

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative(s) Bogdanoff offered the following:

2
3 **Amendment (with title amendment)**

4 Remove everything after the enacting clause and insert:

5
6 Section 1. Section 627.7361, Florida Statutes, is created
7 to read:

8 627.7361 Required security.--

9 (1) (a) Every owner or registrant of a motor vehicle, other
10 than a motor vehicle used as a school bus as defined in s.
11 1006.25 or limousine, required to be registered and licensed in
12 this state shall maintain security as required by subsection (3)
13 in effect continuously throughout the registration or licensing
14 period.

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15 (b) Every owner or registrant of a motor vehicle used as a
16 taxicab shall not be governed by paragraph (a) but shall
17 maintain security as required under s. 324.032.

18 (2) Every nonresident owner or registrant of a motor
19 vehicle that, whether operated or not, has been physically
20 present within this state for more than 90 days during the
21 preceding 365 days shall thereafter maintain security as
22 required by subsection (3) in effect continuously throughout the
23 period such motor vehicle remains within this state.

24 (3) Such security shall be provided:

25 (a) By an insurance policy delivered or issued for
26 delivery in this state by an authorized or eligible motor
27 vehicle liability insurer that provides the emergency care
28 coverage benefits and exemptions contained in s. 627.7363. Any
29 policy of insurance represented or sold by an authorized or
30 eligible motor vehicle liability insurer as providing the
31 security required by this paragraph shall be deemed to provide
32 insurance for the payment of the required benefits; or

33 (b) By any other method authorized by s. 324.031(2), (3),
34 or (4) and approved by the Department of Highway Safety and
35 Motor Vehicles as affording security equivalent to that afforded
36 by a policy of insurance or by self-insuring as authorized by s.
37 768.28(16). The person filing such security shall have all of
38 the obligations and rights of an insurer under ss. 627.7361-
39 627.7363.

40 (4) In addition to other persons who are not required to
41 provide required security as required under this section and s.
42 324.022, the owner, registrant, or operator of a motor vehicle

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43 is exempt from providing such proof of financial responsibility
44 if he or she is a member of the United States Armed Forces and
45 is called to or on active duty outside this state or the United
46 States, or if the owner of the vehicle is the dependent spouse
47 of such active duty member and is also residing with the active
48 duty member at the place of posting of such member, and the
49 vehicle is primarily maintained at such place of posting. The
50 exemption provided by this subsection applies only as long as
51 the member of the armed forces is on such active duty outside
52 this state or the United States and the owner complies with the
53 security requirements of the state of posting or any possession
54 or territory of the United States. Upon receipt of a written
55 request by the insured to whom the exemption provided in this
56 subsection applies, the insurer shall cancel the coverages and
57 return any unearned premium or suspend the security required by
58 this section and s. 324.022. Notwithstanding subsection (5), the
59 Department of Highway Safety and Motor Vehicles may not suspend
60 the registration or operator's driver's license during the time
61 she or he qualified for an exemption under this subsection. Any
62 owner or registrant of a motor vehicle who qualifies for an
63 exemption under this subsection shall immediately notify the
64 department prior to and at the end of the expiration of the
65 exemption.

66 (5) The Department of Highway Safety and Motor Vehicles
67 shall suspend, after due notice and an opportunity to be heard,
68 the registration and driver's license of any owner or registrant
69 of a motor vehicle with respect to which security is required
70 under this section and s. 324.022:

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71 (a) Upon records of the department showing that the owner
72 or registrant of such motor vehicle did not have in full force
73 and effect when required security complying with the terms of
74 this section; or

75 (b) Upon notification by the insurer to the department, in
76 a form approved by the department, of cancellation or
77 termination of the required security.

78 (6) Any operator or owner whose driver's license or
79 registration has been suspended pursuant to this section or s.
80 316.646 may effect reinstatement of the license or registration
81 upon compliance with the requirements of this section and upon
82 payment to the department of a nonrefundable reinstatement fee
83 of \$150 for the first reinstatement. Such reinstatement fee
84 shall be \$250 for the second reinstatement and \$500 for each
85 subsequent reinstatement during the 3 years following the first
86 reinstatement. If the person does not have a second
87 reinstatement within 3 years after her or his initial
88 reinstatement, the reinstatement fee shall be \$150 for the first
89 reinstatement after that 3-year period. If a person's license
90 and registration are suspended pursuant to this section or s.
91 316.646, only one reinstatement fee shall be paid to reinstate
92 the license and the registration. All fees shall be collected by
93 the department at the time of reinstatement. The department
94 shall issue proper receipts for such fees and shall promptly
95 deposit those fees into the Highway Safety Operating Trust Fund.
96 One-third of the fee collected under this subsection shall be
97 distributed from the Highway Safety Operating Trust Fund to the
98 local government entity or state agency that employed the law

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99 enforcement officer who seized a license plate pursuant to s.
100 324.201. Such funds may be used by the local government entity
101 or state agency for any authorized purpose.

102 Section 2. Section 627.7362, Florida Statutes, is created
103 to read:

104 627.7362 Proof of security; security requirements;
105 penalties.--

106 (1) The provisions of chapter 324 that pertain to the
107 method of giving and maintaining proof of financial
108 responsibility and that govern and define a motor vehicle
109 liability policy shall apply to filing and maintaining proof of
110 security required by ss. 627.7361-627.7363.

111 (2) Any person who:

112 (a) Gives information required in a report or otherwise as
113 provided for in ss. 627.7361-627.7363, knowing or having reason
114 to believe that such information is false;

115 (b) Forges or, without authority, signs any evidence of
116 proof of security; or

117 (c) Files, or offers for filing, any such evidence of
118 proof, knowing or having reason to believe that such evidence of
119 proof of security is forged or signed without authority, commits
120 a misdemeanor of the first degree, punishable as provided in s.
121 775.082 or s. 775.083.

122 Section 3. Section 627.7363, Florida Statutes, is created
123 to read:

124 627.7363 Required emergency care coverage.--

125 (1) REQUIRED BENEFITS.--

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126 (a) Each insurance policy complying with the security
127 requirements of s. 627.7361 shall provide emergency care
128 coverage to the named insured, relatives residing in the same
129 household, persons operating the insured motor vehicle,
130 passengers in such motor vehicle, and other persons struck by
131 such motor vehicle and suffering bodily injury while not an
132 occupant of a self-propelled vehicle, subject to the terms and
133 limitations of this chapter and the insurance policy, to a limit
134 of \$10,000 for loss sustained by any such person as a result of
135 bodily injury, sickness, disease, or death arising out of the
136 ownership, maintenance, or use of a motor vehicle for one
137 hundred percent of all allowable charges for medically necessary
138 emergency care consisting of but not limited to medical,
139 surgical, X-ray, dental, rehabilitative services, prosthetic
140 devices, ambulance, hospital, and nursing services for the
141 following services:

142 1. Emergency transport and treatment rendered by an
143 ambulance provider licensed under part III of chapter 401 within
144 12 hours after the motor vehicle accident.

145 2. Emergency services and care, as defined in s.
146 395.002(10), rendered within 72 hours after the motor vehicle
147 accident, by physicians, dentists, and hospitals in a hospital
148 emergency department, trauma center, or inpatient department
149 licensed pursuant to chapter 395.

150 3. Subsequent medically necessary hospital, dental, and
151 physician inpatient care resulting from a motor vehicle
152 accident, provided the patient is admitted within 72 hours after
153 the motor vehicle accident.

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154 4. Subsequent medically necessary care and services
155 directly related to a medical diagnosis rendered within 72 hours
156 after the motor vehicle accident, subject to the following:

157 a. The diagnosis shall be rendered in a hospital emergency
158 department, trauma center, or inpatient department licensed
159 under chapter 395 and rendered by a physician licensed under
160 chapter 458; an osteopathic physician licensed under chapter
161 459; or dentist licensed under chapter 466; and

162 b. Medically necessary care and services shall be provided
163 at a hospital or in the office of a dentist or a physician and
164 rendered by a physician licensed under chapter 458, an
165 osteopathic physician licensed under chapter 459, a dentist
166 licensed under chapter 466, a physician assistant licensed under
167 chapter 458 or 459, or a registered nurse who meets the
168 definition of s. 464.003(4).

169 5. Other medically necessary services and care which are
170 not covered by subparagraphs 1.-4., to a limit of \$3,000,
171 rendered:

172 a. At a facility owned by either a hospital licensed under
173 chapter 395, a physician licensed under chapter 458, an
174 osteopathic physician licensed under chapter 459, a dentist
175 licensed under chapter 466, or a chiropractor licensed under
176 chapter 460; or

177 b. At a facility licensed under part X of chapter 400 that
178 has been continuously licensed for more than 3 years and is
179 either publicly traded or part of a controlled group of
180 companies as defined by the Internal Revenue Service Code. Such
181 facility shall maintain a medical director who is licensed under
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182 chapter 458 or chapter 459. Each facility must provide at least
183 four of the following medical specialties:

184 (I) General medicine.

185 (II) Radiography.

186 (III) Orthopedic medicine.

187 (IV) Physical medicine.

188 (V) Physical therapy.

189 (VI) Physical rehabilitation.

190 (VII) Magnetic resonance imaging.

191 (VIII) Prescribing or dispensing outpatient prescription
192 medication.

193 (IX) Laboratory services.

194 (b) The total allowable benefits under paragraph (a) shall
195 not exceed the policy limit of \$10,000.

196 (2) DEFINITIONS.--As used in ss. 627.7361-627.7363, the
197 term:

198 (a) "Hospital" means a facility that was licensed under
199 chapter 395 at the time services or treatment were rendered.

200 (b) "Inpatient care" means medically necessary services
201 provided for the medical care and treatment of an insured who is
202 admitted as an inpatient to a hospital as defined in s.
203 395.002(13).

204 (c) "Medically necessary" means a medical service,
205 diagnostic test, or supply that a prudent physician would
206 provide for the purpose of preventing, diagnosing, or treating
207 an illness, injury, disease, or symptom in a manner that is:

208 1. In accordance with generally accepted standards of
209 medical practice.

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210 2. Clinically appropriate in terms of type, frequency,
211 extent, site, and duration.

212 3. Not primarily for the convenience of the patient,
213 physician, or other health care provider.

214 (d) "Motor vehicle" means any vehicle with four or more
215 wheels which is of a type both designed and required to be
216 licensed for use on the highways of this state and any trailer
217 or semitrailer designed for use with such vehicle.

218 (e) "Named insured" means a person, usually the owner of a
219 vehicle, identified in a policy by name as the insured under the
220 policy.

221 (f) "Owner" means a person who holds the legal title to a
222 motor vehicle or a debtor or lessee who has the right to
223 possession if a motor vehicle is the subject of a security
224 agreement or lease with an option to purchase.

225 (g) "Relative residing in the same household" means a
226 relative of any degree by blood or by marriage who at the time
227 of injury makes his or her home in the same family unit, whether
228 or not temporarily living elsewhere.

229 (h) "Rendered" means actual performance or a treatment or
230 a service incident to the provider's professional services.

231 (i) "Self-propelled vehicle" means any vehicle which is
232 not propelled solely by human power. The term includes, but is
233 not limited to, motorcycles, ATVs, scooters, minibikes, golf
234 carts, and similar vehicles.

235 (j) "Service" or "services" includes treatment,
236 procedures, supplies, prescriptions, and equipment.

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237 (3) LIMITATIONS.--Only insurers writing motor vehicle
238 liability insurance in this state may provide the required
239 benefits of this section, and such insurers may not require the
240 purchase of any other motor vehicle coverage other than the
241 purchase of property damage liability coverage as required by s.
242 627.7275 as a condition for providing such required benefits.
243 Insurers may not require that property damage liability
244 insurance in an amount greater than \$10,000 be purchased in
245 conjunction with emergency care coverage. Such insurers shall
246 make benefits and required property damage liability insurance
247 coverage available through normal marketing channels. Any
248 insurer writing motor vehicle liability insurance in this state
249 that fails to comply with such availability requirement as a
250 general business practice violates part IX of chapter 626, and
251 such violation constitutes an unfair method of competition or an
252 unfair or deceptive act or practice involving the business of
253 insurance. Any such insurer committing such violation is subject
254 to the penalties imposed in such part, as well as applicable
255 penalties that may be imposed elsewhere in the insurance code.

