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1 A bill to be entitled
2 An act relating to minimum insurance requirements;
3 amending s. 316.646, F.S.; requiring a transportation
4 network company driver to have proof of certain
5 insurance in his or her possession during a specified
6 timeframe; creating s. 627.716, F.S.; defining terms;
7 establishing insurance requirements for short-term
8 rental network companies during certain timeframes;
9 requiring a short-term rental network company to make
10 certain written disclosures to participating lessors;
11 requiring an insurer to defend and indemnify an
12 insured in this state; prohibiting the personal
13 insurance policy of a participating lessor of a short-
14 term rental property from providing specified coverage
15 during certain timeframes except under specified
16 circumstances; requiring a short-term rental network
17 company and its insurer to cooperate with certain
18 claims investigations; providing that the section does
19 not limit the liability of a short-term rental network
20 company under specified circumstances; creating s.
21 627.748, F.S.; defining terms; requiring a
22 transportation network company driver or such company
23 on the driver's behalf, or a combination thereof, to
24 maintain primary automobile insurance issued by
25 specified insurers with certain coverages in specified
26 amounts during certain timeframes; requiring a
27 transportation network company driver to maintain
28 primary automobile insurance issued by specified
29 insurers with certain coverages in specified amounts

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30 during certain timeframes; requiring the
31 transportation network company to provide automobile
32 insurance in the event insurance maintained by the
33 transportation network company driver lapses or does
34 not provide the required coverage; requiring a
35 transportation network company driver to carry proof
36 of certain insurance coverage at all times during his
37 or her use of a personal vehicle and to disclose
38 specified information in the event of an accident;
39 requiring a transportation network company to make
40 certain disclosures to transportation network company
41 drivers; authorizing insurers to exclude certain
42 coverages during specified periods for policies issued
43 to transportation network company drivers for personal
44 vehicles; requiring a transportation network company
45 and certain insurers to cooperate during a claims
46 investigation to facilitate the exchange of specified
47 information; requiring a transportation network
48 company to determine whether an individual's personal
49 vehicle is subject to a lien before allowing the
50 individual to act as a driver and, if the vehicle is
51 subject to a lien, to verify that the insurance
52 required by this section provides coverage to the
53 lienholder during specified periods; authorizing the
54 Office of Insurance Regulation to adopt rules to
55 implement the section; providing an effective date.

56
57 Be It Enacted by the Legislature of the State of Florida:
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59 Section 1. Subsection (1) of section 316.646, Florida
60 Statutes, is amended to read:

61 316.646 Security required; proof of security and display
62 thereof.—

63 (1) Any person required by s. 324.022 to maintain property
64 damage liability security, required by s. 324.023 to maintain
65 liability security for bodily injury or death, ~~or~~ required by s.
66 627.733 to maintain personal injury protection security on a
67 motor vehicle, or required by s. 627.748(2)(d) to maintain
68 insurance shall have in his or her immediate possession at all
69 times while operating such motor vehicle proper proof of
70 maintenance of the required security.

71 (a) Such proof shall be in a uniform paper or electronic
72 format, as prescribed by the department, a valid insurance
73 policy, an insurance policy binder, a certificate of insurance,
74 or such other proof as may be prescribed by the department.

75 (b)1. The act of presenting to a law enforcement officer an
76 electronic device displaying proof of insurance in an electronic
77 format does not constitute consent for the officer to access any
78 information on the device other than the displayed proof of
79 insurance.

80 2. The person who presents the device to the officer
81 assumes the liability for any resulting damage to the device.

82 Section 2. Section 627.716, Florida Statutes, is created to
83 read:

84 627.716 Short-term rental network company insurance.—

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

86 (a) "Application" means an Internet-enabled application or
87 platform or any similar method that is used to provide rental

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88 services to a participating renter and that is owned or used by
89 a short-term rental network company.

