

By Senator Diaz de la Portilla

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1 A bill to be entitled
2 An act relating to motor vehicle insurance; amending
3 s. 324.021, F.S.; revising provisions relating to
4 proof of financial responsibility for rented or leased
5 motor vehicles; providing lessors and lessees of
6 rented and leased motor vehicles with certain
7 responsibilities relating to the provision and
8 obtaining of liability insurance; revising who is
9 deemed the owner of a motor vehicle for purposes of
10 determining financial responsibility; revising
11 applicability of certain provisions relating to
12 financial responsibility of an owner of commercial
13 motor vehicles; providing an effective date.

14
15 Be It Enacted by the Legislature of the State of Florida:

16
17 Section 1. Subsections (7) and (9) of section 324.021,
18 Florida Statutes, are amended to read:

19 324.021 Definitions; minimum insurance required.—The
20 following words and phrases when used in this chapter shall, for
21 the purpose of this chapter, have the meanings respectively
22 ascribed to them in this section, except in those instances
23 where the context clearly indicates a different meaning:

24 (7) PROOF OF FINANCIAL RESPONSIBILITY.—That proof of
25 ability to respond in damages for liability on account of
26 crashes arising out of the use of a motor vehicle:

27 (a) In the amount of \$10,000 because of bodily injury to,
28 or death of, one person in any one crash;

29 (b) Subject to such limits for one person, in the amount of

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30 \$20,000 because of bodily injury to, or death of, two or more
31 persons in any one crash;

32 (c) In the amount of \$10,000 because of injury to, or
33 destruction of, property of others in any one crash; ~~and~~

34 (d) With respect to commercial motor vehicles and nonpublic
35 sector buses, in the amounts specified in ss. 627.7415 and
36 627.742, respectively; and

37 (e) With respect to rented or leased motor vehicles, in the
38 amounts specified in paragraph (9) (b).

39 (9) OWNER; OWNER/LESSOR.—

40 (a) *Owner*.—A person who holds the legal title of a motor
41 vehicle; or, in the event a motor vehicle is the subject of an
42 agreement for the conditional sale or lease thereof with the
43 right of purchase upon performance of the conditions stated in
44 the agreement and with an immediate right of possession vested
45 in the conditional vendee or lessee, or in the event a mortgagor
46 of a vehicle is entitled to possession, then such conditional
47 vendee or lessee or mortgagor shall be deemed the owner for the
48 purpose of this chapter.

49 (b) *Owner/lessor*.—Notwithstanding any other provision of
50 the Florida Statutes or existing case law:

51 1. The lessor, under an agreement to lease a motor vehicle
52 for 1 year or longer which requires the lessee to obtain
53 insurance acceptable to the lessor which contains limits not
54 less than \$100,000/\$300,000 bodily injury liability and \$50,000
55 property damage liability or not less than \$500,000 combined
56 property damage liability and bodily injury liability, shall not
57 be deemed the owner of said motor vehicle for the purpose of
58 determining financial responsibility for the operation of said

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59 motor vehicle or for the acts of the operator in connection
60 therewith; further, this subparagraph shall be applicable so
61 long as the insurance meeting these requirements is in effect.
62 The insurance meeting such requirements may be obtained by the
63 lessor or lessee, provided, if such insurance is obtained by the
64 lessor, the combined coverage for bodily injury liability and
65 property damage liability shall contain limits of not less than
66 \$1 million and may be provided by a lessor's blanket policy.

67 2. The lessor, under an agreement to rent or lease a motor
68 vehicle for a period of less than 1 year, shall require the
69 lessee to obtain insurance to respond in damages for liability
70 arising out of the use of the motor vehicle due to the
71 negligence of the lessee, or any permissive user of the motor
72 vehicle, with limits of not less than \$500,000 combined property
73 damage liability and bodily injury liability. The lessor may
74 provide coverage for bodily injury liability and property damage
75 liability to the lessee through a policy issued by an insurer
76 licensed to transact insurance in this state and purchased by
77 the lessee for a premium separately set forth in the lease or
78 rental agreement. The lessor has a continuing duty to ensure
79 that the lessee has obtained insurance consistent with this
80 subparagraph ~~be deemed the owner of the motor vehicle for the~~
81 ~~purpose of determining liability for the operation of the~~
82 ~~vehicle or the acts of the operator in connection therewith only~~
83 ~~up to \$100,000 per person and up to \$300,000 per incident for~~
84 ~~bodily injury and up to \$50,000 for property damage. If, at the~~
85 time any liability arises out of the use of the motor vehicle,
86 the lessee or the operator of the motor vehicle is uninsured or
87 has any insurance with limits less than \$500,000 combined