256 (4) BENEFITS.--Benefits due from an insurer under this
257 section shall be primary, except benefits received under any
258 workers' compensation law shall be credited against the benefits
259 provided by subsection (1), and shall be due and payable as loss
260 accrues, upon compliance with the terms and conditions of the
261 insurance policy and this section.

262 (5) CHARGES FOR TREATMENT OF INJURED PERSONS.--Providers
263 lawfully rendering treatment to an injured person pursuant to
264 this section shall submit claims to insurers and insurers shall
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265 receive, process, and, after October 1, 2008, pay claims
266 pursuant to the requirements of s. 627.6131. The insurer may
267 reimburse health care facilities and providers for their billed
268 charges or reimburse health care facilities and providers.

269 (6) REQUIRED PAYMENT OF BENEFITS.--The insurer of the
270 owner of a motor vehicle shall pay emergency care benefits for:

271 (a) Accidental bodily injury sustained in this state by
272 the owner while occupying a motor vehicle, or while not an
273 occupant of a self-propelled vehicle if the injury is caused by
274 physical contact with a motor vehicle.

275 (b) Accidental bodily injury sustained outside this state,
276 but within the United States or its territories or possessions
277 or Canada, by the owner while occupying the owner's motor
278 vehicle.

279 (c) Accidental bodily injury sustained by a relative of
280 the owner residing in the same household, under the
281 circumstances described in paragraph (a) or paragraph (b),
282 provided the relative at the time of the accident is domiciled
283 in the owner's household and is not the owner of a motor vehicle
284 with respect to which security is required or has not waived
285 such coverage under this section.

286 (d) Accidental bodily injury sustained in this state by
287 any other person while occupying the owner's motor vehicle or,
288 if the injured person is a resident of this state who is injured
289 while not an occupant of a self-propelled vehicle, if the injury
290 is caused by physical contact with such motor vehicle, provided
291 the injured person is not:

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292 1. The owner of a motor vehicle with respect to which
293 security is required or has not waived such coverage under this
294 section.

295 2. Entitled to emergency care benefits from the insurer of
296 the owner or owners of such motor vehicle.

297 (e) If two or more insurers are liable for emergency care
298 benefits for the same injury to any single person, the maximum
299 amount payable shall be as specified in subsection (1), and any
300 insurer paying the benefits shall be entitled to recover from
301 each of the other insurers an equitable pro rata share of the
302 benefits paid an expenses incurred in processing the claim.

303 (7) AUTHORIZED EXCLUSIONS.--Any insurance company may
304 exclude emergency care benefits for any injury sustained by:

305 (a) The named insured and the named insured's spouse,
306 parents by blood or marriage, and children natural or adopted
307 residing in the same household while occupying another motor
308 vehicle owned by the named insured and not insured under the
309 policy.

310 (b) Any person operating the insured motor vehicle without
311 the express or implied consent of the insured.

312 (c) Any injured person, if such person's conduct
313 contributed to her or his injury under any of the following
314 circumstances:

315 1. Intentionally causing injury or a claim for injury to
316 herself or himself;

317 2. Being injured while committing a felony; or

318 3. Being injured while attempting to flee or elude arrest
319 or detention by a law enforcement officer.

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320 (d) Any person while operating a self-propelled vehicle.

321 (8) ASSIGNMENT OF BENEFITS.--

322 (a) Emergency care benefits are assigned to a health care
323 provider by the submission of a claim by a health care provider,
324 with the consent of the insured. The insured shall have no right
325 to receive any emergency care benefits directly or indirectly
326 from the insurer.

327 (b) An insured may execute an assignment of benefits to
328 different health care providers or authorize various health care
329 providers to submit emergency care claims. The insurer is not
330 required to reserve emergency care benefits for any provider
331 during the investigation of the provider's bills and shall
332 timely pay all bills in the insurer's possession that are
333 properly payable. In the event of multiple competing assignments
334 of benefits in which any single claim will exhaust benefits, the
335 insurer may determine which bill to pay first.

336 (c) An assignment of emergency care benefits to the
337 provider shall be authorized under this section. The insured is
338 released of all obligations for the medical bills once an
339 assignment of benefits is executed. While benefits remain under
340 the policy, any agreement requiring the injured person or
341 insured to pay for charges is unenforceable. Notwithstanding
342 such assignment of benefits, the insured shall be responsible
343 for the allowable amount of the provider's bills once benefits
344 have been exhausted or once the insurer has paid the required
345 amounts under this section.

346 (9) INSURED'S RIGHTS TO RECOVERY OF SPECIAL DAMAGES IN
347 TORT CLAIMS.--An injured person who is entitled to bring suit
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348 for special damages shall have no right to recover any damages
349 for which emergency care coverage benefits are paid. A plaintiff
350 may prove all of her or his special damages notwithstanding this
351 limitation, but if special damages are introduced into evidence,
352 the trier of fact, whether a judge or jury, may not award
353 damages for emergency care coverage benefits paid. In all cases
354 in which a jury is required to fix damages, the court shall
355 instruct the jury that the plaintiff shall not recover such
356 special damages for emergency care benefits paid.

357 (10) INSURED'S RIGHTS TO RECOVERY OF DAMAGES IN TORT
358 CLAIMS.--In any civil action seeking damages based on an injury
359 for which emergency care coverage benefits have been paid, s.
360 768.76 shall apply.

361 (11) MANDATORY PRESUIT DEMAND LETTER.--

362 (a) As a condition precedent to filing any action for
363 benefits under this section, the insurer must be provided with
364 written notice of an intent to initiate litigation. Such notice
365 may be sent no earlier than 90 days after a claim is submitted
366 for payment.

367 (b) The notice required shall state that it is a
368 "statutory demand letter" and shall state with specificity:

369 1. The name of the insured for whom such benefits are
370 being sought, including a copy of the assignment giving rights
371 to the claimant if the claimant is not the insured.

372 2. The claim number or policy number upon which such claim
373 was originally submitted to the insurer.

374 3. The exact amount of payment which is being sought in
375 order to avoid litigation with supporting documentation to allow
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376 the insurer to determine with certainty the amount of the claim
377 and the medical necessity, procedural appropriateness,
378 reasonableness, and relation to the motor vehicle accident of
379 the treatment, services, accommodations, or supplies for which
380 payment is being sought.

381 4. To the extent applicable, the name of any medical
382 provider who rendered to an insured the treatment, services,
383 accommodations, or supplies that form the basis of such claim,
384 and an itemized statement specifying each exact amount, the date
385 of treatment, service, or accommodation, and the type of benefit
386 claimed to be due.

387 (c) Each notice required by this subsection must be
388 delivered to the insurer by United States certified or
389 registered mail, return receipt requested. Such postal costs
390 shall be reimbursed by the insurer if so requested by the
391 claimant in the notice, when the insurer pays the claim. Such
392 notice must be sent to the person and address specified by the
393 insurer for the purposes of receiving notices under this
394 subsection. Each licensed insurer, whether domestic, foreign, or
395 alien, shall file with the Office of Insurance Regulation
396 designation of the name and address of the person to whom
397 notices pursuant to this subsection shall be sent, which the
398 office shall make available on its Internet website. The name
399 and address on file with the office pursuant to s. 624.422 shall
400 be deemed the authorized representative to accept notice
401 pursuant to this subsection in the event no other designation
402 has been made.

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403 (d) If, within 15 days after receipt of notice by the
404 insurer, the overdue claim specified in the notice is paid by
405 the insurer together with a penalty of 10 percent of the overdue
406 amount paid by the insurer, subject to a maximum penalty of
407 \$250, no action may be brought against the insurer. For purposes
408 of this subsection, payment or the insurer's agreement shall be
409 treated as being made on the date a draft or other valid
410 instrument that is equivalent to payment, or the insurer's
411 written statement of agreement, is placed in the United States
412 mail in a properly addressed, postpaid envelope or, if not so
413 posted, on the date of delivery.

414 (e) The applicable statute of limitation for an action
415 under this section shall be tolled for a period of 15 business
416 days by the mailing of the notice required by this subsection.

417 (f) Failure to comply with this subsection prior to
418 initiating litigation shall be grounds for an award of the
419 insurer's attorney fees and costs resulting from noncompliance.

420 (12) DATA REPORTING.--

421 (a) Each insurer that has issued a policy providing
422 emergency care coverage benefits shall report the renewal,
423 cancellation, or nonrenewal of such policy to the Department of
424 Highway Safety and Motor Vehicles within 45 days after the
425 effective date of the renewal, cancellation, or nonrenewal. Upon
426 the issuance of a policy providing emergency care coverage
427 benefits to a named insured not previously insured by the
428 insurer during that calendar year, the insurer shall report the
429 issuance of the new policy to the Department of Highway Safety
430 and Motor Vehicles within 30 days. The report must be in such

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431 form and format and contain such information as is required by
432 the department and must include a format compatible with the
433 data processing capabilities of the department. Failure by an
434 insurer to file proper reports with the department constitutes a
435 violation of the Florida Insurance Code. Reports of
436 cancellations and policy renewals and reports of the issuance of
437 new policies received by the department may be used for
438 enforcement and regulatory purposes only, including the
439 generation by the department of data regarding compliance by
440 owners of motor vehicles with financial responsibility coverage
441 requirements. In addition, the department shall release, upon a
442 written request by a person involved in a motor vehicle
443 accident, the name of the person's attorney or of a
444 representative of the person's motor vehicle insurer, the name
445 of the insurance company, and the policy number for the policy
446 covering the vehicle named by the requesting party. The written
447 request must include a copy of the appropriate accident form as
448 provided in s. 316.065, s. 316.066, or s. 316.068.

449 (b) For each insurance policy providing emergency care
450 coverage benefits, the insurer shall notify the named insured
451 or, in the case of a commercial fleet policy, the first named
452 insured in writing that any cancellation or nonrenewal of the
453 policy will be reported by the insurer to the department. The
454 notice must also inform the named insured that failure to
455 maintain emergency care coverage and property damage liability
456 insurance on a motor vehicle when required by law may result in
457 the loss of registration and driving privileges in this state,
458 and the notice must inform the named insured of the amount of

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459 the reinstatement fees required by s. 627.7361(6). This notice
460 is for informational purposes only, and an insurer is not
461 civilly liable for failing to provide this notice.

462 (13) SECURE ELECTRONIC DATA TRANSFER.--Any written notice,
463 documentation, transmission, or communication of any kind
464 required or permitted under this section may be accomplished by
465 secure electronic data transfer that is consistent with all
466 rights of confidentiality.

467 Section 4. Section 627.7261, Florida Statutes, is amended
468 to read:

469 627.7261 Prior denial of coverage; volunteer driver;
470 effect on coverage or rate ~~Refusal to issue policy.~~--

471 (1) No insurer may deny an application for automobile
472 liability insurance solely on the ground that:

473 (a) Renewal of similar coverage has been denied by another
474 insurer or on the ground of an applicant's failure to disclose
475 that such denial has occurred; or

476 (b) The applicant is a volunteer driver.

477 (2) No insurer may impose a surcharge or otherwise
478 increase the rate for an automobile liability policy solely on
479 the basis that the named insured, a member of the insured's
480 household, or a person who customarily operates the insured's
481 vehicle is a volunteer driver. This subsection does not prohibit
482 an insurer from refusing to renew, imposing a surcharge, or
483 otherwise raising the rate for an automobile liability insurance
484 policy based upon factors other than the volunteer status of the
485 insured driver.

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486 (3) For purposes of this section, the term "volunteer
487 driver" means a person who provides services, including
488 transporting individuals or goods, without compensation above
489 expenses to a private nonprofit agency as defined in s. 273.01
490 or charitable organization as defined in s. 736.1201.

491 Section 5. Subsection (8) is added to section 626.2815,
492 Florida Statutes, to read:

493 626.2815 Continuing education required; application;
494 exceptions; requirements; penalties.--

495 (8) Each person or entity sponsoring a course for
496 continuing education credit must provide that any required final
497 examination either be either open book or provided online.

