

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.

14

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 to reimburse the agent the actual cost of**  
9 **obtaining the report for each licensed driver when the motor**  
10 **vehicle report is obtained by the agent simultaneously with**  
11 **the preparation of the application for use in the calculation**  
12 **of premium or in the proper placement of the risk. The amount**  
13 **of the fee may not exceed the agent's actual cost in obtaining**  
14 **the report that is not otherwise compensated. Actual cost is**  
15 **the cost of obtaining the report on an individual driver basis**  
16 **when so obtained or the pro rata cost per driver when the**  
17 **report is obtained on more than one driver; provided, however,**  
18 **in no case shall actual cost include subscription or access**  
19 **fees associated with obtaining motor vehicle reports on-line**  
20 **through any electronic transmissions program.**

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

24       627.736 Required personal injury protection benefits;  
25 exclusions; priority.--

26       (4) BENEFITS; WHEN DUE.--Benefits due from an insurer  
27 under ss. 627.730-627.7405 shall be primary, except that  
28 benefits received under any workers' compensation law shall be  
29 credited against the benefits provided by subsection (1) and  
30 shall be due and payable as loss accrues, upon receipt of  
31 reasonable proof of such loss and the amount of expenses and

1 loss incurred which are covered by the policy issued under ss.  
2 627.730-627.7405. When the Department of Health and  
3 Rehabilitative Services provides, pays, or becomes liable for  
4 medical assistance under the Medicaid program related to  
5 injury, sickness, disease, or death arising out of the  
6 ownership, maintenance, or use of a motor vehicle, benefits  
7 under ss. 627.730-627.7405 shall be subject to the provisions  
8 of the Medicaid program.

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

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

16 2. The insurer may provide the interest to the named  
17 insured as a credit upon renewal of the policy and, with  
18 respect to interest payments of less than \$5 owing to insureds  
19 whose policies or nonrenewed or canceled, pay the interest to  
20 the named insured upon nonrenewal or cancellation of the  
21 policy.

22 3. The insurer may aggregate all interest payments of  
23 \$5 or less and remit the total amount to the Insurance  
24 Commissioner's Regulatory Trust Fund on July 1 of each year.

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

1           (5) CHARGES FOR TREATMENT OF INJURED PERSONS.--  
2           (a) Any physician, hospital, clinic, or other person  
3 or institution lawfully rendering treatment to an injured  
4 person for a bodily injury covered by personal injury  
5 protection insurance may charge only a reasonable amount for  
6 the products, services, and accommodations rendered, and the  
7 insurer providing such coverage may pay for such charges  
8 directly to such person or institution lawfully rendering such  
9 treatment, if the insured receiving such treatment or his or  
10 her guardian has countersigned the invoice, bill, or claim  
11 form approved by the Department of Insurance upon which such  
12 charges are to be paid for as having actually been rendered,  
13 to the best knowledge of the insured or his or her guardian.  
14 In no event, however, may such a charge be in excess of the  
15 amount the person or institution customarily charges for like  
16 products, services, or accommodations in cases involving no  
17 insurance, provided that charges for cephalic thermograms and  
18 peripheral thermograms shall not exceed the maximum  
19 reimbursement allowance for such procedures as set forth in  
20 the applicable fee schedule established pursuant to s. 440.13.  
21           (b) With respect to any treatment or services, other  
22 than hospital services provided within the first 30 days after  
23 the accident, for which the injured party has assigned,  
24 authorized, or directed payment of personal injury protection  
25 benefits to a provider, the statement of charges furnished to  
26 the insurer by the provider may not include, and the insurer  
27 is not required to pay, charges for treatment or services  
28 provided more than 30 days before the postmark date of the  
29 statement, except for past due amounts. The injured party is  
30 not liable for, and the provider shall not bill the injured  
31 party for, charges that are unpaid because of the provider's

1 failure to comply with this paragraph. Each notice of  
2 insured's rights under s. 627.7401 and each personal injury  
3 protection assignment-of-benefits form or the equivalent form  
4 must include the following statement in type no smaller than  
5 12 points:

6  
7 BILLING REQUIREMENTS WHEN BENEFITS ARE  
8 ASSIGNED, AUTHORIZED, OR DIRECTED TO A PROVIDER  
9 OF TREATMENT OR SERVICES.--Florida Statutes  
10 provide that with respect to any treatment or  
11 services, other than certain hospital services,  
12 for which the injured party has assigned,  
13 authorized, or directed payment of personal  
14 injury protection benefits to a provider, the  
15 statement of charges furnished to the insurer  
16 by the provider may not include, and the  
17 insurer is not required to pay, charges for  
18 treatment or services provided more than 30  
19 days before the postmark date of the statement,  
20 except for past due amounts.

21 (c) Every insurer shall include a provision in its  
22 policy for personal injury protection benefits for binding  
23 arbitration of any claims dispute involving medical benefits  
24 arising between the insurer and any person providing medical  
25 services or supplies if that person has agreed to accept  
26 assignment of personal injury protection benefits. The  
27 provision shall specify that the provisions of chapter 682  
28 relating to arbitration shall apply. The prevailing party  
29 shall be entitled to attorney's fees and costs. For purposes  
30 of the award of attorney's fees and costs, the prevailing  
31 party shall be determined as follows:

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

8           2. When the amount of personal injury protection  
9 benefits determined by arbitration is less than the sum of the  
10 amount offered by the insurer at arbitration plus 50 percent  
11 of the difference between the amount of the claim asserted by  
12 the claimant at arbitration and the amount offered by the  
13 insurer at arbitration, there is a rebuttable presumption that  
14 the insurer is the prevailing party.

15           3. When neither subparagraph 1. nor subparagraph 2.  
16 applies, there is no presumption as to which party is the  
17 prevailing party.

18           (7) MENTAL AND PHYSICAL EXAMINATION OF INJURED PERSON;  
19 REPORTS.--

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

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

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

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