

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative(s) Bogdanoff offered the following:

2
3 **Amendment to Amendment (170133) (with title amendment)**

4 Remove line(s) 556-1816 and insert:

5 to May 31, 2008, complying with the security requirement of s.
6 627.733, Florida Statutes, shall be deemed to comply with the
7 security requirements of s. 627.7361, Florida Statutes, as
8 created by this act, until that policy expires or is terminated.

9 Section 9. Effective October 1, 2012, ss. 627.7361,
10 627.7362, and 627.7363, Florida Statutes, as created by this
11 act, are repealed.

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

14 316.646 Security required; proof of security and display
15 thereof; dismissal of cases.--

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16 (1) Any person required by s. 627.7361 ~~627.733~~ to maintain
17 ~~personal injury protection~~ security on a motor vehicle shall
18 have in his or her immediate possession at all times while
19 operating such motor vehicle proper proof of maintenance of the
20 security required by s. 627.7361 ~~627.733~~ . Such proof shall be
21 either a uniform proof-of-insurance card in a form prescribed by
22 the department, a valid insurance policy, an insurance policy
23 binder, a certificate of insurance, or such other proof as may
24 be prescribed by the department.

25 (3) Any person who violates this section is guilty of a
26 nonmoving traffic infraction subject to the penalty provided in
27 chapter 318 and shall be required to furnish proof of security
28 as provided in this section. If any person charged with a
29 violation of this section fails to furnish proof, at or before
30 the scheduled court appearance date, that security was in effect
31 at the time of the violation, the court may immediately suspend
32 the registration and driver's license of such person. Such
33 license and registration may only be reinstated as provided in
34 s. 627.7361 ~~627.733~~.

35 Section 11. Paragraph (b) of subsection (2) of section
36 318.18, Florida Statutes, is amended to read:

37 318.18 Amount of civil penalties.--The penalties required
38 for a noncriminal disposition pursuant to s. 318.14 are as
39 follows:

40 (2) Thirty dollars for all nonmoving traffic violations
41 and:

42 (b) For all violations of ss. 320.0605, 320.07(1),
43 322.065, and 322.15(1). Any person who is cited for a violation
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HOUSE AMENDMENT

Bill No. HB 7215

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44 of s. 320.07(1) shall be charged a delinquent fee pursuant to s.
45 320.07(4).

46 1. If a person who is cited for a violation of s. 320.0605
47 or s. 320.07 can show proof of having a valid registration at
48 the time of arrest, the clerk of the court may dismiss the case
49 and may assess a dismissal fee of up to \$7.50. A person who
50 finds it impossible or impractical to obtain a valid
51 registration certificate must submit an affidavit detailing the
52 reasons for the impossibility or impracticality. The reasons may
53 include, but are not limited to, the fact that the vehicle was
54 sold, stolen, or destroyed; that the state in which the vehicle
55 is registered does not issue a certificate of registration; or
56 that the vehicle is owned by another person.

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

62 3. If a person who is cited for a violation of s. 316.646
63 can show proof of security as required by s. 627.7361 ~~627.733~~,
64 issued to the person and valid at the time of arrest, the clerk
65 of the court may dismiss the case and may assess a dismissal fee
66 of up to \$7.50. A person who finds it impossible or impractical
67 to obtain proof of security must submit an affidavit detailing
68 the reasons for the impracticality. The reasons may include, but
69 are not limited to, the fact that the vehicle has since been
70 sold, stolen, or destroyed; that the owner or registrant of the
71 vehicle is not required by s. 627.7361 ~~627.733~~ to maintain
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72 ~~security personal injury protection insurance~~; or that the
73 vehicle is owned by another person.

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

76 320.02 Registration required; application for
77 registration; forms.--

78 (5) (a) Proof that emergency care benefits ~~personal injury~~
79 ~~protection benefits~~ have been purchased when required under s.
80 627.7361 ~~627.733~~, that property damage liability coverage has
81 been purchased as required under s. 324.022, and that combined
82 bodily liability insurance and property damage liability
83 insurance have been purchased when required under s. 627.7415
84 shall be provided in the manner prescribed by law by the
85 applicant at the time of application for registration of any
86 motor vehicle owned as defined in s. 627.7363 ~~627.732~~. The
87 issuing agent shall refuse to issue registration if such proof
88 of purchase is not provided. Insurers shall furnish uniform
89 proof-of-purchase cards in a form prescribed by the department
90 and shall include the name of the insured's insurance company,
91 the coverage identification number, the make, year, and vehicle
92 identification number of the vehicle insured. The card shall
93 contain a statement notifying the applicant of the penalty
94 specified in s. 316.646(4). The card or insurance policy,
95 insurance policy binder, or certificate of insurance or a
96 photocopy of any of these; an affidavit containing the name of
97 the insured's insurance company, the insured's policy number,
98 and the make and year of the vehicle insured; or such other
99 proof as may be prescribed by the department shall constitute
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100 sufficient proof of purchase. If an affidavit is provided as
101 proof, it shall be in substantially the following form:

102
103 Under penalty of perjury, I (Name of insured) do hereby
104 certify that I have (Emergency Care Coverage ~~Personal Injury~~
105 ~~Protection~~, Property Damage Liability, and, when required,
106 Bodily Injury Liability) Insurance currently in effect with
107 (Name of insurance company) under (policy number) covering
108 (make, year, and vehicle identification number of vehicle) .
109 (Signature of Insured)

110

111 Such affidavit shall include the following warning:

112

113 WARNING: GIVING FALSE INFORMATION IN ORDER TO OBTAIN A VEHICLE
114 REGISTRATION CERTIFICATE IS A CRIMINAL OFFENSE UNDER FLORIDA
115 LAW. ANYONE GIVING FALSE INFORMATION ON THIS AFFIDAVIT IS
116 SUBJECT TO PROSECUTION.

117

118 When an application is made through a licensed motor vehicle
119 dealer as required in s. 319.23, the original or a photostatic
120 copy of such card, insurance policy, insurance policy binder, or
121 certificate of insurance or the original affidavit from the
122 insured shall be forwarded by the dealer to the tax collector of
123 the county or the Department of Highway Safety and Motor
124 Vehicles for processing. By executing the aforesaid affidavit,
125 no licensed motor vehicle dealer will be liable in damages for
126 any inadequacy, insufficiency, or falsification of any statement

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127 contained therein. A card shall also indicate the existence of
128 any bodily injury liability insurance voluntarily purchased.

129 (d) The verifying of proof of emergency care insurance
130 ~~personal injury protection insurance~~, proof of combined bodily
131 liability insurance and property damage liability insurance, or
132 proof of financial responsibility insurance and the issuance or
133 failure to issue the motor vehicle registration under the
134 provisions of this chapter may not be construed in any court as
135 a warranty of the reliability or accuracy of the evidence of
136 such proof. Neither the department nor any tax collector is
137 liable in damages for any inadequacy, insufficiency,
138 falsification, or unauthorized modification of any item of the
139 proof of emergency care insurance ~~personal injury protection~~
140 ~~insurance~~, proof of combined bodily liability insurance and
141 property damage liability insurance, or proof of financial
142 responsibility insurance either prior to, during, or subsequent
143 to the verification of the proof. The issuance of a motor
144 vehicle registration does not constitute prima facie evidence or
145 a presumption of insurance coverage.

146 Section 13. Paragraph (b) of subsection (1) of section
147 320.0609, Florida Statutes, is amended to read:

148 320.0609 Transfer and exchange of registration license
149 plates; transfer fee.--

150 (1)

151 (b) The transfer of a license plate from a vehicle
152 disposed of to a newly acquired vehicle does not constitute a
153 new registration. The application for transfer shall be accepted

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154 without requiring proof of emergency care ~~personal injury~~
155 ~~protection~~ or liability insurance.