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88 property damage liability and bodily injury liability, the
89 lessor shall be liable for up to \$100,000 per person and up to
90 \$300,000 per incident for bodily injury, up to \$50,000 for
91 property damage, and up to an additional \$500,000 in economic
92 damages only arising out of the use of the motor vehicle. The
93 additional specified liability of the lessor for economic
94 damages shall be reduced by amounts actually recovered from the
95 lessee, from the operator, and from any insurance or self-
96 insurance covering the lessee or operator. If the lessee does
97 not obtain coverage consistent with this subparagraph, the
98 lessor shall be deemed liable for any amounts not recovered from
99 the lessee arising out of the use of the motor vehicle or the
100 acts of the operator in connection therewith. Nothing in this
101 subparagraph shall be construed to affect the liability of the
102 lessor for its own negligence.

103 3. The owner who is a natural person and loans a motor
104 vehicle to any permissive user shall be liable for the operation
105 of the vehicle or the acts of the operator in connection
106 therewith only up to \$100,000 per person and up to \$300,000 per
107 incident for bodily injury and up to \$50,000 for property
108 damage. If the permissive user of the motor vehicle is uninsured
109 or has any insurance with limits less than \$500,000 combined
110 property damage and bodily injury liability, the owner shall be
111 liable for up to an additional \$500,000 in economic damages only
112 arising out of the use of the motor vehicle. The additional
113 specified liability of the owner for economic damages shall be
114 reduced by amounts actually recovered from the permissive user
115 and from any insurance or self-insurance covering the permissive
116 user. Nothing in this subparagraph shall be construed to affect

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117 the liability of the owner for his or her own negligence.

118 (c) *Application.*—

119 1. The financial responsibility and insurance requirements
120 of subparagraph limits on liability in subparagraphs (b)2. and
121 the limits on liability in subparagraph (b)3. do not apply to an
122 owner of motor vehicles that are used for commercial activity in
123 the owner's ordinary course of business, other than a rental
124 company that rents or leases motor vehicles. For purposes of
125 this paragraph, the term "rental company" includes only an
126 entity that is engaged in the business of renting or leasing
127 motor vehicles to the general public and that rents or leases a
128 majority of its motor vehicles to persons with no direct or
129 indirect affiliation with the rental company. The term also
130 includes a motor vehicle dealer that provides temporary
131 replacement vehicles to its customers for up to 10 days. The
132 term "rental company" also includes:

133 a. A related rental or leasing company that is a subsidiary
134 of the same parent company as that of the renting or leasing
135 company that rented or leased the vehicle.

136 b. The holder of a motor vehicle title or an equity
137 interest in a motor vehicle title if the title or equity
138 interest is held pursuant to or to facilitate an asset-backed
139 securitization of a fleet of motor vehicles used solely in the
140 business of renting or leasing motor vehicles to the general
141 public and under the dominion and control of a rental company,
142 as described in this subparagraph, in the operation of such
143 rental company's business.

144 2. ~~Furthermore,~~ With respect to commercial motor vehicles
145 as defined in s. 627.732, the financial responsibility and

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146 insurance requirements of subparagraph ~~limits on liability in~~
147 ~~subparagraphs~~ (b)2. and the limits on liability in subparagraph
148 (b)3. do not apply if, at the time of the incident, the
149 commercial motor vehicle is being used in the transportation of
150 materials found to be hazardous for the purposes of the
151 Hazardous Materials Transportation Authorization Act of 1994, as
152 amended, 49 U.S.C. ss. 5101 et seq., and ~~that~~ is required
153 pursuant to such act to carry placards warning others of the
154 hazardous cargo, unless at the time of lease or rental either:

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

159 b. The lessee or other operator of the commercial motor
160 vehicle has in effect insurance with limits of at least
161 \$5,000,000 combined property damage and bodily injury liability.

162 Section 2. This act shall take effect July 1, 2011.