

Interpretation and Implementation of Section 627.0629 and Associated Rules

Travis Miller

Radey Thomas Yon & Clark, P.A.

Florida Commission on Hurricane Loss Projection Methodology

Purpose of Review

Section 627.0628, Florida Statutes

(Tab 1)

- 2009 Florida Legislature Provides for the Modeling Commission's Review of Mitigation Discounts
- Receive Input Regarding the Implementation of Mitigation Discounts
- Develop Recommendations for Improving the Process of Assessing, Determining and Applying Mitigation Discounts

Rate Filing Standards
Section 627.062, Florida Statutes
(Tab 2)

- Residential Insurance Rates Are Subject to Office of Insurance Regulation Review and Must Not Be Excessive, Inadequate or Unfairly Discriminatory
- Filings Must Account for Mitigation Measures Undertaken by Policyholders
- Determination Takes Into Account Past and Prospective Loss Experience, Cost of Reinsurance and Other Factors Affecting Frequency or Severity of Claims or Affecting Expenses
- Citizens Property Insurance Corporation-- Charging Rates in Effect as of December 31, 2006; Recommends Actuarially Sound Rates Effective January 1, 2010 Subject to Ten Percent Cap

Rate Review Standards

- Excessive-- Produce Unreasonably High Profit
- Inadequate--

Insufficient to Sustain Projected Losses

Discounts Exceed a Reasonable Reflection of Expense Savings and Reasonably Expected Loss Experience

- Unfairly Discriminatory– Discounts Do Not Bear a Reasonable Relationship to the Expected Loss and Expense Experience Among Risks

Current Requirement to Provide Mitigation Discounts
Section 627.0629, Florida Statutes
(Tab 3)

- Insurers Must Provide Discounts to Consumers Who Install or Implement Windstorm Damage Mitigation Techniques or Solutions
- Discounts Apply to Construction Techniques and Fixtures
- Discounts Must Apply to Techniques Meeting the Minimum Requirements of the Florida Building Code

Current Administrative Rule Implementing Discount Requirement
690-170.0155
(Tab 4)

- Applies to Residential Property Filings On or After January 1, 2007; Filings Required by March 1, 2007
- Rule Generally Requires Adoption of Discounts Set Forth in OIR-Promulgated Tables, Which are Based upon ARA Study
- No Modifications Unless Supported by Detailed Alternate Studies With All Assumptions Available for OIR Review
- Filings May Reflect Revenue Impact on Current Business Only With Actual Information on Policies Supporting the Modification

Historical Development of the Mitigation Discount Requirement (Tab 5)

- Legislature Enacts Basic Discount Requirement in 1993
- Department of Insurance Rule and Bulletin in 1997 Require Shutter Discounts at Least Equal to Those of ISO

Historical Development of the Mitigation Discount Requirement (cont'd.) (Tab 6)

- Legislature Begins Moving Toward Current Discount Structure in 2000

Statutory Amendment Requires Discounts for Fixtures and Construction Techniques

Amendment Identifies Specific Construction Features to be Taken Into Account

New Law Required Insurer Filings by June 1, 2002; Subsequent Amendments Pushed the Filing Deadline to December 31, 2002 and Eventually to February 28, 2003 (Amendments Associated with Building Code Legislation)

Historical Development of the Mitigation Discount Requirement (cont'd.) (Tab 7)

- Mitigation Discount Table Incorporated Into Insurer Filings by February 28, 2003

Department of Insurance Announced Draft of ARA Study in February 2002 Bulletin

Subsequent Bulletin in June 2002 Announces Postponement of Filing Deadline

Bulletins in January 2003 (Personal Residential) and March 2003 (Commercial Residential) Remind Insurers of Filing Deadline, Explain Modification of Discounts, and Mentioning Tempering of BCEGS

Historical Development of the Mitigation Discount Requirement (cont'd.) (Tab 8)

- Discounts Fully Implemented (“Doubled”) in 2007

Financial Services Commission/Office of Insurance Regulation
Adopts a Rule Requiring Insurers to Make a New Filing Between
January 1, 2007 and March 1, 2007

Rule Provides for Full Implementation of the Mitigation Discounts

No Modification of Discounts Without Detailed Study

No Offset to Accommodate Lost Revenue Without Actual Data

Historical Development of the Mitigation Discount Requirement (cont'd.) (Tab 9)

- Legislature Directs Office of Insurance Regulation to Reevaluate Discounts by July 1, 2007

Office of Insurance Regulation Contracts with ARA to Update Prior Study

ARA Prepares Updated Study Dated October 2008

Updated Study Available for Public Review; Not Currently the Subject of Any Implementation Requirement

Historical Development of the Mitigation Discount Requirement (cont'd.) (Tab 10)

- Uniform Home Grading System Under Development
- Discounts Required to be Based on Numerical Score of Uniform Home Grading System; Administrative Rules for Implementation Due in October 2011
- Legislature Specified in 2009 that New Discount System Must Replace Current System

Discounts or Deductible Reductions? (Tab 11)

- Statute Providing for Mitigation Discounts Requires Insurers' Rates to Reflect Discounts, Credits, Rate Differentials or Reductions in Deductibles Based Upon Fixtures and Construction Techniques
- Insurance Deductible Statute Refers to the Option of Insureds to Select Reductions in Deductibles or Discounts, Credits or Rate Differentials
- Notification Form Required by Rule for Personal Residential Insurance Refers to Both Discounts and Reductions in Deductibles

Required Forms (Tab 12)

- Insurers Must Notify Policyholders Annually of the Availability of Mitigation Discounts or Deductible Reductions

Required Form OIR-B1-1655 Adopted by Reference at Rule 690-170.0155

- Applicants Submit a Uniform Mitigation Verification Inspection Form in Support of Discounts

Required Form OIR-B1-1802 Adopted by Reference at Same Rule

- Office of Insurance Regulation Workshop on August 18 to Discuss Draft Revisions to Both Forms

Other Discounts

- Building Code Effectiveness Grading System (BCEGS)

Required by Statute

Designed to Encourage Local Enforcement of Building Codes

- Discretionary Discounts

Age of Home or Similar Discounts

RECAP

- 1993 Legislature Enacts Mitigation Statute Following Hurricane Andrew
- 1997 Insurers Required to Meet or Exceed Specified Discounts
- 2000 Discount Statute Expanded to Include Construction Techniques
- 2002 Initial ARA Study Released
- 2003 (February) Insurers Required to File Modified Discounts (50%)
- 2007 (March) Insurers Required to File Full Mitigation Discounts
- 2007 (June) Mandatory Discount Notice Form Updated
- 2007 OIR to Reevaluate Discounts
- 2008 (October) ARA Updated Report
- 2011 Begin Conversion to Discounts Based on Uniform Home Grading System
- 2014 Phase-Out of Current Mitigation Discount Approach (approximate)

Questions?

Travis Miller

Radey Thomas Yon & Clark, P.A.

301 South Bronough Street, Suite 200

Tallahassee, FL 32301

(850) 425-6654

travis@radeylaw.com