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

158 320.27 Motor vehicle dealers.--

159 (3) APPLICATION AND FEE.--The application for the license
160 shall be in such form as may be prescribed by the department and
161 shall be subject to such rules with respect thereto as may be so
162 prescribed by it. Such application shall be verified by oath or
163 affirmation and shall contain a full statement of the name and
164 birth date of the person or persons applying therefor; the name
165 of the firm or copartnership, with the names and places of
166 residence of all members thereof, if such applicant is a firm or
167 copartnership; the names and places of residence of the
168 principal officers, if the applicant is a body corporate or
169 other artificial body; the name of the state under whose laws
170 the corporation is organized; the present and former place or
171 places of residence of the applicant; and prior business in
172 which the applicant has been engaged and the location thereof.
173 Such application shall describe the exact location of the place
174 of business and shall state whether the place of business is
175 owned by the applicant and when acquired, or, if leased, a true
176 copy of the lease shall be attached to the application. The
177 applicant shall certify that the location provides an adequately
178 equipped office and is not a residence; that the location
179 affords sufficient unoccupied space upon and within which
180 adequately to store all motor vehicles offered and displayed for
181 sale; and that the location is a suitable place where the

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182 applicant can in good faith carry on such business and keep and
183 maintain books, records, and files necessary to conduct such
184 business, which will be available at all reasonable hours to
185 inspection by the department or any of its inspectors or other
186 employees. The applicant shall certify that the business of a
187 motor vehicle dealer is the principal business which shall be
188 conducted at that location. Such application shall contain a
189 statement that the applicant is either franchised by a
190 manufacturer of motor vehicles, in which case the name of each
191 motor vehicle that the applicant is franchised to sell shall be
192 included, or an independent (nonfranchised) motor vehicle
193 dealer. Such application shall contain such other relevant
194 information as may be required by the department, including
195 evidence that the applicant is insured under a garage liability
196 insurance policy, which shall include, at a minimum, \$25,000
197 combined single-limit liability coverage including bodily injury
198 and property damage protection and \$10,000 emergency care
199 benefits ~~\$10,000 personal injury protection~~. Such policy shall
200 be for the license period, and evidence of a new or continued
201 policy shall be delivered to the department at the beginning of
202 each license period. Upon making such initial application, the
203 person applying therefor shall pay to the department a fee of
204 \$300 in addition to any other fees now required by law; upon
205 making a subsequent renewal application, the person applying
206 therefor shall pay to the department a fee of \$75 in addition to
207 any other fees now required by law. Upon making an application
208 for a change of location, the person shall pay a fee of \$50 in
209 addition to any other fees now required by law. The department

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210 shall, in the case of every application for initial licensure,
211 verify whether certain facts set forth in the application are
212 true. Each applicant, general partner in the case of a
213 partnership, or corporate officer and director in the case of a
214 corporate applicant, must file a set of fingerprints with the
215 department for the purpose of determining any prior criminal
216 record or any outstanding warrants. The department shall submit
217 the fingerprints to the Department of Law Enforcement for state
218 processing and forwarding to the Federal Bureau of Investigation
219 for federal processing. The actual cost of such state and
220 federal processing shall be borne by the applicant and is to be
221 in addition to the fee for licensure. The department may issue a
222 license to an applicant pending the results of the fingerprint
223 investigation, which license is fully revocable if the
224 department subsequently determines that any facts set forth in
225 the application are not true or correctly represented.

226 Section 15. Paragraph (j) of subsection (3) of section
227 320.771, Florida Statutes, is amended to read:

228 320.771 License required of recreational vehicle
229 dealers.--

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

234 (j) A statement that the applicant is insured under a
235 garage liability insurance policy, which shall include, at a
236 minimum, \$25,000 combined single-limit liability coverage,
237 including bodily injury and property damage protection, and
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238 \$10,000 emergency care coverage ~~\$10,000 personal injury~~
239 ~~protection~~, if the applicant is to be licensed as a dealer in,
240 or intends to sell, recreational vehicles.
241

242 The department shall, if it deems necessary, cause an
243 investigation to be made to ascertain if the facts set forth in
244 the application are true and shall not issue a license to the
245 applicant until it is satisfied that the facts set forth in the
246 application are true.

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

249 322.251 Notice of cancellation, suspension, revocation, or
250 disqualification of license.--

251 (1) All orders of cancellation, suspension, revocation, or
252 disqualification issued under the provisions of this chapter,
253 chapter 318, chapter 324, or s. 627.7361 ~~ss. 627.732-627.734~~
254 shall be given either by personal delivery thereof to the
255 licensee whose license is being canceled, suspended, revoked, or
256 disqualified or by deposit in the United States mail in an
257 envelope, first class, postage prepaid, addressed to the
258 licensee at his or her last known mailing address furnished to
259 the department. Such mailing by the department constitutes
260 notification, and any failure by the person to receive the
261 mailed order will not affect or stay the effective date or term
262 of the cancellation, suspension, revocation, or disqualification
263 of the licensee's driving privilege.

264 Section 17. Paragraph (a) of subsection (8) of section
265 322.34, Florida Statutes, is amended to read:

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266 322.34 Driving while license suspended, revoked, canceled,
267 or disqualified.--

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

271 1. Whether the person's driver's license is suspended or
272 revoked.

273 2. Whether the person's driver's license has remained
274 suspended or revoked since a conviction for the offense of
275 driving with a suspended or revoked license.

276 3. Whether the suspension or revocation was made under s.
277 627.7361 ~~316.646~~ or s. ~~627.733~~, relating to failure to maintain
278 required security, or under s. 322.264, relating to habitual
279 traffic offenders.

280 4. Whether the driver is the registered owner or coowner
281 of the vehicle.

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

284 324.021 Definitions; minimum insurance required.--The
285 following words and phrases when used in this chapter shall, for
286 the purpose of this chapter, have the meanings respectively
287 ascribed to them in this section, except in those instances
288 where the context clearly indicates a different meaning:

289 (1) MOTOR VEHICLE.--Every self-propelled vehicle which is
290 designed and required to be licensed for use upon a highway,
291 including trailers and semitrailers designed for use with such
292 vehicles, except traction engines, road rollers, farm tractors,
293 power shovels, and well drillers, and every vehicle which is

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294 propelled by electric power obtained from overhead wires but not
295 operated upon rails, but not including any bicycle or moped.
296 However, the term "motor vehicle" shall not include any motor
297 vehicle as defined in s. 627.7362 ~~627.732(3)~~ when the owner of
298 such vehicle has complied with the requirements of s. 627.7361
299 ~~ss. 627.730-627.7405~~, inclusive, unless the provisions of s.
300 324.051 apply; and, in such case, the applicable proof of
301 insurance provisions of s. 320.02 apply.

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

303 (c) Application.--

304 1. The limits on liability in subparagraphs (b)2. and 3.
305 do not apply to an owner of motor vehicles that are used for
306 commercial activity in the owner's ordinary course of business,
307 other than a rental company that rents or leases motor vehicles.
308 For purposes of this paragraph, the term "rental company"
309 includes only an entity that is engaged in the business of
310 renting or leasing motor vehicles to the general public and that
311 rents or leases a majority of its motor vehicles to persons with
312 no direct or indirect affiliation with the rental company. The
313 term also includes a motor vehicle dealer that provides
314 temporary replacement vehicles to its customers for up to 10
315 days. The term "rental company" also includes:

316 a. A related rental or leasing company that is a
317 subsidiary of the same parent company as that of the renting or
318 leasing company that rented or leased the vehicle.

319 b. The holder of a motor vehicle title or an equity
320 interest in a motor vehicle title if the title or equity
321 interest is held pursuant to or to facilitate an asset-backed
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322 securitization of a fleet of motor vehicles used solely in the
323 business of renting or leasing motor vehicles to the general
324 public and under the dominion and control of a rental company,
325 as described in this subparagraph, in the operation of such
326 rental company's business.