498 Section 6. Paragraph (c) of subsection (1) of section
499 627.728, Florida Statutes, is amended to read:

500 627.728 Cancellations; nonrenewals.--

501 (1) As used in this section, the term:

502 (c) "Nonpayment of premium" means failure of the named
503 insured to discharge when due any of her or his obligations in
504 connection with the payment of premiums on a policy or any
505 installment of such premium, whether the premium is payable
506 directly to the insurer or its agent or indirectly under any
507 premium finance plan or extension of credit, or failure to
508 maintain membership in an organization if such membership is a
509 condition precedent to insurance coverage. "Nonpayment of
510 premium" also means the failure of a financial institution to
511 honor an insurance applicant's check after delivery to a
512 licensed agent for payment of a premium, even if the agent has
513 previously delivered or transferred the premium to the insurer. 7

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514 ~~further~~, If the dishonored check represents the initial premium
515 payment, the contract and all contractual obligations shall be
516 void ab initio unless the nonpayment is cured within the earlier
517 of 5 days after actual notice by certified mail is received by
518 the applicant or 15 days after notice is sent to the applicant
519 by certified mail or registered mail, and if the contract is
520 void, any premium received by the insurer from a third party
521 shall be refunded to that party in full. If a dishonored check
522 is made payable to the insurer, the insurer may cancel the
523 policy in accordance with paragraph (3)(a).

524 Section 7. Subsection (1) of section 627.901, Florida
525 Statutes, is amended to read:

526 627.901 Premium financing by an insurance agent or
527 agency.--

528 (1) A general lines agent may make reasonable service
529 charges for financing insurance premiums on policies issued or
530 business produced by such an agent or agency, s. 626.9541
531 notwithstanding. The service charge shall not exceed \$3 per
532 installment. The maximum service charge shall not exceed \$36 per
533 year. The service charge would also be permissible from the
534 insured when the agent processes, as a convenience and
535 accommodation to the insured, an installment payment from the
536 insured to the insurance company or premium finance company when
537 such payments can be made directly to the insurance company or
538 premium finance company by the insured. In no case may an agent
539 collect more than one service charge on any one payment. In lieu
540 of such service charges, an insurance agent or agency, at the

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541 sole discretion of such agent or agency, may charge a rate of
542 interest not to exceed 18 percent simple interest per year on:

543 (a) The unpaid balance; or

544 (b) The average unpaid balance as billed over the term of
545 the policy and subject to endorsement changes. The interest
546 authorized by this paragraph may be billed in equal
547 installments.

548 Section 8. Any automobile insurance policy written prior
549 to September 30, 2007, complying with the security requirement
550 of s. 627.733, Florida Statutes, shall be deemed to comply with
551 the security requirements of s. 627.7361, Florida Statutes, as
552 created by this act, until that policy expires or is terminated.

553 Section 9. Effective October 1, 2012, ss. 627.7361,
554 627.7362, and 627.7363, Florida Statutes, as created by this
555 act, are repealed.

556 Section 10. Subsections (1) and (3) of section 316.646,
557 Florida Statutes, are amended to read:

558 316.646 Security required; proof of security and display
559 thereof; dismissal of cases.--

560 (1) Any person required by s. 627.7361 ~~627.733~~ to maintain
561 ~~personal injury protection~~ security on a motor vehicle shall
562 have in his or her immediate possession at all times while
563 operating such motor vehicle proper proof of maintenance of the
564 security required by s. 627.7361 ~~627.733~~ . Such proof shall be
565 either a uniform proof-of-insurance card in a form prescribed by
566 the department, a valid insurance policy, an insurance policy
567 binder, a certificate of insurance, or such other proof as may
568 be prescribed by the department.

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569 (3) Any person who violates this section is guilty of a
570 nonmoving traffic infraction subject to the penalty provided in
571 chapter 318 and shall be required to furnish proof of security
572 as provided in this section. If any person charged with a
573 violation of this section fails to furnish proof, at or before
574 the scheduled court appearance date, that security was in effect
575 at the time of the violation, the court may immediately suspend
576 the registration and driver's license of such person. Such
577 license and registration may only be reinstated as provided in
578 s. 627.7361 ~~627.733~~.

579 Section 11. Paragraph (b) of subsection (2) of section
580 318.18, Florida Statutes, is amended to read:

581 318.18 Amount of civil penalties.--The penalties required
582 for a noncriminal disposition pursuant to s. 318.14 are as
583 follows:

584 (2) Thirty dollars for all nonmoving traffic violations
585 and:

586 (b) For all violations of ss. 320.0605, 320.07(1),
587 322.065, and 322.15(1). Any person who is cited for a violation
588 of s. 320.07(1) shall be charged a delinquent fee pursuant to s.
589 320.07(4).

590 1. If a person who is cited for a violation of s. 320.0605
591 or s. 320.07 can show proof of having a valid registration at
592 the time of arrest, the clerk of the court may dismiss the case
593 and may assess a dismissal fee of up to \$7.50. A person who
594 finds it impossible or impractical to obtain a valid
595 registration certificate must submit an affidavit detailing the
596 reasons for the impossibility or impracticality. The reasons may

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597 include, but are not limited to, the fact that the vehicle was
598 sold, stolen, or destroyed; that the state in which the vehicle
599 is registered does not issue a certificate of registration; or
600 that the vehicle is owned by another person.

601 2. If a person who is cited for a violation of s. 322.03,
602 s. 322.065, or s. 322.15 can show a driver's license issued to
603 him or her and valid at the time of arrest, the clerk of the
604 court may dismiss the case and may assess a dismissal fee of up
605 to \$7.50.

606 3. If a person who is cited for a violation of s. 316.646
607 can show proof of security as required by s. 627.7361 ~~627.733~~,
608 issued to the person and valid at the time of arrest, the clerk
609 of the court may dismiss the case and may assess a dismissal fee
610 of up to \$7.50. A person who finds it impossible or impractical
611 to obtain proof of security must submit an affidavit detailing
612 the reasons for the impracticality. The reasons may include, but
613 are not limited to, the fact that the vehicle has since been
614 sold, stolen, or destroyed; that the owner or registrant of the
615 vehicle is not required by s. 627.7361 ~~627.733~~ to maintain
616 security ~~personal injury protection insurance~~; or that the
617 vehicle is owned by another person.

618 Section 12. Paragraphs (a) and (d) of subsection (5) of
619 section 320.02, Florida Statutes, are amended to read:

620 320.02 Registration required; application for
621 registration; forms.--

622 (5) (a) Proof that emergency care benefits ~~personal injury~~
623 ~~protection benefits~~ have been purchased when required under s.
624 627.7361 ~~627.733~~, that property damage liability coverage has
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625 | been purchased as required under s. 324.022, and that combined
626 | bodily liability insurance and property damage liability
627 | insurance have been purchased when required under s. 627.7415
628 | shall be provided in the manner prescribed by law by the
629 | applicant at the time of application for registration of any
630 | motor vehicle owned as defined in s. 627.7363 ~~627.732~~. The
631 | issuing agent shall refuse to issue registration if such proof
632 | of purchase is not provided. Insurers shall furnish uniform
633 | proof-of-purchase cards in a form prescribed by the department
634 | and shall include the name of the insured's insurance company,
635 | the coverage identification number, the make, year, and vehicle
636 | identification number of the vehicle insured. The card shall
637 | contain a statement notifying the applicant of the penalty
638 | specified in s. 316.646(4). The card or insurance policy,
639 | insurance policy binder, or certificate of insurance or a
640 | photocopy of any of these; an affidavit containing the name of
641 | the insured's insurance company, the insured's policy number,
642 | and the make and year of the vehicle insured; or such other
643 | proof as may be prescribed by the department shall constitute
644 | sufficient proof of purchase. If an affidavit is provided as
645 | proof, it shall be in substantially the following form:

646 |
647 | Under penalty of perjury, I (Name of insured) do hereby
648 | certify that I have (Emergency Care Coverage Personal Injury
649 | ~~Protection~~, Property Damage Liability, and, when required,
650 | Bodily Injury Liability) Insurance currently in effect with
651 | (Name of insurance company) under (policy number) covering

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652 (make, year, and vehicle identification number of vehicle) .

653 (Signature of Insured)

654

655 Such affidavit shall include the following warning:

656

657 WARNING: GIVING FALSE INFORMATION IN ORDER TO OBTAIN A VEHICLE
658 REGISTRATION CERTIFICATE IS A CRIMINAL OFFENSE UNDER FLORIDA
659 LAW. ANYONE GIVING FALSE INFORMATION ON THIS AFFIDAVIT IS
660 SUBJECT TO PROSECUTION.

661

662 When an application is made through a licensed motor vehicle
663 dealer as required in s. 319.23, the original or a photostatic
664 copy of such card, insurance policy, insurance policy binder, or
665 certificate of insurance or the original affidavit from the
666 insured shall be forwarded by the dealer to the tax collector of
667 the county or the Department of Highway Safety and Motor
668 Vehicles for processing. By executing the aforesaid affidavit,
669 no licensed motor vehicle dealer will be liable in damages for
670 any inadequacy, insufficiency, or falsification of any statement
671 contained therein. A card shall also indicate the existence of
672 any bodily injury liability insurance voluntarily purchased.

673 (d) The verifying of proof of emergency care insurance
674 ~~personal injury protection insurance~~, proof of combined bodily
675 liability insurance and property damage liability insurance, or
676 proof of financial responsibility insurance and the issuance or
677 failure to issue the motor vehicle registration under the
678 provisions of this chapter may not be construed in any court as
679 a warranty of the reliability or accuracy of the evidence of

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680 such proof. Neither the department nor any tax collector is
681 liable in damages for any inadequacy, insufficiency,
682 falsification, or unauthorized modification of any item of the
683 proof of emergency care insurance ~~personal injury protection~~
684 ~~insurance~~, proof of combined bodily liability insurance and
685 property damage liability insurance, or proof of financial
686 responsibility insurance either prior to, during, or subsequent
687 to the verification of the proof. The issuance of a motor
688 vehicle registration does not constitute prima facie evidence or
689 a presumption of insurance coverage.

690 Section 13. Paragraph (b) of subsection (1) of section
691 320.0609, Florida Statutes, is amended to read:

692 320.0609 Transfer and exchange of registration license
693 plates; transfer fee.--

694 (1)

695 (b) The transfer of a license plate from a vehicle
696 disposed of to a newly acquired vehicle does not constitute a
697 new registration. The application for transfer shall be accepted
698 without requiring proof of emergency care ~~personal injury~~
699 ~~protection~~ or liability insurance.

