

By the Committee on Appropriations; and Senator Simmons

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1 A bill to be entitled
2 An act relating to insurance for short-term rental and
3 transportation network companies; creating s. 627.716,
4 F.S.; defining terms; establishing insurance
5 requirements for short-term rental network companies
6 during certain timeframes; requiring a short-term
7 rental network company to make certain written
8 disclosures to participating lessors; requiring an
9 insurer to defend and indemnify an insured in this
10 state; prohibiting the personal insurance policy of a
11 participating lessor of a short-term rental property
12 from providing specified coverage during certain
13 timeframes except under specified circumstances;
14 requiring a short-term rental network company and its
15 insurer to cooperate with certain claims
16 investigations; providing that the section does not
17 limit the liability of a short-term rental network
18 company under specified circumstances; creating s.
19 627.748, F.S.; defining terms; requiring a
20 transportation network company driver or such company
21 on the driver's behalf, or a combination thereof, to
22 maintain primary automobile liability insurance issued
23 by specified insurers with certain coverages in
24 specified amounts during certain timeframes; requiring
25 the transportation network company to provide
26 automobile insurance in the event insurance maintained
27 by the transportation network company driver lapses or
28 does not provide the required coverage; requiring a
29 transportation network company driver to carry proof

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30 of insurance coverage at certain times and to disclose
31 specified information in the event of an accident;
32 requiring a transportation network company to make
33 certain disclosures to transportation network company
34 drivers; authorizing insurers to exclude certain
35 coverages during specified periods for policies issued
36 to transportation network company drivers for personal
37 vehicles; requiring a transportation network company
38 and certain insurers to cooperate during a claims
39 investigation to facilitate the exchange of specified
40 information; requiring a transportation network
41 company to determine whether an individual's personal
42 vehicle is subject to a lien before allowing the
43 individual to act as a driver and, if the vehicle is
44 subject to a lien, to verify that the insurance
45 required by this section provides coverage to the
46 lienholder during specified periods; authorizing the
47 Office of Insurance Regulation to adopt rules to
48 implement the section; providing an effective date.

49
50 Be It Enacted by the Legislature of the State of Florida:

51
52 Section 1. Section 627.716, Florida Statutes, is created to
53 read:

54 627.716 Short-term rental network company insurance.-

55 (1) For purposes of this section, the term:

56 (a) "Application" means an Internet-enabled application or
57 platform owned or used by a short-term rental network company or
58 any similar method of providing rental services to a

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59 participating renter.

60 (b) "Participating lessor" means a person who makes a
61 short-term rental property available through an application to
62 participating renters.

63 (c) "Participating renter" means a person who enters into a
64 short-term rental arrangement through an application.

65 (d) "Short-term rental network company" or "company" means
66 an organization, including, but not limited to, a corporation,
67 limited liability company, partnership, sole proprietorship, or
68 other entity for which participating lessors provide
69 prearranged, short-term rentals for compensation using an
70 application to connect a participating renter with a
71 participating lessor.

72 (e) "Short-term rental network company insurance" means an
73 insurance policy that expressly provides coverage as required by
74 this section at all times during the short-term rental period.

75 (f) "Short-term rental period" means the period beginning
76 at the time the participating renter first uses or occupies the
77 short-term rental property and ending at the time the
78 participating renter vacates the short-term rental property.

79 (g) "Short-term rental property" means the entirety or any
80 portion of a property which is used for residential occupancy
81 purposes. Such property includes, but is not limited to, a
82 condominium, an apartment, a multifamily dwelling, a single-
83 family structure, or any other rental unit located in this state
84 which is owned or rented by a participating lessor.

85 (2) (a) During the short-term rental period, a short-term
86 rental network company shall maintain short-term rental network
87 company insurance that is primary and that:

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88 1. Insures the participating lessor against direct physical
89 loss to the short-term rental property and its contents,
90 exclusive of the property of the participating renter, with
91 limits equal to any multiperil or named-peril property insurance
92 maintained by the participating lessor.

