

By the Committee on Banking and Insurance; and Senator Montford

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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 to select lower coverage amounts of,  
12      uninsured motorist vehicle coverage to a named  
13      insured; authorizing the named insured to sign the  
14      form electronically; amending s. 627.736, F.S.;  
15      revising the period during which the applicable fee  
16      schedule or payment limitation under Medicare applies  
17      with respect to certain personal injury protection  
18      insurance coverage; defining the term "service year";  
19      deleting an obsolete date; amending s. 627.744, F.S.;  
20      revising the exemption from the preinsurance  
21      inspection requirements for private passenger motor  
22      vehicles to include certain leased vehicles; revising  
23      the list of documents that an insurer may require for  
24      purposes of the exemption; prohibiting the physical  
25      damage coverage on a motor vehicle from being  
26      suspended during the term of a policy due to the  
27      insurer's option not to require certain documents;  
28      authorizing a payment of a claim to be conditioned if  
29      the insurer requires a document under certain

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30 circumstances; 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 issued  
54 by the plan within the first 60 days after the effective date of  
55 the policy or binder for nonpayment of premium if the reason for  
56 cancellation is the issuance of a check for the premium which is  
57 dishonored for any reason or any other type of premium payment  
58 which is rejected or deemed invalid. An insured may not cancel a

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59 policy or binder within the first 90 days, or within a lesser  
 60 period as required by the plan, after the effective date of the  
 61 policy or binder, except:

- 62 1. Upon total destruction of the insured motor vehicle;  
 63 2. Upon transfer of ownership of the insured motor vehicle;

64 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 underinsured  
 70 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~~

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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 named  
109 insured applicant of the nature of the coverage and must ~~shall~~  
110 state that the coverage is equal to bodily injury liability  
111 limits unless lower limits are requested or the coverage is  
112 rejected. The heading of the form shall be in 12-point bold type  
113 and shall state: "You are electing not to purchase certain  
114 valuable coverage which protects you and your family or you are  
115 purchasing uninsured motorist limits less than your bodily  
116 injury liability limits when you sign this form. Please read

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117 carefully." If this form is signed by a named insured, it will  
118 be conclusively presumed that there was an informed, knowing  
119 rejection of coverage or election of lower limits on behalf of  
120 all insureds. The form may be provided electronically to and may  
121 be signed electronically by the named insured. The requirement  
122 for 12-point bold type does not apply to a form that is provided  
123 electronically; however, the type for the heading of the form  
124 must be larger than the type used for the surrounding text. The  
125 insurer must ~~shall~~ notify the named insured at least annually of  
126 her or his options as to the coverage required by this section.  
127 Such notice must ~~shall~~ be part of, and attached to, the notice  
128 of premium, must ~~shall~~ provide for a means to allow the insured  
129 to request such coverage, and must ~~shall~~ be given in a manner  
130 approved by the office. Receipt of this notice does not  
131 constitute an affirmative waiver of the insured's right to  
132 uninsured motorist coverage where the insured has not signed a  
133 selection or rejection form. The coverage described under this  
134 section must ~~shall~~ be over and above, but may ~~shall~~ not  
135 duplicate, the benefits available to an insured under any  
136 workers' compensation law, personal injury protection benefits,  
137 disability benefits law, or similar law; under any automobile  
138 medical expense coverage; under any motor vehicle liability  
139 insurance coverage; or from the owner or operator of the  
140 uninsured motor vehicle or any other person or organization  
141 jointly or severally liable together with such owner or operator  
142 for the accident; and such coverage must ~~shall~~ cover the  
143 difference, if any, between the sum of such benefits and the  
144 damages sustained, up to the maximum amount of such coverage  
145 provided under this section. The amount of coverage available

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146 under this section may ~~shall~~ not be reduced by a setoff against  
147 any coverage, including liability insurance. Such coverage may  
148 ~~shall~~ not inure directly or indirectly to the benefit of a ~~any~~  
149 workers' compensation or disability benefits carrier or a ~~any~~  
150 person or organization qualifying as a self-insurer under a ~~any~~  
151 workers' compensation or disability benefits law or similar law.

152 Section 3. Paragraph (a) of subsection (5) of section  
153 627.736, Florida Statutes, is amended to read:

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

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

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

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175 reimbursement levels in the community and various federal and  
176 state medical fee schedules applicable to motor vehicle and  
177 other insurance coverages, and other information relevant to the  
178 reasonableness of the reimbursement for the service, treatment,  
179 or supply.

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

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

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

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

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

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

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

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

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204 (III).

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

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

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

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



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233 Medicare Part B. For purposes of this subparagraph, the term  
234 "service year" means the period from March 1 through the end of  
235 February of the following year.

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

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

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

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

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

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

271 (2) This section does not apply:

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

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

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

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

288

289 For the purposes of this paragraph, the physical damage coverage  
290 on the motor vehicle may not be suspended during the term of the

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

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