

By the Committee on Financial Services and Representatives
 Safley, Bainter, Flanagan, Tamargo, Lawson, Dennis, Cosgrove
 and Lippman

1 A bill to be entitled
 2 An act relating to motor vehicle insurance;
 3 amending s. 627.7295, F.S.; authorizing certain
 4 fees; amending s. 627.736, F.S.; providing
 5 alternate means of paying certain interest
 6 penalties on overdue personal injury protection
 7 benefits; prohibiting a provider's statement of
 8 charges from including certain charges;
 9 specifying which party is the prevailing party
 10 in arbitration of disputes relating to personal
 11 injury protection claims; specifying where an
 12 independent medical examination of a claimant
 13 may be conducted; providing an effective date.
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 15 Be It Enacted by the Legislature of the State of Florida:
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 17 Section 1. Subsection (5) of section 627.7295, Florida
 18 Statutes, is amended to read:
 19 627.7295 Motor vehicle insurance contracts.--
 20 (5)(a) A licensed general lines agent may charge a
 21 per-policy fee not to exceed \$10 to cover the administrative
 22 costs of the agent associated with selling the motor vehicle
 23 insurance policy if the policy covers only personal injury
 24 protection coverage as provided by s. 627.736 and property
 25 damage liability coverage as provided by s. 627.7275 and if no
 26 other insurance is sold or issued in conjunction with or
 27 collateral to the policy. The per-policy fee must be a
 28 component of the insurer's rate filing and may not be charged
 29 by an agent unless the fee is included in the filing. The fee
 30 is not considered part of the premium except for purposes of
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1 the department's review of expense factors in a filing made
2 pursuant to s. 627.062.

3 (b) To the extent a licensed general agent's cost of
4 obtaining motor vehicle reports on applicants for motor
5 vehicle insurance is not otherwise compensated, the agent may,
6 in addition to any other fees authorized by law, charge an
7 applicant for motor vehicle insurance a reasonable,
8 nonrefundable fee as to each licensed driver when the motor
9 vehicle report is obtained by the agent simultaneously with
10 the preparation of the application for use in the calculation
11 of premium or in the proper placement of the risk. The amount
12 of the fee may not exceed the agent's actual costs that are
13 not otherwise compensated.

14 Section 2. Paragraph (c) of subsection (4), subsection
15 (5), and paragraph (a) of subsection (7) of section 627.736,
16 Florida Statutes, are amended to read:

17 627.736 Required personal injury protection benefits;
18 exclusions; priority.--

19 (4) BENEFITS; WHEN DUE.--Benefits due from an insurer
20 under ss. 627.730-627.7405 shall be primary, except that
21 benefits received under any workers' compensation law shall be
22 credited against the benefits provided by subsection (1) and
23 shall be due and payable as loss accrues, upon receipt of
24 reasonable proof of such loss and the amount of expenses and
25 loss incurred which are covered by the policy issued under ss.
26 627.730-627.7405. When the Department of Health and
27 Rehabilitative Services provides, pays, or becomes liable for
28 medical assistance under the Medicaid program related to
29 injury, sickness, disease, or death arising out of the
30 ownership, maintenance, or use of a motor vehicle, benefits

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1 under ss. 627.730-627.7405 shall be subject to the provisions
2 of the Medicaid program.

3 (c) All overdue payments shall bear simple interest at
4 the rate of 10 percent per year. When the amount of interest
5 on an overdue payment is \$5 or less, the insurer may, in its
6 discretion, use any of the following methods to fulfill its
7 obligations under this paragraph:

8 1. The insurer may pay the interest in the same manner
9 as it pays interest in excess of \$5.

10 2. The insurer may provide the interest to the named
11 insured as a credit upon renewal of the policy and, with
12 respect to interest payments of less than \$5 owing to insureds
13 whose policies or nonrenewed or canceled, pay the interest to
14 the named insured upon nonrenewal or cancellation of the
15 policy.

16 3. The insurer may aggregate all interest payments of
17 \$5 or less and remit the total amount to the Insurance
18 Commissioner's Regulatory Trust Fund on July 1 of each year.

19 4. The insurer may provide the interest to the named
20 insured as a credit upon renewal of the policy and, with
21 respect to interest payments of less than \$5 owing to the
22 insureds whose policies are nonrenewed or canceled, aggregate
23 all such interest payments and remit the total amount to the
24 Insurance Commissioner's Regulatory Trust Fund on July 1 of
25 each year.

26 (5) CHARGES FOR TREATMENT OF INJURED PERSONS.--

27 (a) Any physician, hospital, clinic, or other person
28 or institution lawfully rendering treatment to an injured
29 person for a bodily injury covered by personal injury
30 protection insurance may charge only a reasonable amount for
31 the products, services, and accommodations rendered, and the

1 insurer providing such coverage may pay for such charges
2 directly to such person or institution lawfully rendering such
3 treatment, if the insured receiving such treatment or his or
4 her guardian has countersigned the invoice, bill, or claim
5 form approved by the Department of Insurance upon which such
6 charges are to be paid for as having actually been rendered,
7 to the best knowledge of the insured or his or her guardian.
8 In no event, however, may such a charge be in excess of the
9 amount the person or institution customarily charges for like
10 products, services, or accommodations in cases involving no
11 insurance, provided that charges for cephalic thermograms and
12 peripheral thermograms shall not exceed the maximum
13 reimbursement allowance for such procedures as set forth in
14 the applicable fee schedule established pursuant to s. 440.13.