327 2. Furthermore, with respect to a commercial motor vehicle
328 ~~vehicles as defined in s. 627.732~~, the limits on liability in
329 subparagraphs (b)2. and 3. do not apply if, at the time of the
330 incident, the commercial motor vehicle is being used in the
331 transportation of materials found to be hazardous for the
332 purposes of the Hazardous Materials Transportation Authorization
333 Act of 1994, as amended, 49 U.S.C. ss. 5101 et seq., and that is
334 required pursuant to such act to carry placards warning others
335 of the hazardous cargo, unless at the time of lease or rental
336 either:

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

341 b. The lessee or other operator of the commercial motor
342 vehicle has in effect insurance with limits of at least
343 \$5,000,000 combined property damage and bodily injury liability.

344
345 For the purposes of this subparagraph, the term "commercial
346 motor vehicle" does not include a motor vehicle that is a sedan,
347 station wagon, or jeep-type vehicle and, if not used primarily
348 for occupational, professional, or business purposes, a motor
349 vehicle of the pickup, panel, van, camper, or motor home type.

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350 Section 19. Section 324.022, Florida Statutes, is amended
351 to read:

352 324.022 Financial responsibility for property damage.--

353 (1) Every owner or operator of a motor vehicle, which
354 motor vehicle is subject to the requirements of s. 627.7361 ~~ss.~~
355 ~~627.730 627.7405~~ and required to be registered in this state,
356 shall, by one of the methods established in s. 324.031 or by
357 having a policy that complies with s. 627.7275, establish and
358 maintain the ability to respond in damages for liability on
359 account of accidents arising out of the use of the motor vehicle
360 in the amount of \$10,000 because of damage to, or destruction
361 of, property of others in any one crash. The requirements of
362 this section may also be met by having a policy which provides
363 coverage in the amount of at least \$30,000 for combined property
364 damage liability and bodily injury liability for any one crash
365 arising out of the use of the motor vehicle. No insurer shall
366 have any duty to defend uncovered claims irrespective of their
367 joinder with covered claims.

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

369 (a) "Motor vehicle" means any self-propelled vehicle with
370 four or more wheels which is of a type both designed and
371 required to be licensed for use on the highways of this state
372 and any trailer or semitrailer designed for use with such
373 vehicle and includes a private passenger motor vehicle and a
374 commercial motor vehicle. The term "motor vehicle" does not
375 include a mobile home or any motor vehicle which is used in mass
376 transit, other than public school transportation, and designed
377 to transport more than five passengers exclusive of the operator

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378 of the motor vehicle and which is owned by a municipality, a
379 transit authority, or a political subdivision of the state.

380 (b) "Private passenger motor vehicle" means any motor
381 vehicle which is a sedan, station wagon, or jeep-type vehicle
382 and, if not used primarily for occupational, professional, or
383 business purposes, a motor vehicle of the pickup, panel, van,
384 camper, or motor home type.

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

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

389 324.171 Self-insurer.--

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

394 Section 21. Paragraph (g) of subsection (1) of section
395 400.9935, Florida Statutes, is amended to read:

396 400.9935 Clinic responsibilities.--

397 (1) Each clinic shall appoint a medical director or clinic
398 director who shall agree in writing to accept legal
399 responsibility for the following activities on behalf of the
400 clinic. The medical director or the clinic director shall:

401 (g) Conduct systematic reviews of clinic billings to
402 ensure that the billings are not fraudulent or unlawful. Upon
403 discovery of an unlawful charge, the medical director or clinic
404 director shall take immediate corrective action. ~~If the clinic~~
405 ~~performs only the technical component of magnetic resonance~~

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406 ~~imaging, static radiographs, computed tomography, or positron~~
407 ~~emission tomography, and provides the professional~~
408 ~~interpretation of such services, in a fixed facility that is~~
409 ~~accredited by the Joint Commission on Accreditation of~~
410 ~~Healthcare Organizations or the Accreditation Association for~~
411 ~~Ambulatory Health Care, and the American College of Radiology,~~
412 ~~and if, in the preceding quarter, the percentage of scans~~
413 ~~performed by that clinic which was billed to all personal injury~~
414 ~~protection insurance carriers was less than 15 percent, the~~
415 ~~chief financial officer of the clinic may, in a written~~
416 ~~acknowledgment provided to the agency, assume the responsibility~~
417 ~~for the conduct of the systematic reviews of clinic billings to~~
418 ~~ensure that the billings are not fraudulent or unlawful.~~

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

421 409.901 Definitions; ss. 409.901-409.920.--As used in ss.
422 409.901-409.920, except as otherwise specifically provided, the
423 term:

424 (27) "Third-party benefit" means any benefit that is or
425 may be available at any time through contract, court award,
426 judgment, settlement, agreement, or any arrangement between a
427 third party and any person or entity, including, without
428 limitation, a Medicaid recipient, a provider, another third
429 party, an insurer, or the agency, for any Medicaid-covered
430 injury, illness, goods, or services, including costs of medical
431 services related thereto, for personal injury or for death of
432 the recipient, but specifically excluding policies of life
433 insurance on the recipient, unless available under terms of the

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434 policy to pay medical expenses prior to death. The term
435 includes, without limitation, collateral, as defined in this
436 section, health insurance, any benefit under a health
437 maintenance organization, a preferred provider arrangement, a
438 prepaid health clinic, liability insurance, uninsured motorist
439 insurance or emergency care ~~personal injury protection~~ coverage,
440 medical benefits under workers' compensation, and any obligation
441 under law or equity to provide medical support.

442 Section 23. Paragraph (f) of subsection (11) of section
443 409.910, Florida Statutes, is amended to read:

444 409.910 Responsibility for payments on behalf of Medicaid-
445 eligible persons when other parties are liable.--

446 (11) The agency may, as a matter of right, in order to
447 enforce its rights under this section, institute, intervene in,
448 or join any legal or administrative proceeding in its own name
449 in one or more of the following capacities: individually, as
450 subrogee of the recipient, as assignee of the recipient, or as
451 lienholder of the collateral.

452 (f) Notwithstanding any provision in this section to the
453 contrary, in the event of an action in tort against a third
454 party in which the recipient or his or her legal representative
455 is a party which results in a judgment, award, or settlement
456 from a third party, the amount recovered shall be distributed as
457 follows:

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

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462 2. The remaining amount of the recovery shall be paid to
463 the recipient.

464 3. For purposes of calculating the agency's recovery of
465 medical assistance benefits paid, the fee for services of an
466 attorney retained by the recipient or his or her legal
467 representative shall be calculated at 25 percent of the
468 judgment, award, or settlement.

469 4. Notwithstanding any provision of this section to the
470 contrary, the agency shall be entitled to all medical coverage
471 benefits up to the total amount of medical assistance provided
472 by Medicaid. For purposes of this paragraph, "medical coverage"
473 means any benefits under health insurance, a health maintenance
474 organization, a preferred provider arrangement, or a prepaid
475 health clinic, and the portion of benefits designated for
476 medical payments under coverage for workers' compensation,
477 emergency care ~~personal injury protection~~, and casualty.

