

By Senator Grant

13-736A-98

1 A bill to be entitled
 2 An act relating to insurance; amending s.
 3 624.316, F.S.; deleting certain rulemaking
 4 authority of the Department of Insurance
 5 relating to insurer compliance; amending s.
 6 626.9541, F.S.; excluding certain notices from
 7 a definition of the term "complaint" for
 8 purposes of determining an insurer's failure to
 9 maintain records of complaints; amending s.
 10 627.7275, F.S.; modifying coverage requirements
 11 and premiums relating to motor vehicle property
 12 damage liability; amending s. 627.736;
 13 specifying where an independent medical
 14 examination of a claimant may be conducted;
 15 repealing s. 627.736(4)(f), F.S., relating to
 16 medical payments coverage; repealing s.
 17 627.9126, F.S., relating to the requirement
 18 that insurers file liability insurance reports;
 19 repealing s. 627.913, F.S., relating to the
 20 requirement that insurers file product
 21 liability insurance reports; providing that an
 22 insurer may place the entire amount of the
 23 coverage into the court registry for
 24 distribution to claimants; providing an
 25 effective date.

26
 27 Be It Enacted by the Legislature of the State of Florida:

28
 29 Section 1. Paragraph (f) of subsection (2) of section
 30 624.316, Florida Statutes, is amended to read:
 31 624.316 Examination of insurers.--

1 (2)

2 (f)1.

3 a. An examination under this section must be conducted
4 at least once every year with respect to a domestic insurer
5 that has continuously held a certificate of authority for less
6 than 3 years. The examination must cover the preceding fiscal
7 year or the period since the last examination of the insurer.
8 The department may limit the scope of the examination ~~if the~~
9 ~~insurer has demonstrated sufficient compliance as determined~~
10 ~~under subparagraph 3.~~

11 b. The department may not accept an independent
12 certified public accountant's audit report in lieu of an
13 examination required by this subparagraph.

14 c. An insurer may not be required to pay more than
15 \$25,000 to cover the costs of any one examination under this
16 subparagraph.

17 2. An examination under this section must be conducted
18 not less frequently than once every 5 years with respect to an
19 insurer that has continuously held a certificate of authority,
20 without a change in ownership subject to s. 624.4245 or s.
21 628.461, for more than 15 years ~~and has demonstrated~~
22 ~~sufficient compliance as determined under subparagraph 3.~~ The
23 examination must cover the preceding 5 fiscal years of the
24 insurer or the period since the last examination of the
25 insurer. This subparagraph does not limit the ability of the
26 department to conduct more frequent examinations.

27 ~~3. The department must, by rule, adopt procedures and~~
28 ~~criteria for determining if an insurer has demonstrated~~
29 ~~sufficient compliance with this code and cooperation with the~~
30 ~~department. The rules must include consideration of such~~
31 ~~factors as financial strength, timeliness, consumer service,~~

1 ~~economic and community contributions and support,~~
2 ~~responsiveness to department requests, and any other relevant~~
3 ~~factors. The department must annually publish and disseminate~~
4 ~~a listing of those insurers found to demonstrate sufficient~~
5 ~~compliance under the rules, including special recognition for~~
6 ~~community contributions and support.~~

7 Section 2. Paragraph (j) of subsection (1) of section
8 626.9541, Florida Statutes, is amended to read:

9 626.9541 Unfair methods of competition and unfair or
10 deceptive acts or practices defined.--

11 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR
12 DECEPTIVE ACTS.--The following are defined as unfair methods
13 of competition and unfair or deceptive acts or practices:

14 (j) Failure to maintain complaint-handling
15 procedures.--Failure of any person to maintain a complete
16 record of all the complaints received since the date of the
17 last examination. For purposes of this paragraph, the term
18 "complaint" means any written communication primarily
19 expressing a grievance, but does not include notices under s.
20 624.155(2).

21 Section 3. Paragraph (a) of subsection (2) of section
22 627.7275, Florida Statutes, is amended to read:

23 627.7275 Motor vehicle property damage liability.--

24 (2)(a) Insurers writing motor vehicle insurance in
25 this state shall make available, subject to the insurers'
26 usual underwriting restrictions, coverage under policies as
27 described in subsection (1) of this section to any applicant
28 for private passenger motor vehicle insurance coverage who is
29 seeking the coverage in order to reinstate the applicant's
30 driving privileges in this state when the driving privileges
31 were revoked or suspended pursuant to s. 316.646 or s. 627.733