93 2. Provides liability coverage for personal injury and
94 property damage with limits of at least \$1 million which covers
95 the acts and omissions of the short-term rental network company,
96 a participating lessor, and all persons using or occupying the
97 short-term rental property and which does not contain an
98 exclusion for co-insureds.

99 (b) Short-term rental network company insurance may not
100 require as a prerequisite of coverage that another insurance
101 policy be primary or first deny a claim.

102 (3) A short-term rental network company shall disclose in
103 writing to a participating lessor the insurance coverages and
104 limits of liability that the short-term rental network company
105 provides during the short-term rental period. The company shall
106 advise the participating lessor in writing that the
107 participating lessor's personal insurance policy may not provide
108 the insurance coverage required by subsection (2).

109 (4) An insurer that provides short-term rental network
110 company insurance shall defend and indemnify in this state the
111 insured in accordance with the policy's provisions.

112 (5) (a) During the short-term rental period, the
113 participating lessor's personal insurance policy for the short-
114 term rental property may not:

115 1. Be required to provide primary or excess coverage.

116 2. Provide any coverage to the participating lessor, the

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117 participating renter, or a third party unless the policy, with
118 or without a separate charge, expressly provides for such
119 coverage or contains an amendment or endorsement to provide such
120 coverage.

121 3. Have any duty to indemnify or defend for liabilities
122 arising during the short-term rental period unless the policy,
123 with or without a separate charge, expressly provides for such
124 duties or contains an amendment or endorsement to provide for
125 such duties.

126 (b) Before or after the short-term rental period, the
127 participating lessor's personal policy for the short-term rental
128 property may not provide coverage for claims arising from any
129 rental arrangement entered into by a participating renter with
130 the short-term rental company or the participating lessor for
131 the short-term rental property or for acts and omissions related
132 to the rental arrangement unless the policy, with or without a
133 separate charge, provides for such coverage or contains an
134 amendment or endorsement to provide such coverage.

135 (6) In a claims investigation, a short-term rental network
136 company or its insurer shall cooperate with other insurers to
137 facilitate the exchange of information, which must include the
138 number and duration of all short-term rental periods made with
139 respect to the short-term rental property for the 12 months
140 preceding the date of loss.

141 (7) This section does not limit the liability of a short-
142 term rental network company arising out of the use or occupancy
143 of short-term rental property by a participating renter for an
144 amount that exceeds the limits specified in subsection (2).

145 Section 2. Section 627.748, Florida Statutes, is created to

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146 read:

147 627.748 Transportation network company insurance.-148 (1) For purposes of this section, the term:149 (a) "Digital network" means an online-enabled application,
150 software, website, or system offered or used by a transportation
151 network company which enables the prearrangement of rides with
152 transportation network company drivers.153 (b) "Personal vehicle" means a vehicle that is used by a
154 transportation network company driver in connection with
155 providing transportation network company service and that:156 1. Is owned, leased, or otherwise authorized for use by the
157 transportation network company driver; and158 2. Is not a taxi, jitney, limousine, or for-hire vehicle as
159 defined in s. 320.01(15).160 (c) "Prearranged ride" means the provision of
161 transportation by a driver to or on behalf of a rider, beginning
162 when a driver accepts a ride requested by a rider through a
163 digital network controlled by a transportation network company,
164 continuing while the driver transports the rider, and ending
165 when the last rider departs from the personal vehicle. A
166 prearranged ride does not include transportation provided using
167 a taxi, jitney, limousine, for-hire vehicle as defined in s.
168 320.01(15), or street hail services.169 (d) "Transportation network company" or "company" means a
170 corporation, partnership, sole proprietorship, or other entity
171 operating in this state which uses a digital network to connect
172 transportation network company riders to transportation network
173 company drivers who provide prearranged rides. A transportation
174 network company may not be deemed to control, direct, or manage

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175 the personal vehicles or transportation network company drivers
176 that connect to its digital network, unless agreed to in a
177 written contract. A transportation network company does not
178 include an individual, corporation, partnership, sole
179 proprietorship, or other entity arranging nonemergency medical
180 transportation for individuals qualifying for Medicaid or
181 Medicare pursuant to a contract with the state or a managed care
182 organization.