15 (b) With respect to any treatment or services, other
16 than hospital services provided within the first 30 days after
17 the accident, for which the injured party has assigned,
18 authorized, or directed payment of personal injury protection
19 benefits to a provider, the statement of charges furnished to
20 the insurer by the provider may not include, and the insurer
21 is not required to pay, charges for treatment or services
22 provided more than 30 days before the postmark date of the
23 statement, except for past due amounts. The injured party is
24 not liable for, and the provider shall not bill the injured
25 party for, charges that are unpaid because of the provider's
26 failure to comply with this paragraph. Each notice of
27 insured's rights under s. 627.7401 and each personal injury
28 protection assignment-of-benefits form or the equivalent form
29 must include the following statement in type no smaller than
30 12 points:

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1 BILLING REQUIREMENTS WHEN BENEFITS ARE
2 ASSIGNED, AUTHORIZED, OR DIRECTED TO A PROVIDER
3 OF TREATMENT OR SERVICES.--Florida Statutes
4 provide that with respect to any treatment or
5 services, other than certain hospital services,
6 for which the injured party has assigned,
7 authorized, or directed payment of personal
8 injury protection benefits to a provider, the
9 statement of charges furnished to the insurer
10 by the provider may not include, and the
11 insurer is not required to pay, charges for
12 treatment or services provided more than 30
13 days before the postmark date of the statement,
14 except for past due amounts.
15 (c) Every insurer shall include a provision in its
16 policy for personal injury protection benefits for binding
17 arbitration of any claims dispute involving medical benefits
18 arising between the insurer and any person providing medical
19 services or supplies if that person has agreed to accept
20 assignment of personal injury protection benefits. The
21 provision shall specify that the provisions of chapter 682
22 relating to arbitration shall apply. The prevailing party
23 shall be entitled to attorney's fees and costs. For purposes
24 of the award of attorney's fees and costs, the prevailing
25 party shall be determined as follows:
26 1. When the amount of personal injury protection
27 benefits determined by arbitration exceeds the sum of the
28 amount offered by the insurer at arbitration plus 50 percent
29 of the difference between the amount of the claim asserted by
30 the claimant at arbitration and the amount offered by the
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1 insurer at arbitration, there is a rebuttable presumption that
2 the claimant is the prevailing party.

3 2. When the amount of personal injury protection
4 benefits determined by arbitration is less than the sum of the
5 amount offered by the insurer at arbitration plus 50 percent
6 of the difference between the amount of the claim asserted by
7 the claimant at arbitration and the amount offered by the
8 insurer at arbitration, there is a rebuttable presumption that
9 the insurer is the prevailing party.

10 3. When neither subparagraph 1. nor subparagraph 2.
11 applies, there is no presumption as to which party is the
12 prevailing party.

13 (7) MENTAL AND PHYSICAL EXAMINATION OF INJURED PERSON;
14 REPORTS.--

15 (a) Whenever the mental or physical condition of an
16 injured person covered by personal injury protection is
17 material to any claim that has been or may be made for past or
18 future personal injury protection insurance benefits, such
19 person shall, upon the request of an insurer, submit to mental
20 or physical examination by a physician or physicians. The
21 costs of any examinations requested by an insurer shall be
22 borne entirely by the insurer. Such examination shall be
23 conducted within ~~the municipality of residence of the insured~~
24 ~~or in~~ the municipality where the insured is receiving
25 treatment, or in a location reasonably accessible to the
26 insured which, for purposes of this paragraph, means any
27 location within the municipality in which the insured resides,
28 or any location within 10 miles by road of the insured's
29 residence, provided such location is within the county in
30 which the insured resides. If the examination is to be
31 conducted in a location reasonably accessible to the insured,

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1 ~~within the municipality of residence of the insured~~ and if
 2 there is no qualified physician to conduct the examination in
 3 a location reasonably accessible to the insured ~~within such~~
 4 ~~municipality~~, then such examination shall be conducted in an
 5 area of the closest proximity to the insured's residence.
 6 Personal protection insurers are authorized to include
 7 reasonable provisions in personal injury protection insurance
 8 policies for mental and physical examination of those claiming
 9 personal injury protection insurance benefits. An insurer may
 10 not withdraw payment of a treating physician without the
 11 consent of the injured person covered by the personal injury
 12 protection, unless the insurer first obtains a report by a
 13 physician licensed under the same chapter as the treating
 14 physician whose treatment authorization is sought to be
 15 withdrawn, stating that treatment was not reasonable, related,
 16 or necessary.

17 Section 3. This act shall take effect October 1 of the
 18 year in which enacted.

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21 HOUSE SUMMARY

22 Provides for offset of Florida Insurance Guaranty
 23 Association payments against uninsured and underinsured
 24 motorist insurance recoveries. Provides that only
 25 interest in excess of \$5 is payable on overdue personal
 26 injury protection payments. Requires notice of treatment
 27 as a condition precedent to payment of charges for
 28 products, services, and accommodations rendered to an
 29 injured person for a bodily injury covered by personal
 30 injury protection. Specifies which party is the
 31 prevailing party in arbitration of disputes relating to
 personal injury protection claims. Specifies independent
 medical examinations to be conducted in locations
 reasonably accessible to an insured. See bill for
 details.