

By the Committee on Banking and Insurance and Senator Forman

311-1953-98

1                                   A bill to be entitled  
 2           An act relating to motor vehicle insurance;  
 3           amending s. 627.743, F.S.; requiring an insurer  
 4           to provide notice to the owner of a damaged  
 5           vehicle as to the consequences of failure to  
 6           use the insurance proceeds in accordance with a  
 7           security agreement; providing an exception;  
 8           amending s. 627.7295, F.S.; providing an  
 9           exception to minimum-down-payment requirements;  
 10          providing an effective date.

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 12 Be It Enacted by the Legislature of the State of Florida:

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 14           Section 1. Section 627.743, Florida Statutes, is  
 15 amended to read:

16           627.743 Payment of third-party claims.--

17           (1) Before making any payment on a claim for damage to  
 18 an automobile for a total loss, regardless of amount, which  
 19 automobile is owned by a person who is not named as an insured  
 20 in the policy under which payment is made, the insurer shall  
 21 first cause a search of the records of the Department of  
 22 Highway Safety and Motor Vehicles to be made in order to  
 23 determine whether the damaged vehicle is subject to any liens.  
 24 If the search discloses the existence of any liens, payment of  
 25 the claim shall be made jointly to the owner of the damaged  
 26 vehicle and the first lienholder of record. The insurer is  
 27 ~~shall not be~~ subject to the requirements of this section if  
 28 the owner of the damaged vehicle presents to the insurer a  
 29 title certificate for such vehicle.

30           (2) When making any payment on a claim for damage to  
 31 an automobile for a partial loss, the insurer shall have

1 printed either on the loss estimate, if prepared by the  
2 insurer, or on the check or draft, the following: "Failure to  
3 use the insurance proceeds in accordance with the security  
4 agreement, if any, could be a violation of s. 812.014, Florida  
5 Statutes. If you have any questions, contact your lending  
6 institution." However, this subsection does not apply if the  
7 insurer does not prepare the loss estimate.

8 Section 2. Subsection (7) of section 627.7295, Florida  
9 Statutes, is amended to read:

10 627.7295 Motor vehicle insurance contracts.--

11 (7) A policy of private passenger motor vehicle  
12 insurance or a binder for such a policy may be initially  
13 issued in this state only if the insurer or agent has  
14 collected from the insured an amount equal to 2 months'  
15 premium. An insurer, agent, or premium finance company may  
16 not directly or indirectly take any action resulting in the  
17 insured having paid from the insured's own funds an amount  
18 less than the 2 months' premium required by this subsection.  
19 This subsection applies without regard to whether the premium  
20 is financed by a premium finance company or is paid pursuant  
21 to a periodic payment plan of an insurer or an insurance  
22 agent. This subsection does not apply if an insured or member  
23 of the insured's family is renewing or replacing a policy or a  
24 binder for such policy written by the same insurer or a member  
25 of the same insurer group. This subsection does not apply to  
26 an insurer that issues private passenger motor vehicle  
27 coverage primarily to active duty or former military personnel  
28 or their dependents. This subsection and subsection (4) do not  
29 apply if an insured has had a policy in effect for at least 6  
30 months, the insured's agent is terminated by the insurer that  
31 issued the policy, and the insured obtains coverage on the

1 policy's renewal date with a new company through the  
2 terminated agent. This subsection does not apply to payment of  
3 premiums by an employer on behalf of an employee pursuant to a  
4 payroll deduction plan or an automatic electronic funds  
5 transfer payment plan.

6 Section 3. This act shall take effect October 1, 1998.

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8 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
9 COMMITTEE SUBSTITUTE FOR  
10 Senate Bill 2338

11 Deletes the provision that required motor vehicle insurers to  
12 search vehicle records before making any payment on a claim  
13 for damage to an automobile for a partial loss and to make  
14 payment jointly to the owner and the first lienholder.

15 Requires insurers making payments on a claim for damage to an  
16 automobile for a partial loss to have printed either on the  
17 loss estimate, if prepared by the insurer, or on the check or  
18 draft, a statement that the failure to use the insurance  
19 proceeds in accordance with the terms of the auto loan could  
20 constitute a violation of Florida law (theft), and that the  
21 borrower should contact the lender if there are any questions.

22 Adds exceptions to the current requirement that a minimum of 2  
23 months premium be paid as a down payment for new auto  
24 insurance policies, for auto premiums paid through payroll  
25 deduction plans or electronic funds transfer.