

By Senator Holzendorf

2-1243-99

1 A bill to be entitled
2 An act relating to insurance; amending s.
3 627.7282, F.S.; revising provisions relating to
4 cancellation of motor vehicle insurance;
5 amending s. 627.7283, F.S.; allowing an insurer
6 to return unearned premium after the effective
7 date of a policy cancellation; amending s.
8 627.7295, F.S.; revising the term of a
9 cancellation period; amending s. 627.848, F.S.;
10 revising certain reporting and return of
11 premium obligations of insurers and premium
12 finance companies in the event of cancellations
13 by the finance companies; providing an
14 effective date.

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

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18 Section 1. Section 627.7282, Florida Statutes, is
19 amended to read:

20 627.7282 Notice of additional premium; cancellation
21 upon nonpayment.--

22 (1) Upon a determination by an insurer that, in
23 accordance with its rate filings and the applicable laws of
24 this state relating to private passenger motor vehicle
25 insurance, a policyholder has been charged a premium that is
26 incorrect for the coverage set forth in the insurance
27 application, the insurer shall immediately provide notice to
28 the policyholder of the amount of additional premium due to
29 the insurer and that the policyholder has the following
30 options:

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1 (a) The policyholder has a period of 10 days, or a
2 longer period if specified by the insurer, from receipt of the
3 notice within which to pay the additional amount of premium
4 due and thereby maintain the policy in full force under its
5 original terms.

6 (b) The policyholder has a period of 10 days, or a
7 longer period if specified by the insurer, from receipt of the
8 notice within which to cancel the policy and demand a refund
9 of any unearned premiums.

10 (c) If the policyholder fails to timely respond to the
11 notice, the insurer shall issue a notice of cancellation for
12 nonpayment of premium pursuant to s. 627.728 ~~cancel the policy~~
13 and return any unearned premium pursuant to s. 627.7283 ~~to the~~
14 ~~insured~~. The date on which the policy will be canceled must
15 ~~shall~~ be stated in the notice of cancellation and may, at the
16 option of the insurer, be on the date on which the lesser of
17 the charged premium or submitted premium is exhausted ~~and~~
18 ~~shall in no case be less than 14 days after the date of the~~
19 ~~notice~~.

20 (2) The amount of unearned premium due to the
21 policyholder as a result of cancellation in accordance with
22 subsection (1) shall be calculated on a pro rata basis as of
23 the cancellation effective date, pursuant to the insurer's
24 rate filings, for the coverage in the insurance application.

25 (3) No insurer shall unilaterally alter or modify the
26 policy period for a private passenger automobile insurance
27 policy to provide an expiration date that is prior to the date
28 specified in the policyholder's application, except as
29 provided in this section.

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1 (4) This section shall not be construed to limit
2 insurers' rights to cancel in accordance with applicable
3 provisions of the insurance code.

4 Section 2. Subsection (1) of section 627.7283, Florida
5 Statutes, is amended to read:

6 627.7283 Cancellation; return of premium.--

7 (1) If the insured or insurer cancels a policy of
8 motor vehicle insurance, the insurer must return the unearned
9 portion of any premium paid within 30 days after the later of
10 the issuance or receipt by the insurer of notice of
11 cancellation or the effective date of the cancellation. If
12 the unearned premium is not returned within the 30-day period,
13 the insurer must pay 8 percent interest on the amount due. If
14 the unearned premium is not returned within 45 days after the
15 later of the issuance or receipt of the notice or the
16 effective date of the cancellation, the insured may bring an
17 action against the insurer pursuant to s. 624.155.

18 Section 3. Subsections (3) and (7) of section
19 627.7295, Florida Statutes, 1998 Supplement, are amended to
20 read:

21 627.7295 Motor vehicle insurance contracts.--

22 (3) Except as provided in s. 627.7282, an insured may
23 not cancel a policy or binder during the first 60 days ~~two~~
24 ~~months~~ immediately following the effective date of the policy
25 except:

26 (a) Upon total destruction of the insured motor
27 vehicle;

28 (b) Upon transfer of ownership of the insured motor
29 vehicle; or

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1 (c) After purchase of another policy or binder
2 covering the motor vehicle that was covered under the policy
3 being canceled.

4 (7) A policy of private passenger motor vehicle
5 insurance or a binder for such a policy may be initially
6 issued in this state only if the insurer or agent has
7 collected from the insured an amount equal to 60 days' 2
8 ~~months'~~ premium. An insurer, agent, or premium finance
9 company may not directly or indirectly take any action
10 resulting in the insured having paid from the insured's own
11 funds an amount less than the 60 days' 2 ~~months'~~ premium
12 required by this subsection. This subsection applies without
13 regard to whether the premium is financed by a premium finance
14 company or is paid pursuant to a periodic payment plan of an
15 insurer or an insurance agent. This subsection does not apply
16 if an insured or member of the insured's family is renewing or
17 replacing a policy or a binder for such policy written by the
18 same insurer or a member of the same insurer group. This
19 subsection does not apply to an insurer that issues private
20 passenger motor vehicle coverage primarily to active duty or
21 former military personnel or their dependents. This subsection
22 does not apply if the policy is paid pursuant to a payroll
23 deduction plan or an automatic electronic funds transfer
24 payment plan. This subsection and subsection (4) do not apply
25 if an insured has had a policy in effect for at least 6
26 months, the insured's agent is terminated by the insurer that
27 issued the policy, and the insured obtains coverage on the
28 policy's renewal date with a new company through the
29 terminated agent.

30 Section 4. Paragraph (e) of subsection (1) of section
31 627.848, Florida Statutes, is amended to read:

1 627.848 Cancellation of insurance contract upon
2 default.--

3 (1) When a premium finance agreement contains a power
4 of attorney or other authority enabling the premium finance
5 company to cancel any insurance contract listed in the
6 agreement, the insurance contract shall not be canceled unless
7 cancellation is in accordance with the following provisions:

8 (e) Whenever an insurance contract is canceled in
9 accordance with this section, the insurer shall promptly
10 return the unpaid balance due under the finance contract, up
11 to the gross amount available upon the cancellation of the
12 policy, to the premium finance company and any remaining
13 unearned premium to the agent or the insured, or both, for the
14 benefit of the insured or insureds. The insurer shall notify
15 the insured, the premium finance company, and the agent of the
16 amount of unearned premium returned to the premium finance
17 company and the amount of unearned commission held by the
18 agent. The premium finance company, within 15 days after
19 receiving the notification and any unearned premium, shall
20 notify the insured and the agent of the amount, if any, in
21 excess of the loan balance, and shall remit or credit such
22 amount to the agent or shall remit such amount to the insured
23 for the benefit of the insured ~~of unearned premium~~. Within 15
24 days of receipt of notification and loan balance from the
25 premium finance company and any unearned premium from the
26 insurer, the agent shall return such amount and ~~including~~ any
27 unearned commission to the insured or with the written
28 approval of the insured apply such amount to the purchase of
29 other insurance products regulated by the department. The
30 department may adopt rules necessary to implement the
31 provisions of this subsection.

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Section 5. This act shall take effect July 1, 1999.

SENATE SUMMARY

Revises provisions relating to the cancellation of certain insurance policies. Revises the period within which an insurer may return unearned premium after the effective date of a policy cancellation and revises the term of a cancellation period. Changes certain reporting and return of premium obligations of insurers and premium finance companies in the event of cancellations by the premium finance companies. (See bill for details.)