700 Section 14. Subsection (3) of section 320.27, Florida
701 Statutes, is amended to read:

702 320.27 Motor vehicle dealers.--

703 (3) APPLICATION AND FEE.--The application for the license
704 shall be in such form as may be prescribed by the department and
705 shall be subject to such rules with respect thereto as may be so
706 prescribed by it. Such application shall be verified by oath or
707 affirmation and shall contain a full statement of the name and

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708 birth date of the person or persons applying therefor; the name
709 of the firm or copartnership, with the names and places of
710 residence of all members thereof, if such applicant is a firm or
711 copartnership; the names and places of residence of the
712 principal officers, if the applicant is a body corporate or
713 other artificial body; the name of the state under whose laws
714 the corporation is organized; the present and former place or
715 places of residence of the applicant; and prior business in
716 which the applicant has been engaged and the location thereof.
717 Such application shall describe the exact location of the place
718 of business and shall state whether the place of business is
719 owned by the applicant and when acquired, or, if leased, a true
720 copy of the lease shall be attached to the application. The
721 applicant shall certify that the location provides an adequately
722 equipped office and is not a residence; that the location
723 affords sufficient unoccupied space upon and within which
724 adequately to store all motor vehicles offered and displayed for
725 sale; and that the location is a suitable place where the
726 applicant can in good faith carry on such business and keep and
727 maintain books, records, and files necessary to conduct such
728 business, which will be available at all reasonable hours to
729 inspection by the department or any of its inspectors or other
730 employees. The applicant shall certify that the business of a
731 motor vehicle dealer is the principal business which shall be
732 conducted at that location. Such application shall contain a
733 statement that the applicant is either franchised by a
734 manufacturer of motor vehicles, in which case the name of each
735 motor vehicle that the applicant is franchised to sell shall be

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736 included, or an independent (nonfranchised) motor vehicle
737 dealer. Such application shall contain such other relevant
738 information as may be required by the department, including
739 evidence that the applicant is insured under a garage liability
740 insurance policy, which shall include, at a minimum, \$25,000
741 combined single-limit liability coverage including bodily injury
742 and property damage protection and \$10,000 emergency care
743 benefits ~~\$10,000 personal injury protection~~. Such policy shall
744 be for the license period, and evidence of a new or continued
745 policy shall be delivered to the department at the beginning of
746 each license period. Upon making such initial application, the
747 person applying therefor shall pay to the department a fee of
748 \$300 in addition to any other fees now required by law; upon
749 making a subsequent renewal application, the person applying
750 therefor shall pay to the department a fee of \$75 in addition to
751 any other fees now required by law. Upon making an application
752 for a change of location, the person shall pay a fee of \$50 in
753 addition to any other fees now required by law. The department
754 shall, in the case of every application for initial licensure,
755 verify whether certain facts set forth in the application are
756 true. Each applicant, general partner in the case of a
757 partnership, or corporate officer and director in the case of a
758 corporate applicant, must file a set of fingerprints with the
759 department for the purpose of determining any prior criminal
760 record or any outstanding warrants. The department shall submit
761 the fingerprints to the Department of Law Enforcement for state
762 processing and forwarding to the Federal Bureau of Investigation
763 for federal processing. The actual cost of such state and

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764 federal processing shall be borne by the applicant and is to be
765 in addition to the fee for licensure. The department may issue a
766 license to an applicant pending the results of the fingerprint
767 investigation, which license is fully revocable if the
768 department subsequently determines that any facts set forth in
769 the application are not true or correctly represented.

770 Section 15. Paragraph (j) of subsection (3) of section
771 320.771, Florida Statutes, is amended to read:

772 320.771 License required of recreational vehicle
773 dealers.--

774 (3) APPLICATION.--The application for such license shall
775 be in the form prescribed by the department and subject to such
776 rules as may be prescribed by it. The application shall be
777 verified by oath or affirmation and shall contain:

778 (j) A statement that the applicant is insured under a
779 garage liability insurance policy, which shall include, at a
780 minimum, \$25,000 combined single-limit liability coverage,
781 including bodily injury and property damage protection, and
782 \$10,000 emergency care coverage ~~\$10,000 personal injury~~
783 ~~protection~~, if the applicant is to be licensed as a dealer in,
784 or intends to sell, recreational vehicles.

785
786 The department shall, if it deems necessary, cause an
787 investigation to be made to ascertain if the facts set forth in
788 the application are true and shall not issue a license to the
789 applicant until it is satisfied that the facts set forth in the
790 application are true.

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791 Section 16. Subsection (1) of section 322.251, Florida
792 Statutes, is amended to read:

793 322.251 Notice of cancellation, suspension, revocation, or
794 disqualification of license.--

795 (1) All orders of cancellation, suspension, revocation, or
796 disqualification issued under the provisions of this chapter,
797 chapter 318, chapter 324, or s. 627.7361 ~~ss. 627.732-627.734~~
798 shall be given either by personal delivery thereof to the
799 licensee whose license is being canceled, suspended, revoked, or
800 disqualified or by deposit in the United States mail in an
801 envelope, first class, postage prepaid, addressed to the
802 licensee at his or her last known mailing address furnished to
803 the department. Such mailing by the department constitutes
804 notification, and any failure by the person to receive the
805 mailed order will not affect or stay the effective date or term
806 of the cancellation, suspension, revocation, or disqualification
807 of the licensee's driving privilege.

808 Section 17. Paragraph (a) of subsection (8) of section
809 322.34, Florida Statutes, is amended to read:

810 322.34 Driving while license suspended, revoked, canceled,
811 or disqualified.--

812 (8)(a) Upon the arrest of a person for the offense of
813 driving while the person's driver's license or driving privilege
814 is suspended or revoked, the arresting officer shall determine:

815 1. Whether the person's driver's license is suspended or
816 revoked.

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817 2. Whether the person's driver's license has remained
818 suspended or revoked since a conviction for the offense of
819 driving with a suspended or revoked license.

820 3. Whether the suspension or revocation was made under s.
821 627.7361 ~~316.646~~ or s. ~~627.733~~, relating to failure to maintain
822 required security, or under s. 322.264, relating to habitual
823 traffic offenders.

824 4. Whether the driver is the registered owner or coowner
825 of the vehicle.

826 Section 18. Subsection (1) and paragraph (c) of subsection
827 (9) of section 324.021, Florida Statutes, are amended to read:

828 324.021 Definitions; minimum insurance required.--The
829 following words and phrases when used in this chapter shall, for
830 the purpose of this chapter, have the meanings respectively
831 ascribed to them in this section, except in those instances
832 where the context clearly indicates a different meaning:

833 (1) MOTOR VEHICLE.--Every self-propelled vehicle which is
834 designed and required to be licensed for use upon a highway,
835 including trailers and semitrailers designed for use with such
836 vehicles, except traction engines, road rollers, farm tractors,
837 power shovels, and well drillers, and every vehicle which is
838 propelled by electric power obtained from overhead wires but not
839 operated upon rails, but not including any bicycle or moped.
840 However, the term "motor vehicle" shall not include any motor
841 vehicle as defined in s. 627.7362 ~~627.732(3)~~ when the owner of
842 such vehicle has complied with the requirements of s. 627.7361
843 ~~ss. 627.730-627.7405, inclusive~~, unless the provisions of s.

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844 324.051 apply; and, in such case, the applicable proof of
845 insurance provisions of s. 320.02 apply.

846 (9) OWNER; OWNER/LESSOR.--

847 (c) Application.--

848 1. The limits on liability in subparagraphs (b)2. and 3.
849 do not apply to an owner of motor vehicles that are used for
850 commercial activity in the owner's ordinary course of business,
851 other than a rental company that rents or leases motor vehicles.
852 For purposes of this paragraph, the term "rental company"
853 includes only an entity that is engaged in the business of
854 renting or leasing motor vehicles to the general public and that
855 rents or leases a majority of its motor vehicles to persons with
856 no direct or indirect affiliation with the rental company. The
857 term also includes a motor vehicle dealer that provides
858 temporary replacement vehicles to its customers for up to 10
859 days. The term "rental company" also includes:

860 a. A related rental or leasing company that is a
861 subsidiary of the same parent company as that of the renting or
862 leasing company that rented or leased the vehicle.

863 b. The holder of a motor vehicle title or an equity
864 interest in a motor vehicle title if the title or equity
865 interest is held pursuant to or to facilitate an asset-backed
866 securitization of a fleet of motor vehicles used solely in the
867 business of renting or leasing motor vehicles to the general
868 public and under the dominion and control of a rental company,
869 as described in this subparagraph, in the operation of such
870 rental company's business.

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871 2. Furthermore, with respect to a commercial motor vehicle
872 ~~vehicles as defined in s. 627.732~~, the limits on liability in
873 subparagraphs (b)2. and 3. do not apply if, at the time of the
874 incident, the commercial motor vehicle is being used in the
875 transportation of materials found to be hazardous for the
876 purposes of the Hazardous Materials Transportation Authorization
877 Act of 1994, as amended, 49 U.S.C. ss. 5101 et seq., and that is
878 required pursuant to such act to carry placards warning others
879 of the hazardous cargo, unless at the time of lease or rental
880 either:

881 a. The lessee indicates in writing that the vehicle will
882 not be used to transport materials found to be hazardous for the
883 purposes of the Hazardous Materials Transportation Authorization
884 Act of 1994, as amended, 49 U.S.C. ss. 5101 et seq.; or

885 b. The lessee or other operator of the commercial motor
886 vehicle has in effect insurance with limits of at least
887 \$5,000,000 combined property damage and bodily injury liability.

888
889 For the purposes of this subparagraph, the term "commercial
890 motor vehicle" does not include a motor vehicle that is a sedan,
891 station wagon, or jeep-type vehicle and, if not used primarily
892 for occupational, professional, or business purposes, a motor
893 vehicle of the pickup, panel, van, camper, or motor home type.

894 Section 19. Section 324.022, Florida Statutes, is amended
895 to read:

896 324.022 Financial responsibility for property damage.--

897 (1) Every owner or operator of a motor vehicle, which
898 motor vehicle is subject to the requirements of s. 627.7361 ~~ss.~~
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899 ~~627.730~~ ~~627.7405~~ and required to be registered in this state,
900 shall, by one of the methods established in s. 324.031 or by
901 having a policy that complies with s. 627.7275, establish and
902 maintain the ability to respond in damages for liability on
903 account of accidents arising out of the use of the motor vehicle
904 in the amount of \$10,000 because of damage to, or destruction
905 of, property of others in any one crash. The requirements of
906 this section may also be met by having a policy which provides
907 coverage in the amount of at least \$30,000 for combined property
908 damage liability and bodily injury liability for any one crash
909 arising out of the use of the motor vehicle. No insurer shall
910 have any duty to defend uncovered claims irrespective of their
911 joinder with covered claims.

912 (2) For the purposes of this section, the term:

913 (a) "Motor vehicle" means any self-propelled vehicle with
914 four or more wheels which is of a type both designed and
915 required to be licensed for use on the highways of this state
916 and any trailer or semitrailer designed for use with such
917 vehicle and includes a private passenger motor vehicle and a
918 commercial motor vehicle. The term "motor vehicle" does not
919 include a mobile home or any motor vehicle which is used in mass
920 transit, other than public school transportation, and designed
921 to transport more than five passengers exclusive of the operator
922 of the motor vehicle and which is owned by a municipality, a
923 transit authority, or a political subdivision of the state.

924 (b) "Private passenger motor vehicle" means any motor
925 vehicle which is a sedan, station wagon, or jeep-type vehicle
926 and, if not used primarily for occupational, professional, or
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927 business purposes, a motor vehicle of the pickup, panel, van,
928 camper, or motor home type.

929 (c) "Commercial motor vehicle" means any motor vehicle
930 which is not a private passenger motor vehicle.

931 Section 20. Subsection (2) of section 324.171, Florida
932 Statutes, is amended to read:

933 324.171 Self-insurer.--

934 (2) The self-insurance certificate shall provide limits of
935 liability insurance in the amounts specified under s. 324.021(7)
936 or s. 627.7415 and shall provide emergency care ~~personal injury~~
937 ~~protection~~ coverage under s. 627.7361(3)(b) ~~627.733(3)(b)~~.

938 Section 21. Paragraph (g) of subsection (1) of section
939 400.9935, Florida Statutes, is amended to read:

940 400.9935 Clinic responsibilities.--

941 (1) Each clinic shall appoint a medical director or clinic
942 director who shall agree in writing to accept legal
943 responsibility for the following activities on behalf of the
944 clinic. The medical director or the clinic director shall:

945 (g) Conduct systematic reviews of clinic billings to
946 ensure that the billings are not fraudulent or unlawful. Upon
947 discovery of an unlawful charge, the medical director or clinic
948 director shall take immediate corrective action. ~~If the clinic~~
949 ~~performs only the technical component of magnetic resonance~~
950 ~~imaging, static radiographs, computed tomography, or positron~~
951 ~~emission tomography, and provides the professional~~
952 ~~interpretation of such services, in a fixed facility that is~~
953 ~~accredited by the Joint Commission on Accreditation of~~
954 ~~Healthcare Organizations or the Accreditation Association for~~
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955 ~~Ambulatory Health Care, and the American College of Radiology,~~
956 ~~and if, in the preceding quarter, the percentage of scans~~
957 ~~performed by that clinic which was billed to all personal injury~~
958 ~~protection insurance carriers was less than 15 percent, the~~
959 ~~chief financial officer of the clinic may, in a written~~
960 ~~acknowledgment provided to the agency, assume the responsibility~~
961 ~~for the conduct of the systematic reviews of clinic billings to~~
962 ~~ensure that the billings are not fraudulent or unlawful.~~

963 Section 22. Subsection (27) of section 409.901, Florida
964 Statutes, is amended to read:

965 409.901 Definitions; ss. 409.901-409.920.--As used in ss.
966 409.901-409.920, except as otherwise specifically provided, the
967 term:

968 (27) "Third-party benefit" means any benefit that is or
969 may be available at any time through contract, court award,
970 judgment, settlement, agreement, or any arrangement between a
971 third party and any person or entity, including, without
972 limitation, a Medicaid recipient, a provider, another third
973 party, an insurer, or the agency, for any Medicaid-covered
974 injury, illness, goods, or services, including costs of medical
975 services related thereto, for personal injury or for death of
976 the recipient, but specifically excluding policies of life
977 insurance on the recipient, unless available under terms of the
978 policy to pay medical expenses prior to death. The term
979 includes, without limitation, collateral, as defined in this
980 section, health insurance, any benefit under a health
981 maintenance organization, a preferred provider arrangement, a
982 prepaid health clinic, liability insurance, uninsured motorist
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983 insurance or emergency care ~~personal injury protection~~ coverage,
984 medical benefits under workers' compensation, and any obligation
985 under law or equity to provide medical support.