478 Section 24. Paragraph (k) of subsection (2) of section
479 456.057, Florida Statutes, is amended to read:

480 456.057 Ownership and control of patient records; report
481 or copies of records to be furnished.--

482 (2) As used in this section, the terms "records owner,"
483 "health care practitioner," and "health care practitioner's
484 employer" do not include any of the following persons or
485 entities; furthermore, the following persons or entities are not
486 authorized to acquire or own medical records, but are authorized
487 under the confidentiality and disclosure requirements of this
488 section to maintain those documents required by the part or
489 chapter under which they are licensed or regulated:

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

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

493 456.072 Grounds for discipline; penalties; enforcement.--

494 (1) The following acts shall constitute grounds for which
495 the disciplinary actions specified in subsection (2) may be
496 taken:

497 (ee) With respect to making an emergency care ~~a personal~~
498 ~~injury protection~~ claim as required by ~~s. 627.736~~, intentionally
499 submitting a claim, statement, or bill that has been "upcoded,"
500 which means submitting a billing code that would result in
501 payment greater in amount that would be paid using the billing
502 code that actually describes the services performed as defined
503 ~~in s. 627.732.~~

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

508 Section 26. Paragraph (o) of subsection (1) of section
509 626.9541, Florida Statutes, is amended to read:

510 626.9541 Unfair methods of competition and unfair or
511 deceptive acts or practices defined.--

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

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

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517 1. Knowingly collecting any sum as a premium or charge for
518 insurance, which is not then provided, or is not in due course
519 to be provided, subject to acceptance of the risk by the
520 insurer, by an insurance policy issued by an insurer as
521 permitted by this code.

522 2. Knowingly collecting as a premium or charge for
523 insurance any sum in excess of or less than the premium or
524 charge applicable to such insurance, in accordance with the
525 applicable classifications and rates as filed with and approved
526 by the office, and as specified in the policy; or, in cases when
527 classifications, premiums, or rates are not required by this
528 code to be so filed and approved, premiums and charges collected
529 from a Florida resident in excess of or less than those
530 specified in the policy and as fixed by the insurer. This
531 provision shall not be deemed to prohibit the charging and
532 collection, by surplus lines agents licensed under part VIII of
533 this chapter, of the amount of applicable state and federal
534 taxes, or fees as authorized by s. 626.916(4), in addition to
535 the premium required by the insurer or the charging and
536 collection, by licensed agents, of the exact amount of any
537 discount or other such fee charged by a credit card facility in
538 connection with the use of a credit card, as authorized by
539 subparagraph (q)3., in addition to the premium required by the
540 insurer. This subparagraph shall not be construed to prohibit
541 collection of a premium for a universal life or a variable or
542 indeterminate value insurance policy made in accordance with the
543 terms of the contract.

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544 3.a. Imposing or requesting an additional premium for a
545 policy of motor vehicle liability, emergency care coverage
546 ~~personal injury protection~~, medical payment, or collision
547 insurance or any combination thereof or refusing to renew the
548 policy solely because the insured was involved in a motor
549 vehicle accident unless the insurer's file contains information
550 from which the insurer in good faith determines that the insured
551 was substantially at fault in the accident.

552 b. An insurer which imposes and collects such a surcharge
553 or which refuses to renew such policy shall, in conjunction with
554 the notice of premium due or notice of nonrenewal, notify the
555 named insured that he or she is entitled to reimbursement of
556 such amount or renewal of the policy under the conditions listed
557 below and will subsequently reimburse him or her or renew the
558 policy, if the named insured demonstrates that the operator
559 involved in the accident was:

560 (I) Lawfully parked;

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

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

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

569 (V) Not convicted of a moving traffic violation in
570 connection with the accident, but the operator of the other

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571 automobile involved in such accident was convicted of a moving
572 traffic violation;

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

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

577 (VIII) Not at fault as evidenced by a written statement
578 from the insured establishing facts demonstrating lack of fault
579 which are not rebutted by information in the insurer's file from
580 which the insurer in good faith determines that the insured was
581 substantially at fault.

582 c. In addition to the other provisions of this
583 subparagraph, an insurer may not fail to renew a policy if the
584 insured has had only one accident in which he or she was at
585 fault within the current 3-year period. However, an insurer may
586 nonrenew a policy for reasons other than accidents in accordance
587 with s. 627.728. This subparagraph does not prohibit nonrenewal
588 of a policy under which the insured has had three or more
589 accidents, regardless of fault, during the most recent 3-year
590 period.

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

595 a. A second infraction committed within an 18-month
596 period, or a third or subsequent infraction committed within a
597 36-month period.

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

601 5. Upon the request of the insured, the insurer and
602 licensed agent shall supply to the insured the complete proof of
603 fault or other criteria which justifies the additional charge or
604 cancellation.

605 6. No insurer shall impose or request an additional
606 premium for motor vehicle insurance, cancel or refuse to issue a
607 policy, or refuse to renew a policy because the insured or the
608 applicant is a handicapped or physically disabled person, so
609 long as such handicap or physical disability does not
610 substantially impair such person's mechanically assisted driving
611 ability.

612 7. No insurer may cancel or otherwise terminate any
613 insurance contract or coverage, or require execution of a
614 consent to rate endorsement, during the stated policy term for
615 the purpose of offering to issue, or issuing, a similar or
616 identical contract or coverage to the same insured with the same
617 exposure at a higher premium rate or continuing an existing
618 contract or coverage with the same exposure at an increased
619 premium.

620 8. No insurer may issue a nonrenewal notice on any
621 insurance contract or coverage, or require execution of a
622 consent to rate endorsement, for the purpose of offering to
623 issue, or issuing, a similar or identical contract or coverage
624 to the same insured at a higher premium rate or continuing an

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625 existing contract or coverage at an increased premium without
626 meeting any applicable notice requirements.

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

630 10. Imposing or requesting an additional premium for motor
631 vehicle comprehensive or uninsured motorist coverage solely
632 because the insured was involved in a motor vehicle accident or
633 was convicted of a moving traffic violation.

634 11. No insurer shall cancel or issue a nonrenewal notice
635 on any insurance policy or contract without complying with any
636 applicable cancellation or nonrenewal provision required under
637 the Florida Insurance Code.

638 12. No insurer shall impose or request an additional
639 premium, cancel a policy, or issue a nonrenewal notice on any
640 insurance policy or contract because of any traffic infraction
641 when adjudication has been withheld and no points have been
642 assessed pursuant to s. 318.14(9) and (10). However, this
643 subparagraph does not apply to traffic infractions involving
644 accidents in which the insurer has incurred a loss due to the
645 fault of the insured.

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

648 627.06501 Insurance discounts for certain persons
649 completing driver improvement course.--

650 (1) Any rate, rating schedule, or rating manual for the
651 liability, emergency care ~~personal injury protection~~, and
652 collision coverages of a motor vehicle insurance policy filed
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653 with the office may provide for an appropriate reduction in
654 premium charges as to such coverages when the principal operator
655 on the covered vehicle has successfully completed a driver
656 improvement course approved and certified by the Department of
657 Highway Safety and Motor Vehicles which is effective in reducing
658 crash or violation rates, or both, as determined pursuant to s.
659 318.1451(5). Any discount, not to exceed 10 percent, used by an
660 insurer is presumed to be appropriate unless credible data
661 demonstrates otherwise.

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

664 627.0652 Insurance discounts for certain persons
665 completing safety course.--

666 (1) Any rates, rating schedules, or rating manuals for the
667 liability, emergency care ~~personal injury protection~~, and
668 collision coverages of a motor vehicle insurance policy filed
669 with the office shall provide for an appropriate reduction in
670 premium charges as to such coverages when the principal operator
671 on the covered vehicle is an insured 55 years of age or older
672 who has successfully completed a motor vehicle accident
673 prevention course approved by the Department of Highway Safety
674 and Motor Vehicles. Any discount used by an insurer is presumed
675 to be appropriate unless credible data demonstrates otherwise.

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

678 627.0653 Insurance discounts for specified motor vehicle
679 equipment.--

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680 (1) Any rates, rating schedules, or rating manuals for the
681 liability, emergency care ~~personal injury protection~~, and
682 collision coverages of a motor vehicle insurance policy filed
683 with the office shall provide a premium discount if the insured
684 vehicle is equipped with factory-installed, four-wheel antilock
685 brakes.

