OFFICE OF INSURANCE REGULATION

FILED
JUN 24 2013
OFFICE OF INSURANCE REGULATION
Docketed by:

KEVIN M. MCCARTY
COMMISSIONER

IN THE MATTER OF:

CASE NO. 137063-13

Property and Casualty Insurance Policy Form Review
Under Section 627.410, Florida Statutes.
_____/

ORDER EXEMPTING SPECIFIED FORMS FROM THE REQUIREMENTS OF SECTION 627.410, FLORIDA STATUTES

Pursuant to Section 627.410(4) Florida Statutes, the Office of Insurance Regulation (the OFFICE) is authorized to exempt any insurance form from filing and approval under Section 627.410, Florida Statutes, where this section may not be practicably applied, or where the filing and approval are not desirable or necessary for the protection of the public. Pursuant to this statutory authority, the OFFICE hereby finds as follows:

1. The OFFICE has jurisdiction over the subject matter of this Order and the affected parties.

2. In recent years, insurers have filed a historically high number of personal lines property and casualty forms for the OFFICE's review and approval. Additionally, several laws were passed that broadly affect personal lines property and casualty insurance coverage in this state. This necessitated numerous changes to the industry's current policy forms, which in turn resulted in a high number of personal lines form filings with the OFFICE.

3. This volume of form filings had taxed the OFFICE's review resources, and resulted in a lengthier period of review for many personal lines filings. As a result, on June 25, 2012, the OFFICE issued Order 126368-12 and later, on December 3, 2012, Order 130176-13, which superseded and replaced Order 126368-12. These Orders exempted personal lines forms from prior review and approval under Section 627.410, Florida Statutes, where such forms were submitted in an informational filing to the OFFICE, and the filing contained a notarized certification from an officer of the insurer certifying that the forms in the filing complied will all applicable Florida laws.

4. With the exemption in place, the OFFICE has made substantial progress in clearing the personal lines form filing backlog. Currently, the OFFICE is able to take a final action in forty-five (45) days or less for fifty-five percent (55%) of the personal lines form filings. However, the number of pending filings still remains high.

5. The Legislature, recognizing the need for additional resources, eliminated five form analyst positions and appropriated ten new, upgraded form analyst positions, effective on July 1, 2013. The OFFICE will begin immediate training of these personnel. However, it will take several months of training before these extra positions will be helpful in eliminating the form filing backlog. In addition, the training for these positions will strain current resources.

6. The OFFICE is undertaking an audit of selected form filings certified under the previous Orders to ascertain if any such forms contain violations of the Florida law. If such violations are discovered, the OFFICE will take appropriate regulatory action to protect consumers.

7. Due to the continuing high volume of filings and its resource limitations, and the audit to ensure the quality of the certified filings which have be made under the previous Orders, the OFFICE continues to find the review and approval of personal lines policy forms, as required under Section 627.410, Florida Statutes, is not practicable where the form at issue has been diligently and thoroughly reviewed by the company for quality and legal sufficiency to assure compliance with Florida law.

8. As a result, the OFFICE, pursuant to Section 627.410(4), Florida Statutes, will extend the personal lines forms review exemption for a limited time until new agency personnel are trained and the forms filing backlog is sufficiently diminished.

Pursuant to these findings, it is HEREBY ORDERED:

Effective from the date of this Order, and until December 31, 2013, any personal lines property and casualty policy form, policy endorsement, application, or other form, which would otherwise be subject to the requirements of Section 627.410, Florida Statutes, shall be exempted from this Section, but only where:

1. The form has been submitted to the Office of Insurance Regulation in an informational filing made through I-File thirty (30) days prior to the delivery or issuance for delivery of the form within this state; and

2. At the time the informational filing is made, a notarized certification is attached to the filing, that certifies that each form within the filing is in compliance with all applicable state laws and rules. The certification must be on the insurer's letterhead and signed and dated by the insurer's president, chief executive officer, general counsel, or an employee of the insurer responsible for the filing on behalf of the insurer. The certification must contain the following statement, and no other language: "I,...[name]..., as ...[title]... of ...[insurer name]...do hereby certify that this form filing has been thoroughly and diligently reviewed by me and by all appropriate company personnel, as well as company consultants, if applicable, and certify that each form contained within the filing is in compliance with all applicable Florida laws and rules. Should a form be found not to be in compliance with Florida laws and rules, I acknowledge that the Office of Insurance Regulation shall disapprove the form and ...[insurer]...shall be subject to any and all appropriate regulatory actions by the Office of Insurance Regulation."

3. If the filing contains a form that is not in compliance with state laws and rules, the form filing, at the discretion of the OFFICE, is subject to prior review and approval under Section 627.410, Florida Statutes, and the period for review and approval established under Section 627.410(2), Florida Statutes begins to run upon the date the OFFICE notifies the insurer of the discovery of the noncompliant form.

4. The OFFICE, in its discretion, may pursue regulatory action against any company that submits a noncompliant form or otherwise submits a false or inaccurate certification.

5. A Notice of Change in Policy Terms form required under s. 627.43141(2) shall be filed as a part of the informational filing for a renewal policy that contains a change. If a renewal policy that was certified requires such a form, the insurer must provide a sample copy of the form to the named insured's agent before or upon providing the form to the named insured.

6. A detailed explanatory memorandum must accompany each filing. The memorandum should explain the filing's contents, including a list of forms and endorsements within the filing, a listing of coverage changes being made to the forms and endorsements, and a side-by-side comparison of proposed policy language verses the current policy language to show each policy language change being made.

Nothing in this Order shall be construed as precluding an insurer from choosing to pursue full review and approval under Section 627.410, Florida Statutes for any form filing that would otherwise qualify for exemption under this Order.

This Order does not extend to any Worker's Compensation forms.

DONE and ORDERED this 24th day of June, 2013, in Tallahassee, Florida.

KEVIN M. McCARTY
Commissioner

Copies furnished to:

All Property and Casualty Insurance Carriers