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

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

95 (d) "Short-term rental network company" or "company" means
96 an individual or organization, including, but not limited to, a
97 corporation, limited liability company, partnership, sole
98 proprietorship, or other entity for which participating lessors
99 provide prearranged, short-term rentals for compensation using
100 an application to connect a participating renter with a
101 participating lessor. The term does not include a licensee under
102 part VIII of chapter 468, chapter 475, or part I of chapter 509,
103 an association as defined in s. 718.103 or s. 719.103, a
104 homeowners' association as defined in s. 720.301, a developer or
105 managing entity as defined in s. 721.05, or other entity that
106 owns, manages, or otherwise controls the short-term rental
107 property of the participating lessor.

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

111 (f) "Short-term rental period" means a period of less than
112 30 days or one calendar month, whichever is less, beginning at
113 the time the participating renter first uses or occupies the
114 short-term rental property and ending at the time the
115 participating renter vacates the short-term rental property.

116 (g) "Short-term rental property" means the entirety or any

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117 portion of a property which is used for residential occupancy
118 purposes. The term includes, but is not limited to, a
119 condominium, an apartment, a multifamily dwelling, a single-
120 family structure, or any other rental unit located in this state
121 which is owned or rented by a participating lessor. The term
122 does not include a public lodging establishment licensed under
123 part I of chapter 509 or a timeshare property as defined in s.
124 721.05.

125 (2) During the short-term rental period, a short-term
126 rental network company shall maintain short-term rental network
127 company insurance as excess coverage, except that such coverage
128 shall be primary to the extent that the participating lessor's
129 insurance does not provide coverage. The short-term rental
130 network company insurance must:

131 (a) Insure the participating lessor against direct physical
132 loss to the short-term rental property and its contents,
133 exclusive of the property of the participating renter, with
134 limits of at least \$1 million per occurrence with a policy
135 period aggregate limit of \$2 million for each short-term rental
136 property.

137 (b) Provide liability coverage for personal injury and
138 property damage with limits of at least \$1 million which covers
139 the acts and omissions of the short-term rental network company,
140 a participating lessor, and all other persons using or occupying
141 the short-term rental property, except for a participating
142 renter, against claims arising out of the use or occupancy of
143 the short-term rental property by a participating renter and
144 which does not contain an exclusion for co-insureds.

145 (3) A short-term rental network company shall disclose in

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146 writing to a participating lessor the insurance coverages and
147 limits of liability that the short-term rental network company
148 provides during the short-term rental period. The company shall
149 advise the participating lessor in writing that the
150 participating lessor's personal insurance policy may not provide
151 the insurance coverage required by subsection (2).

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

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

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

159 2. Provide any coverage to the participating lessor, the
160 participating renter, or a third party unless the policy, with
161 or without a separate charge, provides for such coverage or
162 contains an amendment or endorsement to provide such coverage.

163 3. Have any duty to indemnify or defend for liabilities
164 arising during the short-term rental period unless the policy,
165 with or without a separate charge, provides for such duties or
166 contains an amendment or endorsement to provide for such duties.

167 (b) Before or after the short-term rental period, the
168 participating lessor's personal policy for the short-term rental
169 property may not provide coverage for claims arising from any
170 rental arrangement entered into by a participating renter with
171 the short-term rental company or the participating lessor for
172 the short-term rental property or for acts and omissions related
173 to the rental arrangement unless the policy, with or without a
174 separate charge, provides for such coverage or contains an

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175 amendment or endorsement to provide such coverage.

176 (6) In a claims investigation, a short-term rental network
177 company or its insurer shall cooperate with other insurers to
178 facilitate the exchange of information, which must include the
179 number and duration of all short-term rental periods made with
180 respect to the short-term rental property for the 12 months
181 preceding the date of loss.

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

186 Section 3. Section 627.748, Florida Statutes, is created to
187 read:

188 627.748 Transportation network company insurance.-

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

190 (a) "Digital network" means an online-enabled application,
191 software, website, or system offered or used by a transportation
192 network company which enables the prearrangement of rides with
193 transportation network company drivers.