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

692 Section 30. Section 627.4132, Florida Statutes, is amended
693 to read:

694 627.4132 Stacking of coverages prohibited.--If an insured
695 or named insured is protected by any type of motor vehicle
696 insurance policy for liability, emergency care ~~personal injury~~
697 ~~protection~~, or other coverage, the policy shall provide that the
698 insured or named insured is protected only to the extent of the
699 coverage she or he has on the vehicle involved in the accident.
700 However, if none of the insured's or named insured's vehicles is
701 involved in the accident, coverage is available only to the
702 extent of coverage on any one of the vehicles with applicable
703 coverage. Coverage on any other vehicles shall not be added to
704 or stacked upon that coverage. This section does not apply:

705 (1) To uninsured motorist coverage which is separately
706 governed by s. 627.727.

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

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

711 627.6482 Definitions.--As used in ss. 627.648-627.6498,
712 the term:

713 (6) "Health insurance" means any hospital and medical
714 expense incurred policy, minimum premium plan, stop-loss
715 coverage, health maintenance organization contract, prepaid
716 health clinic contract, multiple-employer welfare arrangement
717 contract, or fraternal benefit society health benefits contract,
718 whether sold as an individual or group policy or contract. The
719 term does not include any policy covering medical payment
720 coverage or emergency care ~~personal injury protection~~ coverage
721 in a motor vehicle policy, coverage issued as a supplement to
722 liability insurance, or workers' compensation.

723 Section 32. Section 627.7263, Florida Statutes, is amended
724 to read:

725 627.7263 Rental and leasing driver's insurance to be
726 primary; exception.--

727 (1) The valid and collectible liability insurance or
728 emergency care ~~personal injury protection~~ insurance providing
729 coverage for the lessor of a motor vehicle for rent or lease is
730 primary unless otherwise stated in at least 10-point type on the
731 face of the rental or lease agreement. Such insurance is primary
732 for the limits of liability and emergency care ~~personal injury~~
733 ~~protection~~ coverage as required by ss. 324.021(7) and 627.7363
734 ~~627.736~~.

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

738
739 "The valid and collectible liability insurance and
740 emergency care ~~personal injury protection~~ insurance of any
741 authorized rental or leasing driver is primary for the
742 limits of liability and emergency care ~~personal injury~~
743 ~~protection~~ coverage required by ss. 324.021(7) and 627.7363
744 ~~627.736~~, Florida Statutes."

745
746 Section 33. Subsections (1), (7), (8), (9), and (10) of
747 section 627.727, Florida Statutes, are amended to read:

748 627.727 Motor vehicle insurance; uninsured and
749 underinsured vehicle coverage; insolvent insurer protection.--

750 (1) No motor vehicle liability insurance policy which
751 provides bodily injury liability coverage shall be delivered or
752 issued for delivery in this state with respect to any
753 specifically insured or identified motor vehicle registered or
754 principally garaged in this state unless uninsured motor vehicle
755 coverage is provided therein or supplemental thereto for the
756 protection of persons insured thereunder who are legally
757 entitled to recover damages from owners or operators of
758 uninsured motor vehicles because of bodily injury, sickness, or
759 disease, including death, resulting therefrom. However, the
760 coverage required under this section is not applicable when, or
761 to the extent that, an insured named in the policy makes a
762 written rejection of the coverage on behalf of all insureds

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HOUSE AMENDMENT

Bill No. HB 7215

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763 | under the policy. When a motor vehicle is leased for a period of
764 | 1 year or longer and the lessor of such vehicle, by the terms of
765 | the lease contract, provides liability coverage on the leased
766 | vehicle, the lessee of such vehicle shall have the sole
767 | privilege to reject uninsured motorist coverage or to select
768 | lower limits than the bodily injury liability limits, regardless
769 | of whether the lessor is qualified as a self-insurer pursuant to
770 | s. 324.171. Unless an insured, or lessee having the privilege of
771 | rejecting uninsured motorist coverage, requests such coverage or
772 | requests higher uninsured motorist limits in writing, the
773 | coverage or such higher uninsured motorist limits need not be
774 | provided in or supplemental to any other policy which renews,
775 | extends, changes, supersedes, or replaces an existing policy
776 | with the same bodily injury liability limits when an insured or
777 | lessee had rejected the coverage. When an insured or lessee has
778 | initially selected limits of uninsured motorist coverage lower
779 | than her or his bodily injury liability limits, higher limits of
780 | uninsured motorist coverage need not be provided in or
781 | supplemental to any other policy which renews, extends, changes,
782 | supersedes, or replaces an existing policy with the same bodily
783 | injury liability limits unless an insured requests higher
784 | uninsured motorist coverage in writing. The rejection or
785 | selection of lower limits shall be made on a form approved by
786 | the office. The form shall fully advise the applicant of the
787 | nature of the coverage and shall state that the coverage is
788 | equal to bodily injury liability limits unless lower limits are
789 | requested or the coverage is rejected. The heading of the form
790 | shall be in 12-point bold type and shall state: "You are

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791 | electing not to purchase certain valuable coverage which
792 | protects you and your family or you are purchasing uninsured
793 | motorist limits less than your bodily injury liability limits
794 | when you sign this form. Please read carefully." If this form is
795 | signed by a named insured, it will be conclusively presumed that
796 | there was an informed, knowing rejection of coverage or election
797 | of lower limits on behalf of all insureds. The insurer shall
798 | notify the named insured at least annually of her or his options
799 | as to the coverage required by this section. Such notice shall
800 | be part of, and attached to, the notice of premium, shall
801 | provide for a means to allow the insured to request such
802 | coverage, and shall be given in a manner approved by the office.
803 | Receipt of this notice does not constitute an affirmative waiver
804 | of the insured's right to uninsured motorist coverage where the
805 | insured has not signed a selection or rejection form. The
806 | coverage described under this section shall be over and above,
807 | but shall not duplicate, the benefits available to an insured
808 | under any workers' compensation law, emergency care ~~personal~~
809 | ~~injury protection~~ benefits, disability benefits law, or similar
810 | law; under any automobile medical expense coverage; under any
811 | motor vehicle liability insurance coverage; or from the owner or
812 | operator of the uninsured motor vehicle or any other person or
813 | organization jointly or severally liable together with such
814 | owner or operator for the accident; and such coverage shall
815 | cover the difference, if any, between the sum of such benefits
816 | and the damages sustained, up to the maximum amount of such
817 | coverage provided under this section. The amount of coverage
818 | available under this section shall not be reduced by a setoff

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819 against any coverage, including liability insurance. Such
820 coverage shall not inure directly or indirectly to the benefit
821 of any workers' compensation or disability benefits carrier or
822 any person or organization qualifying as a self-insurer under
823 any workers' compensation or disability benefits law or similar
824 law.

825 ~~(7) The legal liability of an uninsured motorist coverage~~
826 ~~insurer does not include damages in tort for pain, suffering,~~
827 ~~mental anguish, and inconvenience unless the injury or disease~~
828 ~~is described in one or more of paragraphs (a) - (d) of s.~~
829 ~~627.737(2).~~

830 (7)~~(8)~~ The provisions of s. 627.428 do not apply to any
831 action brought pursuant to this section against the uninsured
832 motorist insurer unless there is a dispute over whether the
833 policy provides coverage for an uninsured motorist proven to be
834 liable for the accident.

835 (8)~~(9)~~ Insurers may offer policies of uninsured motorist
836 coverage containing policy provisions, in language approved by
837 the office, establishing that if the insured accepts this offer:

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

842 (b) If at the time of the accident the injured person is
843 occupying a motor vehicle, the uninsured motorist coverage
844 available to her or him is the coverage available as to that
845 motor vehicle.

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846 (c) If the injured person is occupying a motor vehicle
847 which is not owned by her or him or by a family member residing
848 with her or him, the injured person is entitled to the highest
849 limits of uninsured motorist coverage afforded for any one
850 vehicle as to which she or he is a named insured or insured
851 family member. Such coverage shall be excess over the coverage
852 on the vehicle the injured person is occupying.