183 (e) "Transportation network company driver" or "driver"
184 means an individual who:

185 1. Receives connections to potential riders and related
186 services from a transportation network company in exchange for
187 any form of compensation, including payment of a fee to the
188 transportation network company; and

189 2. Uses a personal vehicle to offer or provide a
190 prearranged ride to riders upon connection through a digital
191 network controlled by a transportation network company in return
192 for compensation, including payment of a fee.

193 (f) "Transportation network company rider" or "rider" means
194 an individual who directly or indirectly uses a transportation
195 network company's digital network to connect with a
196 transportation network company driver who provides
197 transportation services to such individual in the driver's
198 personal vehicle.

199 (2) (a) A transportation network company driver, or a
200 transportation network company on the driver's behalf, shall
201 maintain primary automobile liability insurance that recognizes
202 that the driver is a transportation network company driver or
203 that the driver otherwise uses a personal vehicle to transport

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204 riders for compensation. Such primary automobile liability
205 insurance must cover the driver as required under this section,
206 including while the driver is logged on to the transportation
207 network company's digital network and engaged in a prearranged
208 ride.

209 (b) The following automobile insurance requirements apply
210 while a participating transportation network company driver is
211 logged on to the transportation network company's digital
212 network and is available to receive transportation requests, but
213 is not engaged in a prearranged ride:

214 1. Primary automobile liability insurance of at least
215 \$125,000 for death and bodily injury per person, \$250,000 for
216 death and bodily injury per incident, coverage in an equivalent
217 amount for uninsured and underinsured motorists, and \$50,000 for
218 property damage; and

219 2. Primary automobile insurance that provides the minimum
220 coverage requirements under ss. 627.730-627.7405.

221 (c) The following automobile insurance requirements shall
222 apply while a transportation network company driver is engaged
223 in a prearranged ride:

224 1. Primary automobile liability insurance of at least \$1
225 million for death and bodily injury per person, \$2 million for
226 death and bodily injury per incident, coverage in an equivalent
227 amount for uninsured and underinsured motorists, and \$50,000 for
228 property damage; and

229 2. Primary automobile insurance that provides the minimum
230 coverage requirements under ss. 627.730-627.7405.

231 (d) The following automobile insurance requirements apply
232 at all times other than the periods specified in paragraph (b)

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233 or paragraph (c) if a driver has or, within the previous 6
234 months has had, an agreement with a transportation network
235 company to provide any form of transportation services to
236 riders:

237 1. Primary automobile liability insurance of at least
238 \$100,000 for death and bodily injury per person, \$200,000 for
239 death and bodily injury per incident, coverage in an equivalent
240 amount for uninsured and underinsured motorists, and \$50,000 for
241 property damage; and

242 2. Primary automobile insurance that provides the minimum
243 coverage requirements under ss. 627.730-627.7405.

244 (e) The coverage requirements of paragraph (b), paragraph
245 (c), or paragraph (d) may be satisfied by any of the following:

246 1. Automobile liability insurance maintained by the
247 transportation network company driver;

248 2. Automobile liability insurance maintained by the
249 transportation network company; or

250 3. Any combination of subparagraphs 1. and 2.

251 (f) If automobile insurance maintained by a driver under
252 paragraph (b), paragraph (c), or paragraph (d) has lapsed or
253 does not provide the required coverage, automobile insurance
254 maintained by a transportation network company must provide the
255 coverage required by this section beginning with the first
256 dollar of a claim and must require that the insurer have the
257 duty to defend such claim in this state.

258 (g) Coverage under an automobile insurance policy
259 maintained by the transportation network company may not be
260 dependent on a personal automobile liability insurance policy
261 first denying a claim.

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262 (h) Automobile insurance required by this section must be
263 provided by an insurer authorized to do business in this state
264 and which is a member of the Florida Insurance Guaranty
265 Association.

266 (i) Automobile insurance satisfying the requirements of
267 this section shall be deemed to satisfy the financial
268 responsibility requirements for a motor vehicle under chapter
269 324 and the security required under s. 627.733.

