

HB 1053

2015

1                   A bill to be entitled  
2           An act relating to motor vehicle insurance; amending  
3           s. 627.727, F.S.; authorizing insurers to  
4           electronically provide a form to reject, or select  
5           lower coverage amounts of, uninsured motorist vehicle  
6           coverage to an insurance applicant; authorizing the  
7           applicant to sign the form electronically; amending s.  
8           627.736, F.S.; revising the period during which the  
9           applicable fee schedule or payment limitation under  
10          Medicare applies with respect to certain personal  
11          injury protection insurance coverage; deleting an  
12          obsolete date; amending s. 627.744, F.S.; revising the  
13          exemption from the preinsurance inspection  
14          requirements for private passenger motor vehicles to  
15          include certain leased vehicles; revising the list of  
16          documents that an insurer may require for purposes of  
17          the exemption; prohibiting the physical damage  
18          coverage on a motor vehicle from being suspended  
19          during the term of a policy due to the insurer's  
20          option not to require certain documents; authorizing a  
21          payment of a claim to be conditioned if the insurer  
22          requires a document under certain circumstances;  
23          providing an effective date.

24  
25   Be It Enacted by the Legislature of the State of Florida:  
26

27 Section 1. Subsection (1) of section 627.727, Florida  
 28 Statutes, is amended to read:

29 627.727 Motor vehicle insurance; uninsured and  
 30 underinsured vehicle coverage; insolvent insurer protection.—

31 (1) A ~~No~~ motor vehicle liability insurance policy that  
 32 ~~which~~ provides bodily injury liability coverage may not ~~shall~~ be  
 33 delivered or issued for delivery in this state with respect to a  
 34 ~~any~~ specifically insured or identified motor vehicle registered  
 35 or principally garaged in this state unless uninsured motor  
 36 vehicle coverage is provided therein or supplemental thereto for  
 37 the protection of persons insured by the policy ~~thereunder~~ who  
 38 are legally entitled to recover damages from owners or operators  
 39 of uninsured motor vehicles because of bodily injury, sickness,  
 40 or disease, including death, resulting therefrom. However, the  
 41 coverage required under this section is not applicable if ~~when,~~  
 42 ~~or to the extent that,~~ an insured named in the policy makes a  
 43 written rejection of the coverage on behalf of all insureds  
 44 under the policy. If ~~When~~ a motor vehicle is leased for a period  
 45 of 1 year or longer and the lessor of the ~~such~~ vehicle, by the  
 46 terms of the lease contract, provides liability coverage on the  
 47 leased vehicle, the lessee of the ~~such~~ vehicle has ~~shall have~~  
 48 the sole privilege to reject uninsured motorist coverage or to  
 49 select lower limits than the bodily injury liability limits,  
 50 regardless of whether the lessor is qualified as a self-insurer  
 51 pursuant to s. 324.171. Unless an insured, or lessee having the  
 52 privilege of rejecting uninsured motorist coverage, requests

53 such coverage or requests higher uninsured motorist limits in  
54 writing, the coverage or the ~~such~~ higher uninsured motorist  
55 limits are ~~need~~ not required to be provided in or supplemental  
56 to any other policy that ~~which~~ renews, extends, changes,  
57 supersedes, or replaces an existing policy with the same bodily  
58 injury liability limits when an insured or lessee had rejected  
59 the coverage. If ~~When~~ an insured or lessee ~~has~~ initially  
60 selected limits of uninsured motorist coverage lower than her or  
61 his bodily injury liability limits, higher limits of uninsured  
62 motorist coverage are ~~need~~ not required to be provided in or  
63 supplemental to any other policy that ~~which~~ renews, extends,  
64 changes, supersedes, or replaces an existing policy with the  
65 same bodily injury liability limits unless an insured requests  
66 higher uninsured motorist coverage in writing. The rejection or  
67 selection of lower limits must ~~shall~~ be made on a form approved  
68 by the office. The form must ~~shall~~ fully advise the applicant of  
69 the nature of the coverage and must ~~shall~~ state that the  
70 coverage is equal to bodily injury liability limits unless lower  
71 limits are requested or the coverage is rejected. The heading of  
72 the form shall be in 12-point bold type and shall state: "You  
73 are electing not to purchase certain valuable coverage which  
74 protects you and your family or you are purchasing uninsured  
75 motorist limits less than your bodily injury liability limits  
76 when you sign this form. Please read carefully." If this form is  
77 signed by a named insured, it will be conclusively presumed that  
78 there was an informed, knowing rejection of coverage or election

79 | of lower limits on behalf of all insureds. The form may be  
80 | provided electronically to and may be signed electronically by  
81 | the applicant. If the form is provided electronically, the  
82 | requirement for 12-point bold type does not apply but the  
83 | heading of the form must be of greater size than the surrounding  
84 | text. The insurer must ~~shall~~ notify the named insured at least  
85 | annually of her or his options as to the coverage required by  
86 | this section. Such notice must ~~shall~~ be part of, and attached  
87 | to, the notice of premium, must ~~shall~~ provide for a means to  
88 | allow the insured to request such coverage, and must ~~shall~~ be  
89 | given in a manner approved by the office. Receipt of this notice  
90 | does not constitute an affirmative waiver of the insured's right  
91 | to uninsured motorist coverage where the insured has not signed  
92 | a selection or rejection form. The coverage described under this  
93 | section must ~~shall~~ be over and above, but may ~~shall~~ not  
94 | duplicate, the benefits available to an insured under any  
95 | workers' compensation law, personal injury protection benefits,  
96 | disability benefits law, or similar law; under any automobile  
97 | medical expense coverage; under any motor vehicle liability  
98 | insurance coverage; or from the owner or operator of the  
99 | uninsured motor vehicle or any other person or organization  
100 | jointly or severally liable together with such owner or operator  
101 | for the accident; and such coverage must ~~shall~~ cover the  
102 | difference, if any, between the sum of such benefits and the  
103 | damages sustained, up to the maximum amount of such coverage  
104 | provided under this section. The amount of coverage available

105 | under this section may ~~shall~~ not be reduced by a setoff against  
 106 | any coverage, including liability insurance. Such coverage may  
 107 | ~~shall~~ not inure directly or indirectly to the benefit of a ~~any~~  
 108 | workers' compensation or disability benefits carrier or a ~~any~~  
 109 | person or organization qualifying as a self-insurer under a ~~any~~  
 110 | workers' compensation or disability benefits law or similar law.

111 | Section 2. Paragraph (a) of subsection (5) of section  
 112 | 627.736, Florida Statutes, is amended to read:

113 | 627.736 Required personal injury protection benefits;  
 114 | exclusions; priority; claims.—

115 | (5) CHARGES FOR TREATMENT OF INJURED PERSONS.—

116 | (a) A physician, hospital, clinic, or other person or  
 117 | institution lawfully rendering treatment to an injured person  
 118 | for a bodily injury covered by personal injury protection  
 119 | insurance may charge the insurer and injured party only a  
 120 | reasonable amount pursuant to this section for the services and  
 121 | supplies rendered, and the insurer providing such coverage may  
 122 | pay for such charges directly to such person or institution  
 123 | lawfully rendering such treatment if the insured receiving such  
 124 | treatment or his or her guardian has countersigned the properly  
 125 | completed invoice, bill, or claim form approved by the office  
 126 | upon which such charges are to be paid for as having actually  
 127 | been rendered, to the best knowledge of the insured or his or  
 128 | her guardian. However, such a charge may not exceed the amount  
 129 | the person or institution customarily charges for like services  
 130 | or supplies. In determining whether a charge for a particular

131 service, treatment, or otherwise is reasonable, consideration  
 132 may be given to evidence of usual and customary charges and  
 133 payments accepted by the provider involved in the dispute,  
 134 reimbursement levels in the community and various federal and  
 135 state medical fee schedules applicable to motor vehicle and  
 136 other insurance coverages, and other information relevant to the  
 137 reasonableness of the reimbursement for the service, treatment,  
 138 or supply.

139 1. The insurer may limit reimbursement to 80 percent of  
 140 the following schedule of maximum charges:

141 a. For emergency transport and treatment by providers  
 142 licensed under chapter 401, 200 percent of Medicare.

143 b. For emergency services and care provided by a hospital  
 144 licensed under chapter 395, 75 percent of the hospital's usual  
 145 and customary charges.

146 c. For emergency services and care as defined by s.  
 147 395.002 provided in a facility licensed under chapter 395  
 148 rendered by a physician or dentist, and related hospital  
 149 inpatient services rendered by a physician or dentist, the usual  
 150 and customary charges in the community.

151 d. For hospital inpatient services, other than emergency  
 152 services and care, 200 percent of the Medicare Part A  
 153 prospective payment applicable to the specific hospital  
 154 providing the inpatient services.

155 e. For hospital outpatient services, other than emergency  
 156 services and care, 200 percent of the Medicare Part A Ambulatory

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157 Payment Classification for the specific hospital providing the  
158 outpatient services.

159 f. For all other medical services, supplies, and care, 200  
160 percent of the allowable amount under:

161 (I) The participating physicians fee schedule of Medicare  
162 Part B, except as provided in sub-sub-subparagraphs (II) and  
163 (III).

164 (II) Medicare Part B, in the case of services, supplies,  
165 and care provided by ambulatory surgical centers and clinical  
166 laboratories.

167 (III) The Durable Medical Equipment Prosthetics/Orthotics  
168 and Supplies fee schedule of Medicare Part B, in the case of  
169 durable medical equipment.