1 due to the failure of the applicant to maintain required
2 security. The policy shall be issued for a period of at least
3 6 months and as to the minimum coverages required under this
4 section shall not be cancelable by the insured for any reason
5 or by the insurer after a period not to exceed 30 days during
6 which the insurer must complete underwriting of the policy.
7 After the insurer has completed underwriting the policy within
8 the 30-day period, the insurer shall notify the Department of
9 Highway Safety and Motor Vehicles that the policy is in full
10 force and effect and the policy shall not be cancelable for
11 the remainder of the policy period. A premium shall be
12 collected and coverage shall be in effect for the 30-day
13 period during which the insurer is completing the underwriting
14 of the policy whether or not the person's driver license,
15 motor vehicle tag, and motor vehicle registration are in
16 effect. Once the noncancelable provisions of the policy
17 become effective, the coverage or risk shall not be changed
18 during the policy period and the premium shall be
19 nonrefundable ~~fully earned~~. If, during the pendency of the
20 2-year proof of insurance period required under s. 627.733(7),
21 the insured obtains additional coverage or coverage for an
22 additional risk or changes territories, the insured then she
23 ~~or he~~ must obtain a new 6-month noncancelable policy in
24 accordance with the provisions of this section. However, if
25 the insured must obtain a new 6-month policy and obtains the
26 policy from the same insurer, the policyholder shall receive
27 credit on the new policy for any premium paid on the
28 previously canceled policy.

29 Section 4. Paragraph (a) of subsection (7) of section
30 627.736, Florida Statutes, is amended to read:

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1 627.736 Required personal injury protection benefits;
2 exclusions; priority.--

3 (7) MENTAL AND PHYSICAL EXAMINATION OF INJURED PERSON;
4 REPORTS.--

5 (a) Whenever the mental or physical condition of an
6 injured person covered by personal injury protection is
7 material to any claim that has been or may be made for past or
8 future personal injury protection insurance benefits, such
9 person shall, upon the request of an insurer, submit to mental
10 or physical examination by a physician or physicians. The
11 costs of any examinations requested by an insurer shall be
12 borne entirely by the insurer. Such examination shall be
13 conducted ~~within the municipality of residence of the insured~~
14 ~~or~~ in the municipality where the insured is receiving
15 treatment or in a location reasonably accessible to the
16 insured. For the purposes of this paragraph, the term
17 "location reasonably accessible to the insured" means any
18 location within the municipality in which the insured resides
19 or any location within 15 miles, by road, of the insured's
20 residence.~~If the examination is to be conducted within the~~
21 ~~municipality of residence of the insured and if there is no~~
22 ~~qualified physician to conduct the examination within such~~
23 ~~municipality, then such examination shall be conducted in an~~
24 ~~area of the closest proximity to the insured's residence.~~
25 Personal protection insurers are authorized to include
26 reasonable provisions in personal injury protection insurance
27 policies for mental and physical examination of those claiming
28 personal injury protection insurance benefits. An insurer may
29 not withdraw payment of a treating physician without the
30 consent of the injured person covered by the personal injury
31 protection, unless the insurer first obtains a report by a

1 physician licensed under the same chapter as the treating
2 physician whose treatment authorization is sought to be
3 withdrawn, stating that treatment was not reasonable, related,
4 or necessary.

5 Section 5. (1) Paragraph (f) of subsection (4) of
6 section 627.736, Florida Statutes, is repealed.

7 (2) Sections 627.9126 and 627.913, Florida Statutes,
8 are repealed.

9 Section 6. Notwithstanding any other provision of law,
10 when an insurer has determined that it owes the entire amount
11 of the coverage specified in a policy to one or more
12 claimants, the insurer may place the entire amount of
13 insurance coverage into a court registry. An insurer electing
14 this option is relieved of any further obligation with regard
15 to persons having a claim against the insurance proceeds.

16 Section 7. This act shall take effect October 1, 1998.

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19 SENATE SUMMARY

20 Deletes the requirement that the Department of Insurance
21 adopt, by rule, procedures and criteria for determining
22 if an insurer has complied with the Insurance Code and
23 cooperated with the department. Provides that for
24 purposes of the requirement that an insurer keep records
25 of complaints against it, an insurer need not keep
26 records of any notice of intent to file a civil action
27 against it under s.624.155(2), F.S. Modifies coverage
28 requirements and premiums for motor vehicle property
29 damage liability insurance. Provides that for persons
30 injured and covered under personal injury protection
31 insurance and subject to medical examination, the
examination must be conducted in the municipality where
the insured is receiving treatment or in a location
reasonably accessible to the insured. Authorizes an
insurer that has been determined to owe a specified
amount to several claimants to place the amount into a
court registry. Repeals requirements that insurers file
liability insurance reports and product liability
insurance reports. Repeals the requirement that medical
payments insurance, if available in a policy, pay the
personal injury protection medical benefits not payable
due to a coinsurance provision.