853 (d) The uninsured motorist coverage provided by the policy
854 does not apply to the named insured or family members residing
855 in her or his household who are injured while occupying any
856 vehicle owned by such insureds for which uninsured motorist
857 coverage was not purchased.

858 (e) If, at the time of the accident the injured person is
859 not occupying a motor vehicle, she or he is entitled to select
860 any one limit of uninsured motorist coverage for any one vehicle
861 afforded by a policy under which she or he is insured as a named
862 insured or as an insured resident of the named insured's
863 household.

864
865 In connection with the offer authorized by this subsection,
866 insurers shall inform the named insured, applicant, or lessee,
867 on a form approved by the office, of the limitations imposed
868 under this subsection and that such coverage is an alternative
869 to coverage without such limitations. If this form is signed by
870 a named insured, applicant, or lessee, it shall be conclusively
871 presumed that there was an informed, knowing acceptance of such
872 limitations. When the named insured, applicant, or lessee has
873 initially accepted such limitations, such acceptance shall apply

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874 to any policy which renews, extends, changes, supersedes, or
875 replaces an existing policy unless the named insured requests
876 deletion of such limitations and pays the appropriate premium
877 for such coverage. Any insurer who provides coverage which
878 includes the limitations provided in this subsection shall file
879 revised premium rates with the office for such uninsured
880 motorist coverage to take effect prior to initially providing
881 such coverage. The revised rates shall reflect the anticipated
882 reduction in loss costs attributable to such limitations but
883 shall in any event reflect a reduction in the uninsured motorist
884 coverage premium of at least 20 percent for policies with such
885 limitations. Such filing shall not increase the rates for
886 coverage which does not contain the limitations authorized by
887 this subsection, and such rates shall remain in effect until the
888 insurer demonstrates the need for a change in uninsured motorist
889 rates pursuant to s. 627.0651.

890 (9)~~(10)~~ The damages recoverable from an uninsured motorist
891 carrier in an action brought under s. 624.155 shall include the
892 total amount of the claimant's damages, including the amount in
893 excess of the policy limits, any interest on unpaid benefits,
894 reasonable attorney's fees and costs, and any damages caused by
895 a violation of a law of this state. The total amount of the
896 claimant's damages is recoverable whether caused by an insurer
897 or by a third-party tortfeasor.

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

901 627.7275 Motor vehicle liability.--

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902 (1) A motor vehicle insurance policy providing emergency
903 care coverage ~~personal injury protection~~ as set forth in s.
904 627.7363 ~~627.736~~ may not be delivered or issued for delivery in
905 this state with respect to any specifically insured or
906 identified motor vehicle registered or principally garaged in
907 this state unless the policy also provides coverage for property
908 damage liability in the amount of at least \$10,000 because of
909 damage to, or destruction of, property of others in any one
910 accident arising out of the use of the motor vehicle or unless
911 the policy provides coverage in the amount of at least \$30,000
912 for combined property damage liability and bodily injury
913 liability in any one accident arising out of the use of the
914 motor vehicle. The policy, as to coverage of property damage
915 liability, must meet the applicable requirements of s. 324.151,
916 subject to the usual policy exclusions that have been approved
917 in policy forms by the office.

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

921 1. Coverage under policies as described in subsection (1)
922 to any applicant for private passenger motor vehicle insurance
923 coverage who is seeking the coverage in order to reinstate the
924 applicant's driving privileges in this state when the driving
925 privileges were revoked or suspended pursuant to s. 316.646 or
926 s. 627.7361 ~~627.733~~ due to the failure of the applicant to
927 maintain required security.

928 2. Coverage under policies as described in subsection (1),
929 which also provides liability coverage for bodily injury, death,
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930 and property damage arising out of the ownership, maintenance,
931 or use of the motor vehicle in an amount not less than the
932 limits described in s. 324.021(7) and conforms to the
933 requirements of s. 324.151, to any applicant for private
934 passenger motor vehicle insurance coverage who is seeking the
935 coverage in order to reinstate the applicant's driving
936 privileges in this state after such privileges were revoked or
937 suspended under s. 316.193 or s. 322.26(2) for driving under the
938 influence.

939 (b) The policies described in paragraph (a) shall be
940 issued for a period of at least 6 months and as to the minimum
941 coverages required under this section shall not be cancelable by
942 the insured for any reason or by the insurer after a period not
943 to exceed 30 days during which the insurer must complete
944 underwriting of the policy. After the insurer has completed
945 underwriting the policy within the 30-day period, the insurer
946 shall notify the Department of Highway Safety and Motor Vehicles
947 that the policy is in full force and effect and the policy shall
948 not be cancelable for the remainder of the policy period. A
949 premium shall be collected and coverage shall be in effect for
950 the 30-day period during which the insurer is completing the
951 underwriting of the policy whether or not the person's driver
952 license, motor vehicle tag, and motor vehicle registration are
953 in effect. Once the noncancelable provisions of the policy
954 become effective, the coverage or risk shall not be changed
955 during the policy period and the premium shall be nonrefundable.
956 If, during ~~the pendency of the 2 year proof of insurance period~~
957 ~~required under s. 627.733(7) or during the 3-year proof of~~
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958 financial responsibility required under s. 324.131, ~~whichever is~~
959 ~~applicable~~, the insured obtains additional coverage or coverage
960 for an additional risk or changes territories, the insured must
961 obtain a new 6-month noncancelable policy in accordance with the
962 provisions of this section. However, if the insured must obtain
963 a new 6-month policy and obtains the policy from the same
964 insurer, the policyholder shall receive credit on the new policy
965 for any premium paid on the previously issued policy.

966 Section 35. Paragraph (a) of subsection (1) of section
967 627.728, Florida Statutes, is amended to read:

968 627.728 Cancellations; nonrenewals.--

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

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

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

977 2. Insuring only a motor vehicle of the private passenger
978 type or station wagon type which is not used as a public or
979 livery conveyance for passengers or rented to others; or
980 insuring any other four-wheel motor vehicle having a load
981 capacity of 1,500 pounds or less which is not used in the
982 occupation, profession, or business of the insured other than
983 farming; other than any policy issued under an automobile
984 insurance assigned risk plan; insuring more than four
985 automobiles; or covering garage, automobile sales agency, repair
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986 shop, service station, or public parking place operation
987 hazards.

988
989 The term "policy" does not include a binder as defined in s.
990 627.420 unless the duration of the binder period exceeds 60
991 days.

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

995 627.7295 Motor vehicle insurance contracts.--

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

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

1000 (b) "Binder" means a binder that provides motor vehicle
1001 emergency care ~~personal injury protection~~ and property damage
1002 liability coverage.

1003 (5)(a) A licensed general lines agent may charge a per-
1004 policy fee not to exceed \$10 to cover the administrative costs
1005 of the agent associated with selling the motor vehicle insurance
1006 policy if the policy covers only emergency care ~~personal injury~~
1007 ~~protection~~ coverage as provided by s. 627.7363 ~~627.736~~ and
1008 property damage liability coverage as provided by s. 627.7275
1009 and if no other insurance is sold or issued in conjunction with
1010 or collateral to the policy. The fee is not considered part of
1011 the premium.

1012 (6) If a motor vehicle owner's driver license, license
1013 plate, and registration have previously been suspended pursuant
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1014 to s. 316.646 or s. 627.7361 ~~627.733~~, an insurer may cancel a
1015 new policy only as provided in s. 627.7275.

