

**By** the Committees on Transportation; and 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; specifying requirements for the  
15      format, storage, and preservation of an electronically  
16      signed form; amending s. 627.736, F.S.; revising the  
17      period during which the applicable fee schedule or  
18      payment limitation under Medicare applies with respect  
19      to certain personal injury protection insurance  
20      coverage; defining the term "service year"; deleting  
21      an obsolete date; amending s. 627.744, F.S.; revising  
22      the exemption from the preinsurance inspection  
23      requirements for private passenger motor vehicles to  
24      include certain leased vehicles; revising the list of  
25      documents that an insurer may require for purposes of  
26      the exemption; prohibiting the physical damage  
27      coverage on a motor vehicle from being suspended  
28      during the term of a policy due to the insurer's  
29      option not to require certain documents; authorizing a

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30 payment of a claim to be conditioned if the insurer  
31 requires a document under certain circumstances;  
32 providing an effective date.  
33

34 Be It Enacted by the Legislature of the State of Florida:  
35

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

38 627.311 Joint underwriters and joint reinsurers; public  
39 records and public meetings exemptions.—

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

55 (m) May cancel personal lines or commercial policies issued  
56 by the plan within the first 60 days after the effective date of  
57 the policy or binder for nonpayment of premium if the reason for  
58 cancellation is the issuance of a check for the premium which is

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59 dishonored for any reason or any other type of premium payment  
 60 which is rejected or deemed invalid. An insured may not cancel a  
 61 policy or binder within the first 90 days, or within a lesser  
 62 period as required by the plan, after the effective date of the  
 63 policy or binder, except:

- 64 1. Upon total destruction of the insured motor vehicle;  
 65 2. Upon transfer of ownership of the insured motor vehicle;

66 or

67 3. After purchase of another policy or binder covering the  
 68 motor vehicle that was covered under the policy being canceled.

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

71 627.727 Motor vehicle insurance; uninsured and underinsured  
 72 vehicle coverage; insolvent insurer protection.-

73 (1) ~~A No~~ motor vehicle liability insurance policy that  
 74 ~~which~~ provides bodily injury liability coverage may not shall be  
 75 delivered or issued for delivery in this state with respect to a  
 76 ~~any~~ specifically insured or identified motor vehicle registered  
 77 or principally garaged in this state unless uninsured motor  
 78 vehicle coverage is provided therein or supplemental thereto for  
 79 the protection of persons insured by the policy thereunder who  
 80 are legally entitled to recover damages from owners or operators  
 81 of uninsured motor vehicles because of bodily injury, sickness,  
 82 or disease, including death, resulting therefrom. However, the  
 83 coverage required under this section is not applicable if when,  
 84 ~~or to the extent that,~~ an insured named in the policy makes a  
 85 written rejection of the coverage on behalf of all insureds  
 86 under the policy. If When a motor vehicle is leased for a period  
 87 of 1 year or longer and the lessor of the such vehicle, by the

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88 terms of the lease contract, provides liability coverage on the  
89 leased vehicle, the lessee of the ~~such~~ vehicle has ~~shall have~~  
90 the sole privilege to reject uninsured motorist coverage or to  
91 select lower limits than the bodily injury liability limits,  
92 regardless of whether the lessor is qualified as a self-insurer  
93 pursuant to s. 324.171. Unless an insured, or lessee having the  
94 privilege of rejecting uninsured motorist coverage, requests  
95 such coverage or requests higher uninsured motorist limits in  
96 writing, the coverage or the ~~such~~ higher uninsured motorist  
97 limits are ~~need~~ not required to be provided in or supplemental  
98 to any other policy that ~~which~~ renews, extends, changes,  
99 supersedes, or replaces an existing policy with the same bodily  
100 injury liability limits when an insured or lessee had rejected  
101 the coverage. If ~~When~~ an insured or lessee ~~has~~ initially  
102 selected limits of uninsured motorist coverage lower than her or  
103 his bodily injury liability limits, higher limits of uninsured  
104 motorist coverage are ~~need~~ not required to be provided in or  
105 supplemental to any other policy that ~~which~~ renews, extends,  
106 changes, supersedes, or replaces an existing policy with the  
107 same bodily injury liability limits unless an insured requests  
108 higher uninsured motorist coverage in writing. The rejection or  
109 selection of lower limits must ~~shall~~ be made on a form approved  
110 by the office. The form must ~~shall~~ fully advise the named  
111 insured applicant of the nature of the coverage and must ~~shall~~  
112 state that the coverage is equal to bodily injury liability  
113 limits unless lower limits are requested or the coverage is  
114 rejected. The heading of the form shall be in 12-point bold type  
115 and shall state: "You are electing not to purchase certain  
116 valuable coverage which protects you and your family or you are

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117 purchasing uninsured motorist limits less than your bodily  
118 injury liability limits when you sign this form. Please read  
119 carefully." If this form is signed by a named insured, it will  
120 be conclusively presumed that there was an informed, knowing  
121 rejection of coverage or election of lower limits on behalf of  
122 all insureds. The form may be provided electronically to and may  
123 be signed electronically by the named insured. The heading of a  
124 form provided electronically must be in boldfaced type that is  
125 larger than the surrounding text and in black type on a white  
126 background or white type on a black background. An electronic  
127 signature by the named insured must be affixed using technology  
128 that stores and preserves the form, as viewed and signed by the  
129 named insured, as an exact image and that creates a record of  
130 any attempt to modify or tamper with the form after signature.  
131 The insurer must ~~shall~~ notify the named insured at least  
132 annually of her or his options as to the coverage required by  
133 this section. Such notice must ~~shall~~ be part of, and attached  
134 to, the notice of premium, must ~~shall~~ provide for a means to  
135 allow the insured to request such coverage, and must ~~shall~~ be  
136 given in a manner approved by the office. Receipt of this notice  
137 does not constitute an affirmative waiver of the insured's right  
138 to uninsured motorist coverage where the insured has not signed  
139 a selection or rejection form. The coverage described under this  
140 section must ~~shall~~ be over and above, but may ~~shall~~ not  
141 duplicate, the benefits available to an insured under any  
142 workers' compensation law, personal injury protection benefits,  
143 disability benefits law, or similar law; under any automobile  
144 medical expense coverage; under any motor vehicle liability  
145 insurance coverage; or from the owner or operator of the

