

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED (Y/N)
ADOPTED AS AMENDED (Y/N)
ADOPTED W/O OBJECTION (Y/N)
FAILED TO ADOPT (Y/N)
WITHDRAWN (Y/N)
OTHER

1 Committee/Subcommittee hearing bill: Commerce Committee
2 Representative Duggan offered the following:

3
4 **Amendment**

5 Remove lines 148-271 and insert:

6 protection of the policyholders and in the public interest, but
7 must, at a minimum, examine insurers as follows:

8 1. High-risk insurers not less frequently than once every
9 3 years.

10 2. Average-risk insurers not less frequently than once
11 every 5 years.

12 3. Low-risk insurers not less frequently than once every 7
13 years and shall examine each domestic insurer not less
14 frequently than once every 5 years.
15

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16 The examination shall cover the preceding 5 fiscal years since
17 the last examination of the insurer, except for low-risk
18 insurers, in which case the examination shall cover the
19 preceding 5 fiscal years, and shall be commenced within 12
20 months after the end of the most recent fiscal year being
21 covered by the examination. The examination may cover any period
22 of the insurer's operations since the last previous examination.
23 The examination may include examination of events subsequent to
24 the end of the most recent fiscal year and the events of any
25 prior period that affect the present financial condition of the
26 insurer.

27 (3) The office shall create, and the commission shall
28 adopt by rule, a risk-based selection methodology for scheduling
29 and conducting examinations of insurers and other entities
30 subject to this section. This requirement does not restrict the
31 authority of the office to conduct market conduct examinations
32 as often as it deems advisable. Such methodology must include:

33 (a) Use of currently required risk-based capital reports
34 to prioritize financial examinations of insurers when such
35 reporting indicates a decline in the insurer's financial
36 condition.

37 (b) Consideration of any downgrade or threatened downgrade
38 in the insurer's financial strength rating.

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39 (c) Prioritization of property insurers for which the
40 office identifies significant concerns about an insurer's
41 solvency pursuant to s. 627.7154.

42 (d) Any other conditions the office deems necessary for
43 the protection of the public.

44
45 The office shall present the proposed rule required by this
46 subsection to the commission no later than October 1, 2023. In
47 addition to the methodology required by this subsection, the
48 rule must include a plan to implement the examination schedule
49 in subsection (2).

50 Section 5. Subsection (7) of section 624.3161, Florida
51 Statutes, is amended, and subsection (8) is added to that
52 section, to read:

53 624.3161 Market conduct examinations.-

54 (7) Notwithstanding subsection (1), any authorized insurer
55 transacting property insurance business in this state must ~~may~~
56 be subject to an additional market conduct examination after a
57 hurricane if, at any time more than 90 days after the end of the
58 hurricane, the insurer:

59 (a) Is among the top 20 percent of insurers based upon a
60 calculation of the ratio of hurricane-related property insurance
61 claims filed to the number of property insurance policies in
62 force;

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63 (b) Is among the top 20 percent of insurers based upon a
64 calculation of the ratio of consumer complaints made to the
65 department to hurricane-related claims;

66 (c) Has made significant payments to its managing general
67 agent since the hurricane; or

68 (d) Is identified by the office as necessitating a market
69 conduct exam for any other reason.

70
71 All relevant criteria under this section and s. 624.316 shall be
72 applied to the market conduct examination under this subsection.
73 Such an examination must be initiated within 18 months after the
74 landfall of a hurricane that results in an executive order or a
75 state of emergency issued by the Governor. This requirement does
76 not limit in any way the authority of the office to conduct at
77 any time a market conduct examination of a property insurer in
78 the aftermath of a hurricane. An examination of an insurer under
79 this subsection must also include an examination of its managing
80 general agent as if it were the insurer.

81 (8) The office shall create, and the commission shall
82 adopt by rule, a risk-based selection methodology for scheduling
83 and conducting market conduct examinations of insurers and other
84 entities regulated by the office. This requirement does not
85 restrict the authority of the office to conduct market conduct
86 examinations as often as it deems necessary. Under such
87 selection methodology, the office must initiate a market conduct

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88 examination if any of the following conditions exist relating to
89 an insurer or other entity regulated by the office:

90 (a) An insurance regulator in another state has initiated
91 or taken regulatory action against the insurer or entity,
92 including, but not limited to:

- 93 1. A licensure denial, suspension, or revocation;
94 2. Imposition of administrative fines; or
95 3. Issuance of a cease and desist order, consent order, or
96 other order regarding actions or omissions of the insurer or
97 entity.

98 (b) Given the insurer's market share in this state, the
99 department or the office has received a disproportionate number
100 of the following types of claims-handling complaints against the
101 insurer:

- 102 1. Failure to timely communicate with respect to claims;
103 2. Failure to timely pay claims;
104 3. Untimely payments giving rise to the payment of
105 statutory interest;
106 4. Failure to adjust and pay claims in accordance with the
107 terms and conditions of the policy or contract and in compliance
108 with state law;
109 5. Violations of the Unfair Insurance Trade Practices Act
110 in part IX of chapter 626;
111 6. Failure to use licensed and duly appointed claims
112 adjusters;

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113 7. Failure to maintain reasonable claims records; or

114 8. Failure to adhere to the company's claims-handling
115 manual.

116 (c) The results of a National Association of Insurance
117 Commissioners Market Conduct Annual Statement indicate the
118 insurer is a negative outlier with regard to particular metrics.

119 (d) There is evidence the insurer is engaged in a pattern
120 or practice of violations of the Unfair Insurance Trade
121 Practices Act.

122 (e) Any other conditions the office deems necessary for
123 the protection of the public.

124
125 The office shall present the proposed rule required by this
126 subsection to the commission no later than October 1, 2023. In
127 addition to the methodology required by this subsection, the
128 rule must provide criteria for how the office will determine
129 that it has received a disproportionate of the claims-handling
130 complaints described in paragraph (b).