986 Section 23. Paragraph (f) of subsection (11) of section
987 409.910, Florida Statutes, is amended to read:

988 409.910 Responsibility for payments on behalf of Medicaid-
989 eligible persons when other parties are liable.--

990 (11) The agency may, as a matter of right, in order to
991 enforce its rights under this section, institute, intervene in,
992 or join any legal or administrative proceeding in its own name
993 in one or more of the following capacities: individually, as
994 subrogee of the recipient, as assignee of the recipient, or as
995 lienholder of the collateral.

996 (f) Notwithstanding any provision in this section to the
997 contrary, in the event of an action in tort against a third
998 party in which the recipient or his or her legal representative
999 is a party which results in a judgment, award, or settlement
1000 from a third party, the amount recovered shall be distributed as
1001 follows:

1002 1. After attorney's fees and taxable costs as defined by
1003 the Florida Rules of Civil Procedure, one-half of the remaining
1004 recovery shall be paid to the agency up to the total amount of
1005 medical assistance provided by Medicaid.

1006 2. The remaining amount of the recovery shall be paid to
1007 the recipient.

1008 3. For purposes of calculating the agency's recovery of
1009 medical assistance benefits paid, the fee for services of an
1010 attorney retained by the recipient or his or her legal

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1011 representative shall be calculated at 25 percent of the
1012 judgment, award, or settlement.

1013 4. Notwithstanding any provision of this section to the
1014 contrary, the agency shall be entitled to all medical coverage
1015 benefits up to the total amount of medical assistance provided
1016 by Medicaid. For purposes of this paragraph, "medical coverage"
1017 means any benefits under health insurance, a health maintenance
1018 organization, a preferred provider arrangement, or a prepaid
1019 health clinic, and the portion of benefits designated for
1020 medical payments under coverage for workers' compensation,
1021 emergency care ~~personal injury protection~~, and casualty.

1022 Section 24. Paragraph (k) of subsection (2) of section
1023 456.057, Florida Statutes, is amended to read:

1024 456.057 Ownership and control of patient records; report
1025 or copies of records to be furnished.--

1026 (2) As used in this section, the terms "records owner,"
1027 "health care practitioner," and "health care practitioner's
1028 employer" do not include any of the following persons or
1029 entities; furthermore, the following persons or entities are not
1030 authorized to acquire or own medical records, but are authorized
1031 under the confidentiality and disclosure requirements of this
1032 section to maintain those documents required by the part or
1033 chapter under which they are licensed or regulated:

1034 ~~(k) Persons or entities practicing under s. 627.736(7).~~

1035 Section 25. Paragraphs (ee) and (ff) of subsection (1) of
1036 section 456.072, Florida Statutes, are amended to read:

1037 456.072 Grounds for discipline; penalties; enforcement.--

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1038 (1) The following acts shall constitute grounds for which
1039 the disciplinary actions specified in subsection (2) may be
1040 taken:

1041 (ee) With respect to making an emergency care ~~a personal~~
1042 ~~injury protection~~ claim ~~as required by s. 627.736~~, intentionally
1043 submitting a claim, statement, or bill that has been "upcoded,"
1044 which means submitting a billing code that would result in
1045 payment greater in amount that would be paid using the billing
1046 code that actually describes the services performed ~~as defined~~
1047 ~~in s. 627.732.~~

1048 (ff) With respect to making an emergency care ~~a personal~~
1049 ~~injury protection~~ claim ~~as required by s. 627.736~~, intentionally
1050 submitting a claim, statement, or bill for payment of services
1051 that were not rendered.

1052 Section 26. Paragraph (o) of subsection (1) of section
1053 626.9541, Florida Statutes, is amended to read:

1054 626.9541 Unfair methods of competition and unfair or
1055 deceptive acts or practices defined.--

1056 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE
1057 ACTS.--The following are defined as unfair methods of
1058 competition and unfair or deceptive acts or practices:

1059 (o) Illegal dealings in premiums; excess or reduced
1060 charges for insurance.--

1061 1. Knowingly collecting any sum as a premium or charge for
1062 insurance, which is not then provided, or is not in due course
1063 to be provided, subject to acceptance of the risk by the
1064 insurer, by an insurance policy issued by an insurer as
1065 permitted by this code.

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1066 2. Knowingly collecting as a premium or charge for
1067 insurance any sum in excess of or less than the premium or
1068 charge applicable to such insurance, in accordance with the
1069 applicable classifications and rates as filed with and approved
1070 by the office, and as specified in the policy; or, in cases when
1071 classifications, premiums, or rates are not required by this
1072 code to be so filed and approved, premiums and charges collected
1073 from a Florida resident in excess of or less than those
1074 specified in the policy and as fixed by the insurer. This
1075 provision shall not be deemed to prohibit the charging and
1076 collection, by surplus lines agents licensed under part VIII of
1077 this chapter, of the amount of applicable state and federal
1078 taxes, or fees as authorized by s. 626.916(4), in addition to
1079 the premium required by the insurer or the charging and
1080 collection, by licensed agents, of the exact amount of any
1081 discount or other such fee charged by a credit card facility in
1082 connection with the use of a credit card, as authorized by
1083 subparagraph (q)3., in addition to the premium required by the
1084 insurer. This subparagraph shall not be construed to prohibit
1085 collection of a premium for a universal life or a variable or
1086 indeterminate value insurance policy made in accordance with the
1087 terms of the contract.

1088 3.a. Imposing or requesting an additional premium for a
1089 policy of motor vehicle liability, emergency care coverage
1090 ~~personal injury protection~~, medical payment, or collision
1091 insurance or any combination thereof or refusing to renew the
1092 policy solely because the insured was involved in a motor
1093 vehicle accident unless the insurer's file contains information

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1094 from which the insurer in good faith determines that the insured
1095 was substantially at fault in the accident.

1096 b. An insurer which imposes and collects such a surcharge
1097 or which refuses to renew such policy shall, in conjunction with
1098 the notice of premium due or notice of nonrenewal, notify the
1099 named insured that he or she is entitled to reimbursement of
1100 such amount or renewal of the policy under the conditions listed
1101 below and will subsequently reimburse him or her or renew the
1102 policy, if the named insured demonstrates that the operator
1103 involved in the accident was:

1104 (I) Lawfully parked;

1105 (II) Reimbursed by, or on behalf of, a person responsible
1106 for the accident or has a judgment against such person;

1107 (III) Struck in the rear by another vehicle headed in the
1108 same direction and was not convicted of a moving traffic
1109 violation in connection with the accident;

1110 (IV) Hit by a "hit-and-run" driver, if the accident was
1111 reported to the proper authorities within 24 hours after
1112 discovering the accident;

1113 (V) Not convicted of a moving traffic violation in
1114 connection with the accident, but the operator of the other
1115 automobile involved in such accident was convicted of a moving
1116 traffic violation;

1117 (VI) Finally adjudicated not to be liable by a court of
1118 competent jurisdiction;

1119 (VII) In receipt of a traffic citation which was dismissed
1120 or nolle prossed; or

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1121 (VIII) Not at fault as evidenced by a written statement
1122 from the insured establishing facts demonstrating lack of fault
1123 which are not rebutted by information in the insurer's file from
1124 which the insurer in good faith determines that the insured was
1125 substantially at fault.

1126 c. In addition to the other provisions of this
1127 subparagraph, an insurer may not fail to renew a policy if the
1128 insured has had only one accident in which he or she was at
1129 fault within the current 3-year period. However, an insurer may
1130 nonrenew a policy for reasons other than accidents in accordance
1131 with s. 627.728. This subparagraph does not prohibit nonrenewal
1132 of a policy under which the insured has had three or more
1133 accidents, regardless of fault, during the most recent 3-year
1134 period.

1135 4. Imposing or requesting an additional premium for, or
1136 refusing to renew, a policy for motor vehicle insurance solely
1137 because the insured committed a noncriminal traffic infraction
1138 as described in s. 318.14 unless the infraction is:

1139 a. A second infraction committed within an 18-month
1140 period, or a third or subsequent infraction committed within a
1141 36-month period.

1142 b. A violation of s. 316.183, when such violation is a
1143 result of exceeding the lawful speed limit by more than 15 miles
1144 per hour.

1145 5. Upon the request of the insured, the insurer and
1146 licensed agent shall supply to the insured the complete proof of
1147 fault or other criteria which justifies the additional charge or
1148 cancellation.

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1149 6. No insurer shall impose or request an additional
1150 premium for motor vehicle insurance, cancel or refuse to issue a
1151 policy, or refuse to renew a policy because the insured or the
1152 applicant is a handicapped or physically disabled person, so
1153 long as such handicap or physical disability does not
1154 substantially impair such person's mechanically assisted driving
1155 ability.

1156 7. No insurer may cancel or otherwise terminate any
1157 insurance contract or coverage, or require execution of a
1158 consent to rate endorsement, during the stated policy term for
1159 the purpose of offering to issue, or issuing, a similar or
1160 identical contract or coverage to the same insured with the same
1161 exposure at a higher premium rate or continuing an existing
1162 contract or coverage with the same exposure at an increased
1163 premium.

1164 8. No insurer may issue a nonrenewal notice on any
1165 insurance contract or coverage, or require execution of a
1166 consent to rate endorsement, for the purpose of offering to
1167 issue, or issuing, a similar or identical contract or coverage
1168 to the same insured at a higher premium rate or continuing an
1169 existing contract or coverage at an increased premium without
1170 meeting any applicable notice requirements.

1171 9. No insurer shall, with respect to premiums charged for
1172 motor vehicle insurance, unfairly discriminate solely on the
1173 basis of age, sex, marital status, or scholastic achievement.

1174 10. Imposing or requesting an additional premium for motor
1175 vehicle comprehensive or uninsured motorist coverage solely

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1176 because the insured was involved in a motor vehicle accident or
1177 was convicted of a moving traffic violation.

1178 11. No insurer shall cancel or issue a nonrenewal notice
1179 on any insurance policy or contract without complying with any
1180 applicable cancellation or nonrenewal provision required under
1181 the Florida Insurance Code.

1182 12. No insurer shall impose or request an additional
1183 premium, cancel a policy, or issue a nonrenewal notice on any
1184 insurance policy or contract because of any traffic infraction
1185 when adjudication has been withheld and no points have been
1186 assessed pursuant to s. 318.14(9) and (10). However, this
1187 subparagraph does not apply to traffic infractions involving
1188 accidents in which the insurer has incurred a loss due to the
1189 fault of the insured.

1190 Section 27. Subsection (1) of section 627.06501, Florida
1191 Statutes, is amended to read:

1192 627.06501 Insurance discounts for certain persons
1193 completing driver improvement course.--

1194 (1) Any rate, rating schedule, or rating manual for the
1195 liability, emergency care ~~personal injury protection~~, and
1196 collision coverages of a motor vehicle insurance policy filed
1197 with the office may provide for an appropriate reduction in
1198 premium charges as to such coverages when the principal operator
1199 on the covered vehicle has successfully completed a driver
1200 improvement course approved and certified by the Department of
1201 Highway Safety and Motor Vehicles which is effective in reducing
1202 crash or violation rates, or both, as determined pursuant to s.
1203 318.1451(5). Any discount, not to exceed 10 percent, used by an
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1204 insurer is presumed to be appropriate unless credible data
1205 demonstrates otherwise.