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146 uninsured motor vehicle or any other person or organization  
147 jointly or severally liable together with such owner or operator  
148 for the accident; and such coverage must ~~shall~~ cover the  
149 difference, if any, between the sum of such benefits and the  
150 damages sustained, up to the maximum amount of such coverage  
151 provided under this section. The amount of coverage available  
152 under this section may ~~shall~~ not be reduced by a setoff against  
153 any coverage, including liability insurance. Such coverage may  
154 ~~shall~~ not inure directly or indirectly to the benefit of a any  
155 workers' compensation or disability benefits carrier or a any  
156 person or organization qualifying as a self-insurer under a any  
157 workers' compensation or disability benefits law or similar law.

158 Section 3. Paragraph (a) of subsection (5) of section  
159 627.736, Florida Statutes, is amended to read:

160 627.736 Required personal injury protection benefits;  
161 exclusions; priority; claims.—

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

163 (a) A physician, hospital, clinic, or other person or  
164 institution lawfully rendering treatment to an injured person  
165 for a bodily injury covered by personal injury protection  
166 insurance may charge the insurer and injured party only a  
167 reasonable amount pursuant to this section for the services and  
168 supplies rendered, and the insurer providing such coverage may  
169 pay for such charges directly to such person or institution  
170 lawfully rendering such treatment if the insured receiving such  
171 treatment or his or her guardian has countersigned the properly  
172 completed invoice, bill, or claim form approved by the office  
173 upon which such charges are to be paid for as having actually  
174 been rendered, to the best knowledge of the insured or his or

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175 her guardian. However, such a charge may not exceed the amount  
176 the person or institution customarily charges for like services  
177 or supplies. In determining whether a charge for a particular  
178 service, treatment, or otherwise is reasonable, consideration  
179 may be given to evidence of usual and customary charges and  
180 payments accepted by the provider involved in the dispute,  
181 reimbursement levels in the community and various federal and  
182 state medical fee schedules applicable to motor vehicle and  
183 other insurance coverages, and other information relevant to the  
184 reasonableness of the reimbursement for the service, treatment,  
185 or supply.

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

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

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

193 c. For emergency services and care as defined by s. 395.002  
194 provided in a facility licensed under chapter 395 rendered by a  
195 physician or dentist, and related hospital inpatient services  
196 rendered by a physician or dentist, the usual and customary  
197 charges in the community.

198 d. For hospital inpatient services, other than emergency  
199 services and care, 200 percent of the Medicare Part A  
200 prospective payment applicable to the specific hospital  
201 providing the inpatient services.

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

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204 Payment Classification for the specific hospital providing the  
205 outpatient services.

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

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

211 (II) Medicare Part B, in the case of services, supplies,  
212 and care provided by ambulatory surgical centers and clinical  
213 laboratories.

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

217

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

227 2. For purposes of subparagraph 1., the applicable fee  
228 schedule or payment limitation under Medicare is the fee  
229 schedule or payment limitation in effect on March 1 of the  
230 service year in which the services, supplies, or care is  
231 rendered and for the area in which such services, supplies, or  
232 care is rendered, and the applicable fee schedule or payment



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233 limitation applies to services, supplies, or care rendered  
234 during ~~throughout the remainder of~~ that service year,  
235 notwithstanding any subsequent change made to the fee schedule  
236 or payment limitation, except that it may not be less than the  
237 allowable amount under the applicable schedule of Medicare Part  
238 B for 2007 for medical services, supplies, and care subject to  
239 Medicare Part B. For purposes of this subparagraph, the term  
240 "service year" means the period from March 1 through the end of  
241 February of the following year.

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

258 4. If an insurer limits payment as authorized by  
259 subparagraph 1., the person providing such services, supplies,  
260 or care may not bill or attempt to collect from the insured any  
261 amount in excess of such limits, except for amounts that are not

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262 covered by the insured's personal injury protection coverage due  
263 to the coinsurance amount or maximum policy limits.

264 5. ~~Effective July 1, 2012,~~ An insurer may limit payment as  
265 authorized by this paragraph only if the insurance policy  
266 includes a notice at the time of issuance or renewal that the  
267 insurer may limit payment pursuant to the schedule of charges  
268 specified in this paragraph. A policy form approved by the  
269 office satisfies this requirement. If a provider submits a  
270 charge for an amount less than the amount allowed under  
271 subparagraph 1., the insurer may pay the amount of the charge  
272 submitted.

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

275 627.744 Required preinsurance inspection of private  
276 passenger motor vehicles.—

277 (2) This section does not apply:

278 (a) To a policy for a policyholder who has been insured for  
279 2 years or longer, without interruption, under a private  
280 passenger motor vehicle policy that ~~which~~ provides physical  
281 damage coverage for any vehicle, if the agent of the insurer  
282 verifies the previous coverage.

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

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

289 2. A copy of the title or registration that ~~which~~  
290 establishes transfer of ownership from the dealer or leasing

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291 company to the customer and a copy of the window sticker ~~or the~~  
292 ~~dealer invoice showing the itemized options and equipment and~~  
293 ~~the total retail price of the vehicle.~~

294

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

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