination, the office shall,  
176 in accordance with generally accepted and reasonable actuarial  
177 techniques, consider the rate factors in paragraphs (2) (a)-(1)  
178 and apply subsections (3)-(8) to determine if the rate is  
179 excessive, inadequate, or unfairly discriminatory.

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

185 Section 3. This act shall take effect January 1, 2011.