270 (j) A transportation network company driver shall carry
271 proof of insurance coverage satisfying paragraphs (b), (c), and
272 (d) at all times during his or her use of a personal vehicle in
273 connection with a transportation network company's digital
274 network. In the event of an accident:

275 1. The driver shall provide the insurance coverage
276 information to the directly involved parties, automobile
277 insurers, and investigating police officers. Proof of financial
278 responsibility may be provided through a digital telephone
279 application under s. 316.646 controlled by a transportation
280 network company.

281 2. The driver, upon request, shall disclose to the directly
282 involved parties, automobile insurers, and investigating police
283 officers whether the driver, at the time of the accident, was
284 logged on to the transportation network company's digital
285 network or engaged in prearranged ride.

286 (k) Before a driver may accept a request for a prearranged
287 ride on the transportation network company's digital network,
288 the transportation network company shall disclose in writing to
289 each transportation network company driver each type of:

290 1. Insurance coverage and the limit for each coverage the

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291 transportation network company provides; and

292 2. Automobile insurance coverage that the driver must
293 maintain while the driver uses a personal vehicle in connection
294 with the transportation network company.

295 (1) An insurer that provides personal automobile insurance
296 policies under part XI of chapter 627 may exclude from coverage
297 under a policy issued to an owner or operator of a personal
298 vehicle any loss or injury that occurs while a driver is logged
299 on to a transportation network company's digital network or
300 while a driver is engaged in a prearranged ride. Such right to
301 exclude coverage applies to any coverage under an automobile
302 liability insurance policy, including, but not limited to:

303 1. Liability coverage for bodily injury and property
304 damage.

305 2. Personal injury protection coverage under s. 627.736.

306 3. Uninsured and underinsured motorist coverage.

307 4. Medical payments coverage.

308 5. Comprehensive physical damage coverage.

309 6. Collision physical damage coverage.

310 (m) The exclusions authorized under paragraph (l) apply
311 notwithstanding any financial responsibility requirements under
312 chapter 324. This section does not require that a personal
313 automobile liability insurance policy provide coverage while the
314 driver is logged on to the transportation network company's
315 digital network, while the driver is engaged in a prearranged
316 ride, or while the driver otherwise uses a personal vehicle to
317 transport riders for compensation. However, an insurer may
318 voluntarily elect to provide coverage for such driver's personal
319 vehicle by contract or endorsement.

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320 (n) An insurer that excludes coverage, as authorized under
321 paragraph (l):

322 1. Does not have a duty to defend or indemnify any claim
323 excluded. This section does not invalidate or limit an exclusion
324 contained in a policy, including any policy in use or approved
325 for use in this state before July 1, 2015.

326 2. Has a right of contribution against other insurers that
327 provide automobile liability insurance to the same driver in
328 satisfaction of the coverage requirements of this section at the
329 time of loss if the insurer defends or indemnifies a claim
330 against a driver which is excluded under the terms of its
331 policy.

332 (o) In any claims investigation, a transportation network
333 company and any insurer potentially providing coverage for such
334 claim under this section shall cooperate to facilitate the
335 exchange of relevant information with directly involved parties
336 and insurers of the transportation network company driver, if
337 applicable. Such information must provide:

338 1. The precise times that a driver logged on and off the
339 transportation network company's digital network during the 12-
340 hour period immediately preceding and immediately after the
341 accident.

342 2. A clear description of the coverage, any exclusions, and
343 limits provided under any automobile liability insurance
344 maintained under this section.

345 (p) Before allowing an individual to act as a driver on its
346 digital network, a transportation network company shall
347 determine whether the driver's personal vehicle is subject to a
348 lien. If the personal vehicle is subject to a lien, the

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349 transportation network company shall verify that the insurance
350 required by this section provides coverage to the lienholder
351 while the driver is logged into the transportation network
352 company's digital network and while the driver is providing a
353 prearranged ride.

354 (3) The office may adopt rules to implement this section.
355 Section 3. This act shall take effect July 1, 2015.