

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 639 Commercial Insurance Rate Filing Procedures

SPONSOR(S): Plakon

TIED BILLS: **IDEN./SIM. BILLS:** SB 916

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee		Peterson	Cooper
2) Government Operations Appropriations Subcommittee			
3) Regulatory Affairs Committee			

SUMMARY ANALYSIS

Commercial insurance is insurance designed for, and bought by, a business to cover losses sustained by the business. In Florida, the Office of Insurance Regulation (OIR) regulates insurance. The OIR reviews and approves or disapproves rates charged by insurance companies. However, certain types of commercial insurance are not subject to the requirement for the OIR to review and approve rates.

The rating law requires the chief executive officer or chief financial officer and the chief actuary of a property insurer to certify, under oath, that they have reviewed a rate filing and that it is accurate; fairly represents the basis for the filing; reflects all premium savings reasonably expected to result from legislative enactments; and is compliant with generally accepted and reasonable actuarial techniques. However, the law does not require a rate filing for nonresidential property insurance, except collateral protection insurance, or nonresidential multiperil insurance. The bill seeks to eliminate this inconsistency by requiring a certification only for residential property insurance rate filings.

The law further requires every insurer writing any line of property or casualty insurance, except workers' compensation, employer's liability and specified commercial property and casualty insurance, to make an annual base rate filing for each line of insurance written. If no rate change is proposed, the insurer may submit a certification from an actuary, in lieu of the base rate filing, which states that the existing rate is actuarially sound and is not inadequate. The current exemption from the requirement to make an annual base rating does not cover all types of insurance that are exempt from rate filing and approval requirements. The bill seeks to eliminate this inconsistency by excluding commercial multiperil insurance from the requirement to make an annual base rate filing.

The bill will result in a nominal reduction in costs to insurers because the changes do not remove burdensome regulation, as much as they eliminate requirements that are inconsistent with the applicable rate regulation structure.

The bill is effective upon becoming a law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Commercial lines insurance (commercial insurance) is insurance designed for, and bought by, a business to cover losses sustained by the business.¹ Some commercial insurance, such as workers' compensation, is required to be purchased by businesses;² however, most commercial insurance is purchased by businesses on a voluntary basis. The type of commercial insurance bought by a business also depends, in part, on the business type and industry.

The rating requirements for property, casualty, and surety insurance are set forth in part I of ch. 627, F.S., which is entitled the "Rating Law" and applies to all property, casualty, and surety insurance. The law states that rates "shall not be excessive, inadequate, or unfairly discriminatory."³ The Office of Insurance Regulation (OIR) has responsibility to review and approve or disapprove rates charged by insurance companies to ensure compliance with the rate standards.

The following types of commercial insurance are exempt from the rate filing and review requirements:⁴

- Excess or umbrella.
- Surety and fidelity.
- Boiler and machinery and leakage and fire extinguishing equipment.
- Errors and omissions.
- Directors and officers, employment practices, fiduciary liability, and management liability.
- Intellectual property and patent infringement liability.
- Advertising injury and Internet liability.
- Property risks rated under a highly protected risks rating plan.
- General liability.
- Nonresidential property, except for collateral protection insurance as defined in s. 624.6085.⁵
- Nonresidential multiperil.
- Excess property.
- Burglary and theft.
- Medical malpractice for certain health care facilities and health care providers.
- Other types of commercial lines insurance as determined by the OIR.

These types of insurance remain subject to the requirement that rates must not be excessive, inadequate, or unfairly discriminatory. An insurer or rating organization covered by the exemption must notify the OIR within 30 days after the effective date of a rate change. Notice is limited to the name of the insurer, the type of kind of insurance, and the statewide percentage change in rates. The OIR, at its discretion, may review the rates for compliance with the statutory requirements.⁶

Currently, the law requires the chief executive officer or chief financial officer and the chief actuary of a property insurer to certify, under oath, that they have reviewed a rate filing and that it is accurate; fairly represents the basis for the filing; reflects all premium savings reasonably expected to result from legislative enactments; and is compliant with generally accepted and reasonable actuarial techniques.⁷ However, the law does not require a rate filing for all types of property insurance. The bill seeks to eliminate this inconsistency by requiring a certification only for residential property insurance rate

¹ INSURANCE INFORMATION INSTITUTE, *Glossary* (defining commercial lines), <http://www.iii.org/services/glossary/uc?> (last visited Feb. 23, 2015).

² Generally, non-construction businesses employing four or more employees must buy workers' compensation insurance. Construction businesses must buy workers' compensation insurance if the business has one or more employees.

³ s. 627.062(1), F.S.

⁴ s. 627.062(3)(d)1., F.S.

⁵ "Collateral protection insurance" means commercial property insurance under which a creditor is the primary beneficiary and policyholder and which protects or covers an interest of the creditor arising out of a credit transaction secured by real or personal property.

⁶ s. 627.062(3)(d)1., F.S.

⁷ s. 627.062(8)(a), F.S.

filings. The effect, however, is to remove the certification requirement for certain types of property insurance that are subject to rate filing, including collateral protection insurance.

The law further requires every insurer writing any line of property or casualty insurance, except workers' compensation, employer's liability and specified commercial property and casualty insurance, to make an annual base rate filing for each line of insurance written. If no rate change is proposed, the insurer may submit a certification from an actuary, in lieu of the base rate filing, which states that the existing rate is actuarially sound and is not inadequate.⁸ The current exemption from the requirement to make an annual base rating does not cover all types of insurance that are exempt from rate filing and approval requirements. The bill seeks to eliminate this inconsistency by revising the definitions of commercial property and casualty insurance that are not required to make an annual filing. The bill does this, but it also exempts commercial residential multiperil insurance, which is a type of insurance that is subject to rate review and approval.

B. SECTION DIRECTORY:

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

Section 2: Amends s. 627.0645, F.S., relating to filing, approval of forms.

Section 3: Provides an effective date of July 1, 2015.

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 will result in a nominal reduction in costs to insurers because the changes do not remove burdensome regulation, as much as they eliminate requirements that are inconsistent with the applicable rate regulation structure.

D. FISCAL COMMENTS:

The bill has no fiscal impact on state expenditures.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

⁸ s. 627.0645(3), F.S.

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None provided in the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Collateral insurance is subject to rate filing and review, but is not a type of residential property insurance. Thus, the bill, as filed, would remove the requirement for an insurer to certify a rate filing for collateral insurance.

The bill deletes language that requires annual filings for commercial multiperil insurance. Commercial multiperil includes both residential and nonresidential coverage, however, only nonresidential commercial multiperil insurance is exempt from rate filing and review.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES