

1 A bill to be entitled
2 An act relating to motor vehicle insurance; amending
3 s. 627.311, F.S.; authorizing a joint underwriting
4 plan and the Florida Automobile Joint Underwriting
5 Association to cancel certain insurance policies
6 within a specified period under certain circumstances;
7 prohibiting an insured from canceling certain
8 insurance policies within a specified period;
9 providing exceptions; amending s. 627.727, F.S.;
10 authorizing insurers to electronically provide a form
11 to reject, or select lower coverage amounts of,
12 uninsured motorist vehicle coverage to an insurance
13 applicant; authorizing the applicant to sign the form
14 electronically; amending s. 627.736, F.S.; revising
15 the period during which the applicable fee schedule or
16 payment limitation under Medicare applies with respect
17 to certain personal injury protection insurance
18 coverage; defining "service year"; deleting an
19 obsolete date; amending s. 627.744, F.S.; revising the
20 exemption from the preinsurance inspection
21 requirements for private passenger motor vehicles to
22 include certain leased vehicles; revising the list of
23 documents that an insurer may require for purposes of
24 the exemption; prohibiting the physical damage
25 coverage on a motor vehicle from being suspended
26 during the term of a policy due to the insurer's

27 | option not to require certain documents; authorizing a
28 | payment of a claim to be conditioned if the insurer
29 | requires a document under certain circumstances;
30 | providing an effective date.
31 |

32 | Be It Enacted by the Legislature of the State of Florida:
33 |

34 | Section 1. Paragraph (m) is added to subsection (3) of
35 | section 627.311, Florida Statutes, to read:

36 | 627.311 Joint underwriters and joint reinsurers; public
37 | records and public meetings exemptions.—

38 | (3) The office may, after consultation with insurers
39 | licensed to write automobile insurance in this state, approve a
40 | joint underwriting plan for purposes of equitable apportionment
41 | or sharing among insurers of automobile liability insurance and
42 | other motor vehicle insurance, as an alternate to the plan
43 | required in s. 627.351(1). All insurers authorized to write
44 | automobile insurance in this state shall subscribe to the plan
45 | and participate therein. The plan shall be subject to continuous
46 | review by the office which may at any time disapprove the entire
47 | plan or any part thereof if it determines that conditions have
48 | changed since prior approval and that in view of the purposes of
49 | the plan changes are warranted. Any disapproval by the office
50 | shall be subject to the provisions of chapter 120. The Florida
51 | Automobile Joint Underwriting Association is created under the
52 | plan. The plan and the association:

53 (m) May cancel personal lines or commercial policies
 54 issued by the plan within the first 60 days after the effective
 55 date of the policy or binder for nonpayment of premium if the
 56 reason for cancellation is the issuance of a check for the
 57 premium that is dishonored for any reason or any other type of
 58 premium payment that is rejected or deemed invalid. An insured
 59 may not cancel a policy or binder within the first 90 days, or
 60 within a lesser period as required by the plan, after the
 61 effective date of the policy or binder, except:

- 62 1. Upon total destruction of the insured motor vehicle;
- 63 2. Upon transfer of ownership of the insured motor
 64 vehicle; or
- 65 3. After purchase of another policy or binder covering the
 66 motor vehicle that was covered under the policy being canceled.

67 Section 2. Subsection (1) of section 627.727, Florida
 68 Statutes, is amended to read:

69 627.727 Motor vehicle insurance; uninsured and
 70 underinsured vehicle coverage; insolvent insurer protection.—

71 (1) A ~~No~~ motor vehicle liability insurance policy that
 72 ~~which~~ provides bodily injury liability coverage may not shall be
 73 delivered or issued for delivery in this state with respect to a
 74 ~~any~~ specifically insured or identified motor vehicle registered
 75 or principally garaged in this state unless uninsured motor
 76 vehicle coverage is provided therein or supplemental thereto for
 77 the protection of persons insured by the policy thereunder who
 78 are legally entitled to recover damages from owners or operators

79 of uninsured motor vehicles because of bodily injury, sickness,
80 or disease, including death, resulting therefrom. However, the
81 coverage required under this section is not applicable if ~~when,~~
82 ~~or to the extent that,~~ an insured named in the policy makes a
83 written rejection of the coverage on behalf of all insureds
84 under the policy. If ~~When~~ a motor vehicle is leased for a period
85 of 1 year or longer and the lessor of the ~~such~~ vehicle, by the
86 terms of the lease contract, provides liability coverage on the
87 leased vehicle, the lessee of the ~~such~~ vehicle has ~~shall have~~
88 the sole privilege to reject uninsured motorist coverage or to
89 select lower limits than the bodily injury liability limits,
90 regardless of whether the lessor is qualified as a self-insurer
91 pursuant to s. 324.171. Unless an insured, or lessee having the
92 privilege of rejecting uninsured motorist coverage, requests
93 such coverage or requests higher uninsured motorist limits in
94 writing, the coverage or the ~~such~~ higher uninsured motorist
95 limits are ~~need~~ not required to be provided in or supplemental
96 to any other policy that ~~which~~ renews, extends, changes,
97 supersedes, or replaces an existing policy with the same bodily
98 injury liability limits when an insured or lessee had rejected
99 the coverage. If ~~When~~ an insured or lessee ~~has~~ initially
100 selected limits of uninsured motorist coverage lower than her or
101 his bodily injury liability limits, higher limits of uninsured
102 motorist coverage are ~~need~~ not required to be provided in or
103 supplemental to any other policy that ~~which~~ renews, extends,
104 changes, supersedes, or replaces an existing policy with the

105 same bodily injury liability limits unless an insured requests
106 higher uninsured motorist coverage in writing. The rejection or
107 selection of lower limits must ~~shall~~ be made on a form approved
108 by the office. The form must ~~shall~~ fully advise the applicant of
109 the nature of the coverage and must ~~shall~~ state that the
110 coverage is equal to bodily injury liability limits unless lower
111 limits are requested or the coverage is rejected. The heading of
112 the form shall be in 12-point bold type and shall state: "You
113 are electing not to purchase certain valuable coverage which
114 protects you and your family or you are purchasing uninsured
115 motorist limits less than your bodily injury liability limits
116 when you sign this form. Please read carefully." If this form is
117 signed by a named insured, it will be conclusively presumed that
118 there was an informed, knowing rejection of coverage or election
119 of lower limits on behalf of all insureds. The form may be
120 provided electronically to and may be signed electronically by
121 the applicant. If the form is provided electronically, the
122 requirement for 12-point bold type does not apply but the
123 heading of the form must be of greater size than the surrounding
124 text. The insurer must ~~shall~~ notify the named insured at least
125 annually of her or his options as to the coverage required by
126 this section. Such notice must ~~shall~~ be part of, and attached
127 to, the notice of premium, must ~~shall~~ provide for a means to
128 allow the insured to request such coverage, and must ~~shall~~ be
129 given in a manner approved by the office. Receipt of this notice
130 does not constitute an affirmative waiver of the insured's right

131 to uninsured motorist coverage where the insured has not signed
 132 a selection or rejection form. The coverage described under this
 133 section must ~~shall~~ be over and above, but may ~~shall~~ not
 134 duplicate, the benefits available to an insured under any
 135 workers' compensation law, personal injury protection benefits,
 136 disability benefits law, or similar law; under any automobile
 137 medical expense coverage; under any motor vehicle liability
 138 insurance coverage; or from the owner or operator of the
 139 uninsured motor vehicle or any other person or organization
 140 jointly or severally liable together with such owner or operator
 141 for the accident; and such coverage must ~~shall~~ cover the
 142 difference, if any, between the sum of such benefits and the
 143 damages sustained, up to the maximum amount of such coverage
 144 provided under this section. The amount of coverage available
 145 under this section may ~~shall~~ not be reduced by a setoff against
 146 any coverage, including liability insurance. Such coverage may
 147 ~~shall~~ not inure directly or indirectly to the benefit of a ~~any~~
 148 workers' compensation or disability benefits carrier or a ~~any~~
 149 person or organization qualifying as a self-insurer under a ~~any~~
 150 workers' compensation or disability benefits law or similar law.

151 Section 3. Paragraph (a) of subsection (5) of section
 152 627.736, Florida Statutes, is amended to read:

153 627.736 Required personal injury protection benefits;
 154 exclusions; priority; claims.—

155 (5) CHARGES FOR TREATMENT OF INJURED PERSONS.—

156 (a) A physician, hospital, clinic, or other person or

157 institution lawfully rendering treatment to an injured person
158 for a bodily injury covered by personal injury protection
159 insurance may charge the insurer and injured party only a
160 reasonable amount pursuant to this section for the services and
161 supplies rendered, and the insurer providing such coverage may
162 pay for such charges directly to such person or institution
163 lawfully rendering such treatment if the insured receiving such
164 treatment or his or her guardian has countersigned the properly
165 completed invoice, bill, or claim form approved by the office
166 upon which such charges are to be paid for as having actually
167 been rendered, to the best knowledge of the insured or his or
168 her guardian. However, such a charge may not exceed the amount
169 the person or institution customarily charges for like services
170 or supplies. In determining whether a charge for a particular
171 service, treatment, or otherwise is reasonable, consideration
172 may be given to evidence of usual and customary charges and
173 payments accepted by the provider involved in the dispute,
174 reimbursement levels in the community and various federal and
175 state medical fee schedules applicable to motor vehicle and
176 other insurance coverages, and other information relevant to the
177 reasonableness of the reimbursement for the service, treatment,
178 or supply.

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

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

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

186 c. For emergency services and care as defined by s.
187 395.002 provided in a facility licensed under chapter 395
188 rendered by a physician or dentist, and related hospital
189 inpatient services rendered by a physician or dentist, the usual
190 and customary charges in the community.

191 d. For hospital inpatient services, other than emergency
192 services and care, 200 percent of the Medicare Part A
193 prospective payment applicable to the specific hospital
194 providing the inpatient services.

195 e. For hospital outpatient services, other than emergency
196 services and care, 200 percent of the Medicare Part A Ambulatory
197 Payment Classification for the specific hospital providing the
198 outpatient services.

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

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

204 (II) Medicare Part B, in the case of services, supplies,
205 and care provided by ambulatory surgical centers and clinical
206 laboratories.

207 (III) The Durable Medical Equipment Prosthetics/Orthotics
208 and Supplies fee schedule of Medicare Part B, in the case of

209 durable medical equipment.

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211 However, if such services, supplies, or care is not reimbursable
212 under Medicare Part B, as provided in this sub-subparagraph, the
213 insurer may limit reimbursement to 80 percent of the maximum
214 reimbursable allowance under workers' compensation, as
215 determined under s. 440.13 and rules adopted thereunder which
216 are in effect at the time such services, supplies, or care is
217 provided. Services, supplies, or care that is not reimbursable
218 under Medicare or workers' compensation is not required to be
219 reimbursed by the insurer.

220 2. For purposes of subparagraph 1., the applicable fee
221 schedule or payment limitation under Medicare is the fee
222 schedule or payment limitation in effect on March 1 of the
223 service year in which the services, supplies, or care is
224 rendered and for the area in which such services, supplies, or
225 care is rendered, and the applicable fee schedule or payment
226 limitation applies to services, supplies, or care rendered
227 during ~~throughout the remainder of~~ that service year,
228 notwithstanding any subsequent change made to the fee schedule
229 or payment limitation, except that it may not be less than the
230 allowable amount under the applicable schedule of Medicare Part
231 B for 2007 for medical services, supplies, and care subject to
232 Medicare Part B. For purposes of this subparagraph, the term
233 "service year" means the period from March 1 through the end of
234 February of the following year.

235 3. Subparagraph 1. does not allow the insurer to apply any
236 limitation on the number of treatments or other utilization
237 limits that apply under Medicare or workers' compensation. An
238 insurer that applies the allowable payment limitations of
239 subparagraph 1. must reimburse a provider who lawfully provided
240 care or treatment under the scope of his or her license,
241 regardless of whether such provider is entitled to reimbursement
242 under Medicare due to restrictions or limitations on the types
243 or discipline of health care providers who may be reimbursed for
244 particular procedures or procedure codes. However, subparagraph
245 1. does not prohibit an insurer from using the Medicare coding
246 policies and payment methodologies of the federal Centers for
247 Medicare and Medicaid Services, including applicable modifiers,
248 to determine the appropriate amount of reimbursement for medical
249 services, supplies, or care if the coding policy or payment
250 methodology does not constitute a utilization limit.

251 4. If an insurer limits payment as authorized by
252 subparagraph 1., the person providing such services, supplies,
253 or care may not bill or attempt to collect from the insured any
254 amount in excess of such limits, except for amounts that are not
255 covered by the insured's personal injury protection coverage due
256 to the coinsurance amount or maximum policy limits.

257 5. ~~Effective July 1, 2012,~~ An insurer may limit payment as
258 authorized by this paragraph only if the insurance policy
259 includes a notice at the time of issuance or renewal that the
260 insurer may limit payment pursuant to the schedule of charges

261 specified in this paragraph. A policy form approved by the
 262 office satisfies this requirement. If a provider submits a
 263 charge for an amount less than the amount allowed under
 264 subparagraph 1., the insurer may pay the amount of the charge
 265 submitted.

266 Section 4. Paragraphs (a) and (b) of subsection (2) of
 267 section 627.744, Florida Statutes, are amended to read:

268 627.744 Required preinsurance inspection of private
 269 passenger motor vehicles.—

270 (2) This section does not apply:

271 (a) To a policy for a policyholder who has been insured
 272 for 2 years or longer, without interruption, under a private
 273 passenger motor vehicle policy that ~~which~~ provides physical
 274 damage coverage for any vehicle, if the agent of the insurer
 275 verifies the previous coverage.

276 (b) To a new, unused motor vehicle purchased or leased
 277 from a licensed motor vehicle dealer or leasing company. ~~if~~ The
 278 insurer may require ~~is provided with~~:

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

282 2. A copy of the title or registration that ~~which~~
 283 establishes transfer of ownership from the dealer or leasing
 284 company to the customer and a copy of the window sticker ~~or the~~
 285 ~~dealer invoice showing the itemized options and equipment and~~
 286 ~~the total retail price of the vehicle.~~

287
288 For the purposes of this paragraph, the physical damage coverage
289 on the motor vehicle may not be suspended during the term of the
290 policy due to the applicant's failure to provide or the
291 insurer's option not to require the required documents. However,
292 if the insurer requires a document under this paragraph at the
293 time the policy is issued, payment of a claim may be ~~is~~
294 conditioned upon the receipt by the insurer of the required
295 documents, and no physical damage loss occurring after the
296 effective date of the coverage is payable until the documents
297 are provided to the insurer.

298 Section 5. This act shall take effect July 1, 2015.