170

171 However, if such services, supplies, or care is not reimbursable  
172 under Medicare Part B, as provided in this sub-subparagraph, the  
173 insurer may limit reimbursement to 80 percent of the maximum  
174 reimbursable allowance under workers' compensation, as  
175 determined under s. 440.13 and rules adopted thereunder which  
176 are in effect at the time such services, supplies, or care is  
177 provided. Services, supplies, or care that is not reimbursable  
178 under Medicare or workers' compensation is not required to be  
179 reimbursed by the insurer.

180 2. For purposes of subparagraph 1., the applicable fee  
181 schedule or payment limitation under Medicare is the fee  
182 schedule or payment limitation in effect on March 1 of the year

183 in which the services, supplies, or care is rendered and for the  
184 area in which such services, supplies, or care is rendered, and  
185 the applicable fee schedule or payment limitation applies from  
186 March 1 until the last day of February ~~throughout the remainder~~  
187 ~~of the following~~ that year, notwithstanding any subsequent  
188 change made to the fee schedule or payment limitation, except  
189 that it may not be less than the allowable amount under the  
190 applicable schedule of Medicare Part B for 2007 for medical  
191 services, supplies, and care subject to Medicare Part B.

192 3. Subparagraph 1. does not allow the insurer to apply any  
193 limitation on the number of treatments or other utilization  
194 limits that apply under Medicare or workers' compensation. An  
195 insurer that applies the allowable payment limitations of  
196 subparagraph 1. must reimburse a provider who lawfully provided  
197 care or treatment under the scope of his or her license,  
198 regardless of whether such provider is entitled to reimbursement  
199 under Medicare due to restrictions or limitations on the types  
200 or discipline of health care providers who may be reimbursed for  
201 particular procedures or procedure codes. However, subparagraph  
202 1. does not prohibit an insurer from using the Medicare coding  
203 policies and payment methodologies of the federal Centers for  
204 Medicare and Medicaid Services, including applicable modifiers,  
205 to determine the appropriate amount of reimbursement for medical  
206 services, supplies, or care if the coding policy or payment  
207 methodology does not constitute a utilization limit.

208 4. If an insurer limits payment as authorized by



209 | subparagraph 1., the person providing such services, supplies,  
 210 | or care may not bill or attempt to collect from the insured any  
 211 | amount in excess of such limits, except for amounts that are not  
 212 | covered by the insured's personal injury protection coverage due  
 213 | to the coinsurance amount or maximum policy limits.

214 |       5. ~~Effective July 1, 2012,~~ An insurer may limit payment as  
 215 | authorized by this paragraph only if the insurance policy  
 216 | includes a notice at the time of issuance or renewal that the  
 217 | insurer may limit payment pursuant to the schedule of charges  
 218 | specified in this paragraph. A policy form approved by the  
 219 | office satisfies this requirement. If a provider submits a  
 220 | charge for an amount less than the amount allowed under  
 221 | subparagraph 1., the insurer may pay the amount of the charge  
 222 | submitted.

223 |       Section 3. Paragraphs (a) and (b) of subsection (2) of  
 224 | section 627.744, Florida Statutes, are amended to read:

225 |       627.744 Required preinsurance inspection of private  
 226 | passenger motor vehicles.—

227 |       (2) This section does not apply:

228 |       (a) To a policy for a policyholder who has been insured  
 229 | for 2 years or longer, without interruption, under a private  
 230 | passenger motor vehicle policy that ~~which~~ provides physical  
 231 | damage coverage for any vehicle, if the agent of the insurer  
 232 | verifies the previous coverage.

233 |       (b) To a new, unused motor vehicle purchased or leased  
 234 | from a licensed motor vehicle dealer or leasing company. ~~if~~ The

235 insurer may require ~~is provided with~~:

236 1. A bill of sale, ~~or~~ buyer's order, or lease agreement  
237 that ~~which~~ contains a full description of the motor vehicle,  
238 ~~including all options and accessories; or~~

239 2. A copy of the title or registration that ~~which~~  
240 establishes transfer of ownership from the dealer or leasing  
241 company to the customer and a copy of the window sticker ~~or the~~  
242 ~~dealer invoice showing the itemized options and equipment and~~  
243 ~~the total retail price of the vehicle.~~

244

245 For the purposes of this paragraph, the physical damage coverage  
246 on the motor vehicle may not be suspended during the term of the  
247 policy due to the applicant's failure to provide or the  
248 insurer's option not to require the required documents. However,  
249 if the insurer requires a document under this paragraph at the  
250 time the policy is issued, payment of a claim may be ~~is~~  
251 conditioned upon the receipt by the insurer of the required  
252 documents, and no physical damage loss occurring after the  
253 effective date of the coverage is payable until the documents  
254 are provided to the insurer.

255 Section 4. This act shall take effect July 1, 2015.