1016 (7) A policy of private passenger motor vehicle insurance
1017 or a binder for such a policy may be initially issued in this
1018 state only if the insurer or agent has collected from the
1019 insured an amount equal to 2 months' premium. An insurer, agent,
1020 or premium finance company may not directly or indirectly take
1021 any action resulting in the insured having paid from the
1022 insured's own funds an amount less than the 2 months' premium
1023 required by this subsection. This subsection applies without
1024 regard to whether the premium is financed by a premium finance
1025 company or is paid pursuant to a periodic payment plan of an
1026 insurer or an insurance agent. This subsection does not apply if
1027 an insured or member of the insured's family is renewing or
1028 replacing a policy or a binder for such policy written by the
1029 same insurer or a member of the same insurer group. This
1030 subsection does not apply to an insurer that issues private
1031 passenger motor vehicle coverage primarily to active duty or
1032 former military personnel or their dependents. This subsection
1033 does not apply if all policy payments are paid pursuant to a
1034 payroll deduction plan or an automatic electronic funds transfer
1035 payment plan from the policyholder, provided that the first
1036 policy payment is made by cash, cashier's check, check, or a
1037 money order. This subsection and subsection (4) do not apply if
1038 all policy payments to an insurer are paid pursuant to an
1039 automatic electronic funds transfer payment plan from an agent
1040 or a managing general agent and if the policy includes, at a
1041 minimum, emergency care coverage ~~personal injury protection~~

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1042 pursuant to s. 627.7363 ~~ss. 627.730-627.7405~~; motor vehicle
1043 property damage liability pursuant to s. 627.7275; and bodily
1044 injury liability in at least the amount of \$10,000 because of
1045 bodily injury to, or death of, one person in any one accident
1046 and in the amount of \$20,000 because of bodily injury to, or
1047 death of, two or more persons in any one accident. This
1048 subsection and subsection (4) do not apply if an insured has had
1049 a policy in effect for at least 6 months, the insured's agent is
1050 terminated by the insurer that issued the policy, and the
1051 insured obtains coverage on the policy's renewal date with a new
1052 company through the terminated agent.

1053 Section 37. Section 627.8405, Florida Statutes, is amended
1054 to read:

1055 627.8405 Prohibited acts; financing companies.--No premium
1056 finance company shall, in a premium finance agreement or other
1057 agreement, finance the cost of or otherwise provide for the
1058 collection or remittance of dues, assessments, fees, or other
1059 periodic payments of money for the cost of:

1060 (1) A membership in an automobile club. The term
1061 "automobile club" means a legal entity which, in consideration
1062 of dues, assessments, or periodic payments of money, promises
1063 its members or subscribers to assist them in matters relating to
1064 the ownership, operation, use, or maintenance of a motor
1065 vehicle; however, this definition of "automobile club" does not
1066 include persons, associations, or corporations which are
1067 organized and operated solely for the purpose of conducting,
1068 sponsoring, or sanctioning motor vehicle races, exhibitions, or
1069 contests upon racetracks, or upon racecourses established and
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1070 marked as such for the duration of such particular events. The
1071 words "motor vehicle" used herein have the same meaning as
1072 defined in chapter 320.

1073 (2) An accidental death and dismemberment policy sold in
1074 combination with an emergency care coverage ~~a personal injury~~
1075 ~~protection~~ and property damage only policy.

1076 (3) Any product not regulated under the provisions of this
1077 insurance code.

1078

1079 This section also applies to premium financing by any insurance
1080 agent or insurance company under part XVI. The commission shall
1081 adopt rules to assure disclosure, at the time of sale, of
1082 coverages financed with emergency care coverage ~~personal injury~~
1083 ~~protection~~ and shall prescribe the form of such disclosure.

1084 Section 38. Subsection (1) of section 627.915, Florida
1085 Statutes, is amended to read:

1086 627.915 Insurer experience reporting.--

1087 (1) Each insurer transacting private passenger automobile
1088 insurance in this state shall report certain information
1089 annually to the office. The information will be due on or before
1090 July 1 of each year. The information shall be divided into the
1091 following categories: bodily injury liability; property damage
1092 liability; uninsured motorist; emergency care coverage ~~personal~~
1093 ~~injury protection benefits~~; medical payments; comprehensive and
1094 collision. The information given shall be on direct insurance
1095 writings in the state alone and shall represent total limits
1096 data. The information set forth in paragraphs (a)-(f) is
1097 applicable to voluntary private passenger and Joint Underwriting
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1098 Association private passenger writings and shall be reported for
1099 each of the latest 3 calendar-accident years, with an evaluation
1100 date of March 31 of the current year. The information set forth
1101 in paragraphs (g)-(j) is applicable to voluntary private
1102 passenger writings and shall be reported on a calendar-accident
1103 year basis ultimately seven times at seven different stages of
1104 development.

1105 (a) Premiums earned for the latest 3 calendar-accident
1106 years.

1107 (b) Loss development factors and the historic development
1108 of those factors.

1109 (c) Policyholder dividends incurred.

1110 (d) Expenses for other acquisition and general expense.

1111 (e) Expenses for agents' commissions and taxes, licenses,
1112 and fees.

1113 (f) Profit and contingency factors as utilized in the
1114 insurer's automobile rate filings for the applicable years.

1115 (g) Losses paid.

1116 (h) Losses unpaid.

1117 (i) Loss adjustment expenses paid.

1118 (j) Loss adjustment expenses unpaid.

1119 Section 39. Paragraph (d) of subsection (2) and paragraph
1120 (d) of subsection (3) of section 628.909, Florida Statutes, are
1121 amended to read:

1122 628.909 Applicability of other laws.--

1123 (2) The following provisions of the Florida Insurance Code
1124 shall apply to captive insurers who are not industrial insured

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1125 captive insurers to the extent that such provisions are not
1126 inconsistent with this part:

1127 (d) Section 627.7363 ~~Sections 627.730 627.7405, when no~~
1128 ~~fault coverage is provided.~~

1129 (3) The following provisions of the Florida Insurance Code
1130 shall apply to industrial insured captive insurers to the extent
1131 that such provisions are not inconsistent with this part:

1132 (d) Section 627.7363 ~~Sections 627.730 627.7405 when no~~
1133 ~~fault coverage is provided.~~

1134 Section 40. Paragraphs (a), (b), and (c) of subsection (4)
1135 of section 713.78, Florida Statutes, are amended to read:

1136 713.78 Liens for recovering, towing, or storing vehicles
1137 and vessels.--

1138 (4) (a) Any person regularly engaged in the business of
1139 recovering, towing, or storing vehicles or vessels who comes
1140 into possession of a vehicle or vessel pursuant to subsection
1141 (2), and who claims a lien for recovery, towing, or storage
1142 services, shall give notice to the registered owner, the
1143 insurance company insuring the vehicle ~~notwithstanding the~~
1144 ~~provisions of s. 627.736~~, and to all persons claiming a lien
1145 thereon, as disclosed by the records in the Department of
1146 Highway Safety and Motor Vehicles or of a corresponding agency
1147 in any other state.