1206 Section 28. Subsection (1) of section 627.0652, Florida
1207 Statutes, is amended to read:

1208 627.0652 Insurance discounts for certain persons
1209 completing safety course.--

1210 (1) Any rates, rating schedules, or rating manuals for the
1211 liability, emergency care ~~personal injury protection~~, and
1212 collision coverages of a motor vehicle insurance policy filed
1213 with the office shall provide for an appropriate reduction in
1214 premium charges as to such coverages when the principal operator
1215 on the covered vehicle is an insured 55 years of age or older
1216 who has successfully completed a motor vehicle accident
1217 prevention course approved by the Department of Highway Safety
1218 and Motor Vehicles. Any discount used by an insurer is presumed
1219 to be appropriate unless credible data demonstrates otherwise.

1220 Section 29. Subsections (1) and (3) of section 627.0653,
1221 Florida Statutes, are amended to read:

1222 627.0653 Insurance discounts for specified motor vehicle
1223 equipment.--

1224 (1) Any rates, rating schedules, or rating manuals for the
1225 liability, emergency care ~~personal injury protection~~, and
1226 collision coverages of a motor vehicle insurance policy filed
1227 with the office shall provide a premium discount if the insured
1228 vehicle is equipped with factory-installed, four-wheel antilock
1229 brakes.

1230 (3) Any rates, rating schedules, or rating manuals for
1231 emergency care ~~personal injury protection~~ coverage and medical
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1232 payments coverage, if offered, of a motor vehicle insurance
1233 policy filed with the office shall provide a premium discount if
1234 the insured vehicle is equipped with one or more air bags which
1235 are factory installed.

1236 Section 30. Section 627.4132, Florida Statutes, is amended
1237 to read:

1238 627.4132 Stacking of coverages prohibited.--If an insured
1239 or named insured is protected by any type of motor vehicle
1240 insurance policy for liability, emergency care ~~personal injury~~
1241 ~~protection~~, or other coverage, the policy shall provide that the
1242 insured or named insured is protected only to the extent of the
1243 coverage she or he has on the vehicle involved in the accident.
1244 However, if none of the insured's or named insured's vehicles is
1245 involved in the accident, coverage is available only to the
1246 extent of coverage on any one of the vehicles with applicable
1247 coverage. Coverage on any other vehicles shall not be added to
1248 or stacked upon that coverage. This section does not apply:

1249 (1) To uninsured motorist coverage which is separately
1250 governed by s. 627.727.

1251 (2) To reduce the coverage available by reason of
1252 insurance policies insuring different named insureds.

1253 Section 31. Subsection (6) of section 627.6482, Florida
1254 Statutes, is amended to read:

1255 627.6482 Definitions.--As used in ss. 627.648-627.6498,
1256 the term:

1257 (6) "Health insurance" means any hospital and medical
1258 expense incurred policy, minimum premium plan, stop-loss
1259 coverage, health maintenance organization contract, prepaid
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1260 health clinic contract, multiple-employer welfare arrangement
1261 contract, or fraternal benefit society health benefits contract,
1262 whether sold as an individual or group policy or contract. The
1263 term does not include any policy covering medical payment
1264 coverage or emergency care ~~personal injury protection~~ coverage
1265 in a motor vehicle policy, coverage issued as a supplement to
1266 liability insurance, or workers' compensation.

1267 Section 32. Section 627.7263, Florida Statutes, is amended
1268 to read:

1269 627.7263 Rental and leasing driver's insurance to be
1270 primary; exception.--

1271 (1) The valid and collectible liability insurance or
1272 emergency care ~~personal injury protection~~ insurance providing
1273 coverage for the lessor of a motor vehicle for rent or lease is
1274 primary unless otherwise stated in at least 10-point type on the
1275 face of the rental or lease agreement. Such insurance is primary
1276 for the limits of liability and emergency care ~~personal injury~~
1277 ~~protection~~ coverage as required by ss. 324.021(7) and 627.7363
1278 ~~627.736~~.

1279 (2) If the lessee's coverage is to be primary, the rental
1280 or lease agreement must contain the following language, in at
1281 least 10-point type:

1282
1283 "The valid and collectible liability insurance and
1284 emergency care ~~personal injury protection~~ insurance of any
1285 authorized rental or leasing driver is primary for the
1286 limits of liability and emergency care ~~personal injury~~

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1287 ~~protection~~ coverage required by ss. 324.021(7) and 627.7363
1288 ~~627.736~~, Florida Statutes."

1289
1290 Section 33. Subsections (1), (7), (8), (9), and (10) of
1291 section 627.727, Florida Statutes, are amended to read:

1292 627.727 Motor vehicle insurance; uninsured and
1293 underinsured vehicle coverage; insolvent insurer protection.--

1294 (1) No motor vehicle liability insurance policy which
1295 provides bodily injury liability coverage shall be delivered or
1296 issued for delivery in this state with respect to any
1297 specifically insured or identified motor vehicle registered or
1298 principally garaged in this state unless uninsured motor vehicle
1299 coverage is provided therein or supplemental thereto for the
1300 protection of persons insured thereunder who are legally
1301 entitled to recover damages from owners or operators of
1302 uninsured motor vehicles because of bodily injury, sickness, or
1303 disease, including death, resulting therefrom. However, the
1304 coverage required under this section is not applicable when, or
1305 to the extent that, an insured named in the policy makes a
1306 written rejection of the coverage on behalf of all insureds
1307 under the policy. When a motor vehicle is leased for a period of
1308 1 year or longer and the lessor of such vehicle, by the terms of
1309 the lease contract, provides liability coverage on the leased
1310 vehicle, the lessee of such vehicle shall have the sole
1311 privilege to reject uninsured motorist coverage or to select
1312 lower limits than the bodily injury liability limits, regardless
1313 of whether the lessor is qualified as a self-insurer pursuant to
1314 s. 324.171. Unless an insured, or lessee having the privilege of

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1315 rejecting uninsured motorist coverage, requests such coverage or
1316 requests higher uninsured motorist limits in writing, the
1317 coverage or such higher uninsured motorist limits need not be
1318 provided in or supplemental to any other policy which renews,
1319 extends, changes, supersedes, or replaces an existing policy
1320 with the same bodily injury liability limits when an insured or
1321 lessee had rejected the coverage. When an insured or lessee has
1322 initially selected limits of uninsured motorist coverage lower
1323 than her or his bodily injury liability limits, higher limits of
1324 uninsured motorist coverage need not be provided in or
1325 supplemental to any other policy which renews, extends, changes,
1326 supersedes, or replaces an existing policy with the same bodily
1327 injury liability limits unless an insured requests higher
1328 uninsured motorist coverage in writing. The rejection or
1329 selection of lower limits shall be made on a form approved by
1330 the office. The form shall fully advise the applicant of the
1331 nature of the coverage and shall state that the coverage is
1332 equal to bodily injury liability limits unless lower limits are
1333 requested or the coverage is rejected. The heading of the form
1334 shall be in 12-point bold type and shall state: "You are
1335 electing not to purchase certain valuable coverage which
1336 protects you and your family or you are purchasing uninsured
1337 motorist limits less than your bodily injury liability limits
1338 when you sign this form. Please read carefully." If this form is
1339 signed by a named insured, it will be conclusively presumed that
1340 there was an informed, knowing rejection of coverage or election
1341 of lower limits on behalf of all insureds. The insurer shall
1342 notify the named insured at least annually of her or his options

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1343 as to the coverage required by this section. Such notice shall
1344 be part of, and attached to, the notice of premium, shall
1345 provide for a means to allow the insured to request such
1346 coverage, and shall be given in a manner approved by the office.
1347 Receipt of this notice does not constitute an affirmative waiver
1348 of the insured's right to uninsured motorist coverage where the
1349 insured has not signed a selection or rejection form. The
1350 coverage described under this section shall be over and above,
1351 but shall not duplicate, the benefits available to an insured
1352 under any workers' compensation law, emergency care ~~personal~~
1353 ~~injury protection~~ benefits, disability benefits law, or similar
1354 law; under any automobile medical expense coverage; under any
1355 motor vehicle liability insurance coverage; or from the owner or
1356 operator of the uninsured motor vehicle or any other person or
1357 organization jointly or severally liable together with such
1358 owner or operator for the accident; and such coverage shall
1359 cover the difference, if any, between the sum of such benefits
1360 and the damages sustained, up to the maximum amount of such
1361 coverage provided under this section. The amount of coverage
1362 available under this section shall not be reduced by a setoff
1363 against any coverage, including liability insurance. Such
1364 coverage shall not inure directly or indirectly to the benefit
1365 of any workers' compensation or disability benefits carrier or
1366 any person or organization qualifying as a self-insurer under
1367 any workers' compensation or disability benefits law or similar
1368 law.

1369 ~~(7) The legal liability of an uninsured motorist coverage~~
1370 ~~insurer does not include damages in tort for pain, suffering,~~
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1371 ~~mental anguish, and inconvenience unless the injury or disease~~
1372 ~~is described in one or more of paragraphs (a) - (d) of s.~~
1373 ~~627.737(2).~~

1374 (7)~~(8)~~ The provisions of s. 627.428 do not apply to any
1375 action brought pursuant to this section against the uninsured
1376 motorist insurer unless there is a dispute over whether the
1377 policy provides coverage for an uninsured motorist proven to be
1378 liable for the accident.

1379 (8)~~(9)~~ Insurers may offer policies of uninsured motorist
1380 coverage containing policy provisions, in language approved by
1381 the office, establishing that if the insured accepts this offer:

1382 (a) The coverage provided as to two or more motor vehicles
1383 shall not be added together to determine the limit of insurance
1384 coverage available to an injured person for any one accident,
1385 except as provided in paragraph (c).

1386 (b) If at the time of the accident the injured person is
1387 occupying a motor vehicle, the uninsured motorist coverage
1388 available to her or him is the coverage available as to that
1389 motor vehicle.

1390 (c) If the injured person is occupying a motor vehicle
1391 which is not owned by her or him or by a family member residing
1392 with her or him, the injured person is entitled to the highest
1393 limits of uninsured motorist coverage afforded for any one
1394 vehicle as to which she or he is a named insured or insured
1395 family member. Such coverage shall be excess over the coverage
1396 on the vehicle the injured person is occupying.

1397 (d) The uninsured motorist coverage provided by the policy
1398 does not apply to the named insured or family members residing

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1399 | in her or his household who are injured while occupying any
1400 | vehicle owned by such insureds for which uninsured motorist
1401 | coverage was not purchased.

1402 | (e) If, at the time of the accident the injured person is
1403 | not occupying a motor vehicle, she or he is entitled to select
1404 | any one limit of uninsured motorist coverage for any one vehicle
1405 | afforded by a policy under which she or he is insured as a named
1406 | insured or as an insured resident of the named insured's
1407 | household.

1408 |
1409 | In connection with the offer authorized by this subsection,
1410 | insurers shall inform the named insured, applicant, or lessee,
1411 | on a form approved by the office, of the limitations imposed
1412 | under this subsection and that such coverage is an alternative
1413 | to coverage without such limitations. If this form is signed by
1414 | a named insured, applicant, or lessee, it shall be conclusively
1415 | presumed that there was an informed, knowing acceptance of such
1416 | limitations. When the named insured, applicant, or lessee has
1417 | initially accepted such limitations, such acceptance shall apply
1418 | to any policy which renews, extends, changes, supersedes, or
1419 | replaces an existing policy unless the named insured requests
1420 | deletion of such limitations and pays the appropriate premium
1421 | for such coverage. Any insurer who provides coverage which
1422 | includes the limitations provided in this subsection shall file
1423 | revised premium rates with the office for such uninsured
1424 | motorist coverage to take effect prior to initially providing
1425 | such coverage. The revised rates shall reflect the anticipated
1426 | reduction in loss costs attributable to such limitations but

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1427 shall in any event reflect a reduction in the uninsured motorist
1428 coverage premium of at least 20 percent for policies with such
1429 limitations. Such filing shall not increase the rates for
1430 coverage which does not contain the limitations authorized by
1431 this subsection, and such rates shall remain in effect until the
1432 insurer demonstrates the need for a change in uninsured motorist
1433 rates pursuant to s. 627.0651.

