

Florida Office of Insurance Regulation Exempts Certain Commercial Lines Policy Forms from Prior Approval Requirements

April 11, 2012

On Monday, April 9, 2012, the Florida Office of Insurance Regulation ("Florida OIR") launched a one-year pilot program expanding their speed to market initiative on commercial rate filings to include certain commercial policy form filings. This is an unprecedented move by the Florida OIR since commercial lines policy forms have always required prior regulatory approval. To accomplish this initiative, the Florida OIR [issued an order](#) which is effective immediately and which exempts commercial lines which are exempt from prior rate review and approval under Section 627.062(2)(a) and (f), Florida Statutes, from prior approval for policy forms under certain circumstances. In 2009 and 2010, the Florida Legislature passed bills which streamlined the process for making commercial rate filings on the following lines of insurance:

- 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 insurance

- Property risks rated under a highly protected risks rating plan
- Nonresidential property, except for collateral protection insurance as defined in s. 624.6085
- Nonresidential multiperil
- Excess property
- Burglary and theft
- Any other commercial lines categories or kinds of insurance or types of commercial lines risks that the Florida OIR determines should not be subject to the approval of rates 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 the approval of rates, or to improve the general operational efficiency of the Florida OIR.

The Florida OIR states in the order that "[c]onsumers of commercial insurance products are sophisticated parties and are more experienced in insurance transactions than consumers of personal lines insurance policies. The Office has experienced a historically high volume of commercial form filings, which has taxed its review resources and resulted in a lengthier period of review for many commercial forms. "Due to the statutory exemption of certain categories or kinds of insurance and types of commercial lines risks from rate filing and approval requirements, in conjunction with consideration of the typical sophistication of commercial insurance consumers and the need to make products available to the commercial marketplace in a timely manner, the Office finds the review and approval of policy forms, as required under Section 627.410, Florida Statutes, is not practical when the form is for use in certain categories or kinds of insurance and types of commercial lines risks, and such form has been diligently and thoroughly reviewed by the company for quality and legal sufficiency to assure compliance with Florida Law." Effective April 9, 2012, for a one-year period, any property and casualty policy form, policy endorsement, application or other form otherwise subject to Section 627.410, F.S., shall be exempted from the policy form approval process if:

- it is utilized in a category or type of insurance and/or type of commercial lines risk exempted from prior rate review and approval;
- the form has been submitted in an informational filing to the Florida OIR through the electronic I-File system 30 days prior to delivery or issuance for delivery of the form within the state; and
- at the time of the informational filing, a notarized certification is attached certifying that each form within the filing is in compliance with all Florida laws. The certification must be completed by the President, CEO, General Counsel or Chief Compliance Analyst of the insurer indicating that the policy form has been diligently and thoroughly reviewed and that the form is in compliance with applicable laws.

The Florida OIR can pursue regulatory action against an insurer that submits a false or inaccurate certification. Nothing in the order precludes an insurer from continuing to submit its otherwise exempted commercial lines policy forms for full review and approval if an insurer chooses to do so. Please feel free to contact us should you have any questions regarding this client alert.

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