1148 (b) Whenever any law enforcement agency authorizes the
1149 removal of a vehicle or vessel or whenever any towing service,
1150 garage, repair shop, or automotive service, storage, or parking
1151 place notifies the law enforcement agency of possession of a
1152 vehicle or vessel pursuant to s. 715.07(2)(a)2., the applicable
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1153 law enforcement agency shall contact the Department of Highway
1154 Safety and Motor Vehicles, or the appropriate agency of the
1155 state of registration, if known, within 24 hours through the
1156 medium of electronic communications, giving the full description
1157 of the vehicle or vessel. Upon receipt of the full description
1158 of the vehicle or vessel, the department shall search its files
1159 to determine the owner's name, the insurance company insuring
1160 the vehicle or vessel, and whether any person has filed a lien
1161 upon the vehicle or vessel as provided in s. 319.27(2) and (3)
1162 and notify the applicable law enforcement agency within 72
1163 hours. The person in charge of the towing service, garage,
1164 repair shop, or automotive service, storage, or parking place
1165 shall obtain such information from the applicable law
1166 enforcement agency within 5 days after the date of storage and
1167 shall give notice pursuant to paragraph (a). The department may
1168 release the insurance company information to the requestor
1169 ~~notwithstanding the provisions of s. 627.736.~~

1170 (c) Notice by certified mail, return receipt requested,
1171 shall be sent within 7 business days after the date of storage
1172 of the vehicle or vessel to the registered owner, the insurance
1173 company insuring the vehicle ~~notwithstanding the provisions of~~
1174 ~~s. 627.736~~, and all persons of record claiming a lien against
1175 the vehicle or vessel. It shall state the fact of possession of
1176 the vehicle or vessel, that a lien as provided in subsection (2)
1177 is claimed, that charges have accrued and the amount thereof,
1178 that the lien is subject to enforcement pursuant to law, and
1179 that the owner or lienholder, if any, has the right to a hearing
1180 as set forth in subsection (5), and that any vehicle or vessel

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1181 which remains unclaimed, or for which the charges for recovery,
1182 towing, or storage services remain unpaid, may be sold free of
1183 all prior liens after 35 days if the vehicle or vessel is more
1184 than 3 years of age or after 50 days if the vehicle or vessel is
1185 3 years of age or less.

1186 Section 41. Paragraph (c) of subsection (7), paragraphs
1187 (a), (b), and (c) of subsection (8), and subsection (9) of
1188 section 817.234, Florida Statutes, are amended to read:

1189 817.234 False and fraudulent insurance claims.--

1190 (7)

1191 ~~(c) An insurer, or any person acting at the direction of~~
1192 ~~or on behalf of an insurer, may not change an opinion in a~~
1193 ~~mental or physical report prepared under s. 627.736(7) or direct~~
1194 ~~the physician preparing the report to change such opinion;~~
1195 ~~however, this provision does not preclude the insurer from~~
1196 ~~calling to the attention of the physician errors of fact in the~~
1197 ~~report based upon information in the claim file. Any person who~~
1198 ~~violates this paragraph commits a felony of the third degree,~~
1199 ~~punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

1200 (8) (a) It is unlawful for any person intending to defraud
1201 any other person to solicit or cause to be solicited any
1202 business from a person involved in a motor vehicle accident for
1203 the purpose of making, adjusting, or settling motor vehicle tort
1204 claims or claims for emergency care coverage ~~personal injury~~
1205 ~~protection~~ benefits required by s. 627.7363 ~~627.736~~. Any person
1206 who violates the provisions of this paragraph commits a felony
1207 of the second degree, punishable as provided in s. 775.082, s.
1208 775.083, or s. 775.084. A person who is convicted of a violation

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1209 of this subsection shall be sentenced to a minimum term of
1210 imprisonment of 2 years.

1211 (b) A person may not solicit or cause to be solicited any
1212 business from a person involved in a motor vehicle accident by
1213 any means of communication other than advertising directed to
1214 the public for the purpose of making motor vehicle tort claims
1215 or claims for emergency care coverage ~~personal injury protection~~
1216 benefits required by s. 627.7363 ~~627.736~~, within 60 days after
1217 the occurrence of the motor vehicle accident. Any person who
1218 violates this paragraph commits a felony of the third degree,
1219 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

1220 (c) A lawyer, health care practitioner as defined in s.
1221 456.001, or owner or medical director of a clinic required to be
1222 licensed pursuant to s. 400.9905 may not, at any time after 60
1223 days have elapsed from the occurrence of a motor vehicle
1224 accident, solicit or cause to be solicited any business from a
1225 person involved in a motor vehicle accident by means of in
1226 person or telephone contact at the person's residence, for the
1227 purpose of making motor vehicle tort claims or claims for
1228 emergency care coverage ~~personal injury protection~~ benefits
1229 required by s. 627.7363 ~~627.736~~. Any person who violates this
1230 paragraph commits a felony of the third degree, punishable as
1231 provided in s. 775.082, s. 775.083, or s. 775.084.

1232 (9) A person may not organize, plan, or knowingly
1233 participate in an intentional motor vehicle crash or a scheme to
1234 create documentation of a motor vehicle crash that did not occur
1235 for the purpose of making motor vehicle tort claims or claims
1236 for emergency care coverage ~~personal injury protection~~ benefits

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1237 as required by s. 627.7363 ~~627.736~~. Any person who violates this
1238 subsection commits a felony of the second degree, punishable as
1239 provided in s. 775.082, s. 775.083, or s. 775.084. A person who
1240 is convicted of a violation of this subsection shall be
1241 sentenced to a minimum term of imprisonment of 2 years.

1242 Section 42. Effective June 1, 2008, sections 627.730,
1243 627.731, 627.732, 627.733, 627.734, 627.736, 627.737, 627.739,
1244 627.7401, 627.7403, and 627.7405, Florida Statutes, constituting
1245 the Florida Motor Vehicle No-Fault Law, are repealed unless
1246 reviewed and reenacted by the Legislature before that date. This
1247 section shall take effect upon this act becoming a law.

1248 Section 43. Section 19 of chapter 2003-411, Laws of
1249 Florida, is repealed, and sections 627.730, 627.731, 627.732,
1250 627.733, 627.734, 627.736, 627.737, 627.739, 627.7401, 627.7403,
1251 and 627.7405, Florida Statutes, are reenacted and shall not
1252 stand repealed on October 1, 2007, as provided for in that
1253 section. This section shall take effect upon this act becoming a
1254 law.

1255 Section 44. Effective upon this act becoming a law, for
1256 the 2007-2008 fiscal year, the sum of \$2,398,278 is appropriated
1257 from the Insurance Regulatory Trust Fund to the Department of
1258 Financial Services and 30 full-time equivalent positions with
1259 1,387,860 in associated salary rate are authorized as senior
1260 insurance fraud investigators in the Division of Insurance Fraud
1261 of the Department of Financial Services. Personnel appointed to
1262 these positions must be certified law enforcement officers.
1263 These positions shall be included within the certified law

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1264 enforcement collective bargaining unit and shall have a minimum
1265 annual salary of \$46,262.

1266 Section 45. Effective upon this act becoming a law, for
1267 the 2007-2008 fiscal year, the sum of \$408,000 is appropriated
1268 from the Insurance Regulatory Trust Fund to the Department of
1269 Financial Services for purposes of enforcing the Florida Motor
1270 Vehicle No-Fault Law in Miami, Orlando, and Tampa. These funds
1271 shall be transferred to the Justice Administrative Commission.

1272 Section 46. Effective upon this act becoming a law, for
1273 the 2007-2008 fiscal year, the sum of \$408,000 is appropriated
1274 from the Grants and Donations Trust Fund to the Justice
1275 Administrative Commission and six full-time equivalent positions
1276 with 270,000 in associated salary rate are authorized for
1277 purposes of enforcing the Florida Motor Vehicle No-Fault Law in
1278 Miami, Orlando, and Tampa.

1279 Section 47. Except as otherwise expressly provided in this
1280 act, this act shall take effect October 1, 2007.

1281

1282 ===== T I T L E A M E N D M E N T =====

1283 Remove lines 1873-1876 and insert:

1284 repealing s. 19 of chapter 2003-411, Laws of Florida;
1285 abrogating the repeal of the Florida Motor Vehicle No-
1286 Fault Law as provided for in that section; reenacting ss.
1287 627.730, 627.731, 627.732, 627.733, 627.734, 627.736,
1288 627.737, 627.739, 627.7401, 627.7403, and 627.7405, F.S.,
1289 the Florida Motor Vehicle No-Fault Law, and providing for
1290 future review and repeal; providing an appropriation;
1291 authorizing specified positions and providing

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HOUSE AMENDMENT

Bill No. HB 7215

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1292 | appropriations for enforcing the Florida Motor Vehicle No-
1293 | Fault Law in specified areas; providing effective dates.

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