1434 (9) ~~(10)~~ The damages recoverable from an uninsured motorist
1435 carrier in an action brought under s. 624.155 shall include the
1436 total amount of the claimant's damages, including the amount in
1437 excess of the policy limits, any interest on unpaid benefits,
1438 reasonable attorney's fees and costs, and any damages caused by
1439 a violation of a law of this state. The total amount of the
1440 claimant's damages is recoverable whether caused by an insurer
1441 or by a third-party tortfeasor.

1442 Section 34. Subsection (1) and paragraphs (a) and (b) of
1443 subsection (2) of section 627.7275, Florida Statutes, are
1444 amended to read:

1445 627.7275 Motor vehicle liability.--

1446 (1) A motor vehicle insurance policy providing emergency
1447 care coverage ~~personal injury protection~~ as set forth in s.
1448 627.7363 ~~627.736~~ may not be delivered or issued for delivery in
1449 this state with respect to any specifically insured or
1450 identified motor vehicle registered or principally garaged in
1451 this state unless the policy also provides coverage for property
1452 damage liability in the amount of at least \$10,000 because of
1453 damage to, or destruction of, property of others in any one
1454 accident arising out of the use of the motor vehicle or unless

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1455 the policy provides coverage in the amount of at least \$30,000
1456 for combined property damage liability and bodily injury
1457 liability in any one accident arising out of the use of the
1458 motor vehicle. The policy, as to coverage of property damage
1459 liability, must meet the applicable requirements of s. 324.151,
1460 subject to the usual policy exclusions that have been approved
1461 in policy forms by the office.

1462 (2) (a) Insurers writing motor vehicle insurance in this
1463 state shall make available, subject to the insurers' usual
1464 underwriting restrictions:

1465 1. Coverage under policies as described in subsection (1)
1466 to any applicant for private passenger motor vehicle insurance
1467 coverage who is seeking the coverage in order to reinstate the
1468 applicant's driving privileges in this state when the driving
1469 privileges were revoked or suspended pursuant to s. 316.646 or
1470 s. 627.7361 ~~627.733~~ due to the failure of the applicant to
1471 maintain required security.

1472 2. Coverage under policies as described in subsection (1),
1473 which also provides liability coverage for bodily injury, death,
1474 and property damage arising out of the ownership, maintenance,
1475 or use of the motor vehicle in an amount not less than the
1476 limits described in s. 324.021(7) and conforms to the
1477 requirements of s. 324.151, to any applicant for private
1478 passenger motor vehicle insurance coverage who is seeking the
1479 coverage in order to reinstate the applicant's driving
1480 privileges in this state after such privileges were revoked or
1481 suspended under s. 316.193 or s. 322.26(2) for driving under the
1482 influence.

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1483 (b) The policies described in paragraph (a) shall be
1484 issued for a period of at least 6 months and as to the minimum
1485 coverages required under this section shall not be cancelable by
1486 the insured for any reason or by the insurer after a period not
1487 to exceed 30 days during which the insurer must complete
1488 underwriting of the policy. After the insurer has completed
1489 underwriting the policy within the 30-day period, the insurer
1490 shall notify the Department of Highway Safety and Motor Vehicles
1491 that the policy is in full force and effect and the policy shall
1492 not be cancelable for the remainder of the policy period. A
1493 premium shall be collected and coverage shall be in effect for
1494 the 30-day period during which the insurer is completing the
1495 underwriting of the policy whether or not the person's driver
1496 license, motor vehicle tag, and motor vehicle registration are
1497 in effect. Once the noncancelable provisions of the policy
1498 become effective, the coverage or risk shall not be changed
1499 during the policy period and the premium shall be nonrefundable.
1500 If, during ~~the pendency of the 2-year proof of insurance period~~
1501 ~~required under s. 627.733(7) or during~~ the 3-year proof of
1502 financial responsibility required under s. 324.131, ~~whichever is~~
1503 ~~applicable~~, the insured obtains additional coverage or coverage
1504 for an additional risk or changes territories, the insured must
1505 obtain a new 6-month noncancelable policy in accordance with the
1506 provisions of this section. However, if the insured must obtain
1507 a new 6-month policy and obtains the policy from the same
1508 insurer, the policyholder shall receive credit on the new policy
1509 for any premium paid on the previously issued policy.

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1510 Section 35. Paragraph (a) of subsection (1) of section
1511 627.728, Florida Statutes, is amended to read:

1512 627.728 Cancellations; nonrenewals.--

1513 (1) As used in this section, the term:

1514 (a) "Policy" means the bodily injury and property damage
1515 liability, emergency care ~~personal injury protection~~, medical
1516 payments, comprehensive, collision, and uninsured motorist
1517 coverage portions of a policy of motor vehicle insurance
1518 delivered or issued for delivery in this state:

1519 1. Insuring a natural person as named insured or one or
1520 more related individuals resident of the same household; and

1521 2. Insuring only a motor vehicle of the private passenger
1522 type or station wagon type which is not used as a public or
1523 livery conveyance for passengers or rented to others; or
1524 insuring any other four-wheel motor vehicle having a load
1525 capacity of 1,500 pounds or less which is not used in the
1526 occupation, profession, or business of the insured other than
1527 farming; other than any policy issued under an automobile
1528 insurance assigned risk plan; insuring more than four
1529 automobiles; or covering garage, automobile sales agency, repair
1530 shop, service station, or public parking place operation
1531 hazards.

1532
1533 The term "policy" does not include a binder as defined in s.
1534 627.420 unless the duration of the binder period exceeds 60
1535 days.

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1536 Section 36. Subsection (1), paragraph (a) of subsection
1537 (5), and subsections (6) and (7) of section 627.7295, Florida
1538 Statutes, are amended to read:

1539 627.7295 Motor vehicle insurance contracts.--

1540 (1) As used in this section, the term:

1541 (a) "Policy" means a motor vehicle insurance policy that
1542 provides emergency care ~~personal injury protection~~ and property
1543 damage liability coverage.

1544 (b) "Binder" means a binder that provides motor vehicle
1545 emergency care ~~personal injury protection~~ and property damage
1546 liability coverage.

1547 (5)(a) A licensed general lines agent may charge a per-
1548 policy fee not to exceed \$10 to cover the administrative costs
1549 of the agent associated with selling the motor vehicle insurance
1550 policy if the policy covers only emergency care ~~personal injury~~
1551 ~~protection~~ coverage as provided by s. 627.7363 ~~627.736~~ and
1552 property damage liability coverage as provided by s. 627.7275
1553 and if no other insurance is sold or issued in conjunction with
1554 or collateral to the policy. The fee is not considered part of
1555 the premium.

1556 (6) If a motor vehicle owner's driver license, license
1557 plate, and registration have previously been suspended pursuant
1558 to s. 316.646 or s. 627.7361 ~~627.733~~, an insurer may cancel a
1559 new policy only as provided in s. 627.7275.

1560 (7) A policy of private passenger motor vehicle insurance
1561 or a binder for such a policy may be initially issued in this
1562 state only if the insurer or agent has collected from the
1563 insured an amount equal to 2 months' premium. An insurer, agent,

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1564 or premium finance company may not directly or indirectly take
1565 any action resulting in the insured having paid from the
1566 insured's own funds an amount less than the 2 months' premium
1567 required by this subsection. This subsection applies without
1568 regard to whether the premium is financed by a premium finance
1569 company or is paid pursuant to a periodic payment plan of an
1570 insurer or an insurance agent. This subsection does not apply if
1571 an insured or member of the insured's family is renewing or
1572 replacing a policy or a binder for such policy written by the
1573 same insurer or a member of the same insurer group. This
1574 subsection does not apply to an insurer that issues private
1575 passenger motor vehicle coverage primarily to active duty or
1576 former military personnel or their dependents. This subsection
1577 does not apply if all policy payments are paid pursuant to a
1578 payroll deduction plan or an automatic electronic funds transfer
1579 payment plan from the policyholder, provided that the first
1580 policy payment is made by cash, cashier's check, check, or a
1581 money order. This subsection and subsection (4) do not apply if
1582 all policy payments to an insurer are paid pursuant to an
1583 automatic electronic funds transfer payment plan from an agent
1584 or a managing general agent and if the policy includes, at a
1585 minimum, emergency care coverage ~~personal injury protection~~
1586 pursuant to s. 627.7363 ~~ss. 627.730-627.7405~~; motor vehicle
1587 property damage liability pursuant to s. 627.7275; and bodily
1588 injury liability in at least the amount of \$10,000 because of
1589 bodily injury to, or death of, one person in any one accident
1590 and in the amount of \$20,000 because of bodily injury to, or
1591 death of, two or more persons in any one accident. This

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1592 subsection and subsection (4) do not apply if an insured has had
1593 a policy in effect for at least 6 months, the insured's agent is
1594 terminated by the insurer that issued the policy, and the
1595 insured obtains coverage on the policy's renewal date with a new
1596 company through the terminated agent.

1597 Section 37. Section 627.8405, Florida Statutes, is amended
1598 to read:

1599 627.8405 Prohibited acts; financing companies.--No premium
1600 finance company shall, in a premium finance agreement or other
1601 agreement, finance the cost of or otherwise provide for the
1602 collection or remittance of dues, assessments, fees, or other
1603 periodic payments of money for the cost of:

1604 (1) A membership in an automobile club. The term
1605 "automobile club" means a legal entity which, in consideration
1606 of dues, assessments, or periodic payments of money, promises
1607 its members or subscribers to assist them in matters relating to
1608 the ownership, operation, use, or maintenance of a motor
1609 vehicle; however, this definition of "automobile club" does not
1610 include persons, associations, or corporations which are
1611 organized and operated solely for the purpose of conducting,
1612 sponsoring, or sanctioning motor vehicle races, exhibitions, or
1613 contests upon racetracks, or upon racecourses established and
1614 marked as such for the duration of such particular events. The
1615 words "motor vehicle" used herein have the same meaning as
1616 defined in chapter 320.

1617 (2) An accidental death and dismemberment policy sold in
1618 combination with an emergency care coverage ~~a personal injury~~
1619 ~~protection~~ and property damage only policy.

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1620 (3) Any product not regulated under the provisions of this
1621 insurance code.

1622
1623 This section also applies to premium financing by any insurance
1624 agent or insurance company under part XVI. The commission shall
1625 adopt rules to assure disclosure, at the time of sale, of
1626 coverages financed with emergency care coverage ~~personal injury~~
1627 ~~protection~~ and shall prescribe the form of such disclosure.

1628 Section 38. Subsection (1) of section 627.915, Florida
1629 Statutes, is amended to read:

1630 627.915 Insurer experience reporting.--

1631 (1) Each insurer transacting private passenger automobile
1632 insurance in this state shall report certain information
1633 annually to the office. The information will be due on or before
1634 July 1 of each year. The information shall be divided into the
1635 following categories: bodily injury liability; property damage
1636 liability; uninsured motorist; emergency care coverage ~~personal~~
1637 ~~injury protection benefits~~; medical payments; comprehensive and
1638 collision. The information given shall be on direct insurance
1639 writings in the state alone and shall represent total limits
1640 data. The information set forth in paragraphs (a)-(f) is
1641 applicable to voluntary private passenger and Joint Underwriting
1642 Association private passenger writings and shall be reported for
1643 each of the latest 3 calendar-accident years, with an evaluation
1644 date of March 31 of the current year. The information set forth
1645 in paragraphs (g)-(j) is applicable to voluntary private
1646 passenger writings and shall be reported on a calendar-accident

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1647 year basis ultimately seven times at seven different stages of
1648 development.

1649 (a) Premiums earned for the latest 3 calendar-accident
1650 years.

1651 (b) Loss development factors and the historic development
1652 of those factors.

1653 (c) Policyholder dividends incurred.

1654 (d) Expenses for other acquisition and general expense.

1655 (e) Expenses for agents' commissions and taxes, licenses,
1656 and fees.

1657 (f) Profit and contingency factors as utilized in the
1658 insurer's automobile rate filings for the applicable years.

1659 (g) Losses paid.

1660 (h) Losses unpaid.

1661 (i) Loss adjustment expenses paid.

1662 (j) Loss adjustment expenses unpaid.

1663 Section 39. Paragraph (d) of subsection (2) and paragraph
1664 (d) of subsection (3) of section 628.909, Florida Statutes, are
1665 amended to read:

1666 628.909 Applicability of other laws.--

1667 (2) The following provisions of the Florida Insurance Code
1668 shall apply to captive insurers who are not industrial insured
1669 captive insurers to the extent that such provisions are not
1670 inconsistent with this part:

1671 (d) Section 627.7363 ~~Sections 627.730 627.7405, when no~~
1672 ~~fault coverage is provided.~~

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1673 (3) The following provisions of the Florida Insurance Code
1674 shall apply to industrial insured captive insurers to the extent
1675 that such provisions are not inconsistent with this part:

1676 (d) Section 627.7363 ~~Sections 627.730-627.7405 when no~~
1677 ~~fault coverage is provided.~~

1678 Section 40. Paragraphs (a), (b), and (c) of subsection (4)
1679 of section 713.78, Florida Statutes, are amended to read:

1680 713.78 Liens for recovering, towing, or storing vehicles
1681 and vessels.--

1682 (4) (a) Any person regularly engaged in the business of
1683 recovering, towing, or storing vehicles or vessels who comes
1684 into possession of a vehicle or vessel pursuant to subsection
1685 (2), and who claims a lien for recovery, towing, or storage
1686 services, shall give notice to the registered owner, the
1687 insurance company insuring the vehicle ~~notwithstanding the~~
1688 ~~provisions of s. 627.736~~, and to all persons claiming a lien
1689 thereon, as disclosed by the records in the Department of
1690 Highway Safety and Motor Vehicles or of a corresponding agency
1691 in any other state.

1692 (b) Whenever any law enforcement agency authorizes the
1693 removal of a vehicle or vessel or whenever any towing service,
1694 garage, repair shop, or automotive service, storage, or parking
1695 place notifies the law enforcement agency of possession of a
1696 vehicle or vessel pursuant to s. 715.07(2)(a)2., the applicable
1697 law enforcement agency shall contact the Department of Highway
1698 Safety and Motor Vehicles, or the appropriate agency of the
1699 state of registration, if known, within 24 hours through the
1700 medium of electronic communications, giving the full description

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1701 of the vehicle or vessel. Upon receipt of the full description
1702 of the vehicle or vessel, the department shall search its files
1703 to determine the owner's name, the insurance company insuring
1704 the vehicle or vessel, and whether any person has filed a lien
1705 upon the vehicle or vessel as provided in s. 319.27(2) and (3)
1706 and notify the applicable law enforcement agency within 72
1707 hours. The person in charge of the towing service, garage,
1708 repair shop, or automotive service, storage, or parking place
1709 shall obtain such information from the applicable law
1710 enforcement agency within 5 days after the date of storage and
1711 shall give notice pursuant to paragraph (a). The department may
1712 release the insurance company information to the requestor
1713 ~~notwithstanding the provisions of s. 627.736.~~

1714 (c) Notice by certified mail, return receipt requested,
1715 shall be sent within 7 business days after the date of storage
1716 of the vehicle or vessel to the registered owner, the insurance
1717 company insuring the vehicle ~~notwithstanding the provisions of~~
1718 ~~s. 627.736~~, and all persons of record claiming a lien against
1719 the vehicle or vessel. It shall state the fact of possession of
1720 the vehicle or vessel, that a lien as provided in subsection (2)
1721 is claimed, that charges have accrued and the amount thereof,
1722 that the lien is subject to enforcement pursuant to law, and
1723 that the owner or lienholder, if any, has the right to a hearing
1724 as set forth in subsection (5), and that any vehicle or vessel
1725 which remains unclaimed, or for which the charges for recovery,
1726 towing, or storage services remain unpaid, may be sold free of
1727 all prior liens after 35 days if the vehicle or vessel is more

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1728 than 3 years of age or after 50 days if the vehicle or vessel is
1729 3 years of age or less.

1730 Section 41. Paragraph (c) of subsection (7), paragraphs
1731 (a), (b), and (c) of subsection (8), and subsection (9) of
1732 section 817.234, Florida Statutes, are amended to read:

1733 817.234 False and fraudulent insurance claims.--

1734 (7)

1735 ~~(c) An insurer, or any person acting at the direction of~~
1736 ~~or on behalf of an insurer, may not change an opinion in a~~
1737 ~~mental or physical report prepared under s. 627.736(7) or direct~~
1738 ~~the physician preparing the report to change such opinion;~~
1739 ~~however, this provision does not preclude the insurer from~~
1740 ~~calling to the attention of the physician errors of fact in the~~
1741 ~~report based upon information in the claim file. Any person who~~
1742 ~~violates this paragraph commits a felony of the third degree,~~
1743 ~~punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

1744 (8) (a) It is unlawful for any person intending to defraud
1745 any other person to solicit or cause to be solicited any
1746 business from a person involved in a motor vehicle accident for
1747 the purpose of making, adjusting, or settling motor vehicle tort
1748 claims or claims for emergency care coverage ~~personal injury~~
1749 ~~protection~~ benefits required by s. 627.7363 ~~627.736~~. Any person
1750 who violates the provisions of this paragraph commits a felony
1751 of the second degree, punishable as provided in s. 775.082, s.
1752 775.083, or s. 775.084. A person who is convicted of a violation
1753 of this subsection shall be sentenced to a minimum term of
1754 imprisonment of 2 years.

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1755 (b) A person may not solicit or cause to be solicited any
1756 business from a person involved in a motor vehicle accident by
1757 any means of communication other than advertising directed to
1758 the public for the purpose of making motor vehicle tort claims
1759 or claims for emergency care coverage ~~personal injury protection~~
1760 benefits required by s. 627.7363 ~~627.736~~, within 60 days after
1761 the occurrence of the motor vehicle accident. Any person who
1762 violates this paragraph commits a felony of the third degree,
1763 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

1764 (c) A lawyer, health care practitioner as defined in s.
1765 456.001, or owner or medical director of a clinic required to be
1766 licensed pursuant to s. 400.9905 may not, at any time after 60
1767 days have elapsed from the occurrence of a motor vehicle
1768 accident, solicit or cause to be solicited any business from a
1769 person involved in a motor vehicle accident by means of in
1770 person or telephone contact at the person's residence, for the
1771 purpose of making motor vehicle tort claims or claims for
1772 emergency care coverage ~~personal injury protection~~ benefits
1773 required by s. 627.7363 ~~627.736~~. Any person who violates this
1774 paragraph commits a felony of the third degree, punishable as
1775 provided in s. 775.082, s. 775.083, or s. 775.084.

1776 (9) A person may not organize, plan, or knowingly
1777 participate in an intentional motor vehicle crash or a scheme to
1778 create documentation of a motor vehicle crash that did not occur
1779 for the purpose of making motor vehicle tort claims or claims
1780 for emergency care coverage ~~personal injury protection~~ benefits
1781 as required by s. 627.7363 ~~627.736~~. Any person who violates this
1782 subsection commits a felony of the second degree, punishable as

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1783 provided in s. 775.082, s. 775.083, or s. 775.084. A person who
1784 is convicted of a violation of this subsection shall be
1785 sentenced to a minimum term of imprisonment of 2 years.

1786 Section 42. For the 2007-2008 fiscal year, the sum of
1787 \$2,398,278 is appropriated from the Insurance Regulatory Trust
1788 Fund to the Department of Financial Services and 30 full-time
1789 equivalent positions with 1,387,860 in associated salary rate
1790 are authorized as senior insurance fraud investigators in the
1791 Division of Insurance Fraud of the Department of Financial
1792 Services. Personnel appointed to these positions must be
1793 certified law enforcement officers. These positions shall be
1794 included within the certified law enforcement collective
1795 bargaining unit and shall have a minimum annual salary of
1796 \$46,262.

1797 Section 43. For the 2007-2008 fiscal year, the sum of
1798 \$408,000 is appropriated from the Insurance Regulatory Trust
1799 Fund to the Department of Financial Services for purposes of
1800 enforcing the Florida Motor Vehicle No-Fault Law in Miami,
1801 Orlando, and Tampa. These funds shall be transferred to the
1802 Justice Administrative Commission.

1803 Section 44. For the 2007-2008 fiscal year, the sum of
1804 \$408,000 is appropriated from the Grants and Donations Trust
1805 Fund to the Justice Administrative Commission and six full-time
1806 equivalent positions with 270,000 in associated salary rate are
1807 authorized for purposes of enforcing the Florida Motor Vehicle
1808 No-Fault Law in Miami, Orlando, and Tampa.

1809 Section 45. This act shall take effect October 1, 2007.
1810

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1811 ===== T I T L E A M E N D M E N T =====
1812 Remove the entire title and insert:
1813 A bill to be entitled
1814 An act relating to insurance; creating s. 627.7361, F.S.;
1815 providing emergency care coverage benefits security
1816 requirements for certain motor vehicle owners or
1817 registrants; providing an exemption for certain military
1818 personnel under certain circumstances; requiring the
1819 Department of Highway Safety and Motor Vehicles to suspend
1820 the registration and driver license of certain persons
1821 under certain circumstances; providing requirements and
1822 procedures for reinstatement; creating s. 627.7362, F.S.;
1823 providing requirements for proof of required security;
1824 providing a criminal penalty; creating s. 627.7363, F.S.;
1825 providing emergency care coverage requirements; specifying
1826 required benefits; providing definitions; providing
1827 limitations; providing requirements for payment of
1828 benefits; providing requirements and procedures for
1829 assignment of benefits; providing for recovery of certain
1830 damages in tort claims; providing for a presuit demand
1831 letter; providing insurer data reporting requirements;
1832 providing for secure electronic transfer of data; amending
1833 s. 627.7261, F.S.; providing a definition; prohibiting the
1834 denial of an automobile policy; prohibiting surcharges or
1835 rate increases on specified grounds; amending s. 626.2815,
1836 F.S.; revising final examination requirements for certain
1837 continuing education courses; amending s. 627.728, F.S.;
1838 revising the definition of the term "nonpayment of

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1839 premium" for certain purposes; amending s. 627.901, F.S.;

1840 providing criteria for installment payment service

1841 charges; providing that certain policies in compliance

1842 with specified security requirements in prior provisions

1843 shall be deemed to comply with the security requirement

1844 provisions created by this act until the policies expire

1845 or are terminated; providing a sunset date; amending ss.

1846 316.646, 318.18, 320.02, 320.0609, 320.27, 320.771,

1847 322.251, and 322.34, F.S.; conforming provisions to

1848 changes made by the act; amending s. 324.021, F.S.;

1849 conforming provisions to changes made by the act;

1850 providing a definition of "commercial motor vehicle" to

1851 replace language in a repealed statute; amending s.

1852 324.022, F.S.; conforming provisions to changes made by

1853 the act; providing definitions; amending ss. 324.171,

1854 400.9935, 409.901, 409.910, 456.057, 456.072, 626.9541,

1855 627.06501, 627.0652, 627.0653, 627.4132, 627.6482, and

1856 627.7263, F.S.; conforming provisions to changes made by

1857 the act; amending s. 627.727, F.S.; conforming provisions

1858 to changes made by the act; deleting provisions relating

1859 to legal liability of an uninsured motorist insurer with

1860 respect to damages in tort for pain, suffering, mental

1861 anguish, and convenience that reference repealed

1862 provisions; amending ss. 627.7275, 627.728, 627.7295,

1863 627.8405, 627.915, 628.909, 713.78, and 817.234, F.S.;

1864 conforming provisions to changes made by the act;

1865 authorizing insurance fraud investigator positions;

1866 providing an appropriation; authorizing specified

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HOUSE AMENDMENT
Bill No. CS/CS/SB 1880

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1867 | positions and providing appropriations for enforcing the
1868 | Florida Motor Vehicle No-Fault Law in specified areas;
1869 | providing an effective date.

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