194 (b) "Personal vehicle" means a vehicle, however titled,
195 which is used by a transportation network company driver in
196 connection with providing transportation network company service
197 and that:

198 1. Is owned, leased, or otherwise authorized for use by the
199 transportation network company driver; and

200 2. Is not a taxi, jitney, limousine, or for-hire vehicle as
201 defined in s. 320.01(15).

202 (c) "Prearranged ride" means the provision of
203 transportation by a driver to or on behalf of a rider, beginning

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204 when a driver accepts a ride requested by a rider through a
205 digital network controlled by a transportation network company,
206 continuing while the driver transports the rider, and ending
207 when the last rider departs from the personal vehicle. A
208 prearranged ride does not include transportation provided using
209 a taxi, jitney, limousine, for-hire vehicle as defined in s.
210 320.01(15), or street hail services.

211 (d) "Transportation network company" or "company" means a
212 corporation, partnership, sole proprietorship, or other entity
213 operating in this state which uses a digital network to connect
214 transportation network company riders to transportation network
215 company drivers who provide prearranged rides. A transportation
216 network company may not be deemed to control, direct, or manage
217 the personal vehicles or transportation network company drivers
218 that connect to its digital network, unless agreed to in a
219 written contract. A transportation network company does not
220 include an individual, corporation, partnership, sole
221 proprietorship, or other entity arranging nonemergency medical
222 transportation for individuals qualifying for Medicaid or
223 Medicare pursuant to a contract with the state or a managed care
224 organization.

225 (e) "Transportation network company driver" or "driver"
226 means an individual who:

227 1. Receives connections to potential riders and related
228 services from a transportation network company in exchange for
229 any form of compensation, including payment of a fee to the
230 transportation network company; and

231 2. Uses a personal vehicle to offer or provide a
232 prearranged ride to riders upon connection through a digital

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233 network controlled by a transportation network company in return
234 for compensation, including payment of a fee.

235 (f) "Transportation network company rider" or "rider" means
236 an individual who directly or indirectly uses a transportation
237 network company's digital network to connect with a
238 transportation network company driver who provides
239 transportation services to such individual in the driver's
240 personal vehicle.

241 (2) (a) A transportation network company driver, or a
242 transportation network company on the driver's behalf, shall
243 maintain primary automobile insurance that recognizes that the
244 driver is a transportation network company driver or that the
245 driver otherwise uses a personal vehicle to transport riders for
246 compensation. Such primary automobile insurance must cover the
247 driver as required under this section, including while the
248 driver is logged on to the transportation network company's
249 digital network and engaged in a prearranged ride.

250 (b) The following automobile insurance requirements apply
251 while a participating transportation network company driver is
252 logged on to the transportation network company's digital
253 network and is available to receive transportation requests, but
254 is not engaged in a prearranged ride:

255 1. Primary automobile liability insurance of at least
256 \$125,000 for death and bodily injury per person, \$250,000 for
257 death and bodily injury per incident, and \$25,000 for property
258 damage; and

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

261 (c) While a transportation network company driver is

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262 engaged in a prearranged ride, the automobile insurance
263 requirements that apply are primary automobile liability
264 insurance of at least \$1 million for death and bodily injury and
265 \$50,000 for property damage.

266 (d) The following automobile insurance requirements apply
267 at all times other than the periods specified in paragraph (b)
268 or paragraph (c) if a driver has an agreement with a
269 transportation network company to provide any form of
270 transportation services to riders:

271 1. Primary automobile liability insurance of at least
272 \$100,000 for death and bodily injury per person, \$200,000 for
273 death and bodily injury per incident, and \$25,000 for property
274 damage; and

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

277 (e) The coverage requirements of paragraph (d) shall be
278 satisfied by automobile insurance maintained by the
279 transportation network company driver. The coverage requirements
280 of paragraphs (b) and (c) may be satisfied by any of the
281 following:

282 1. Automobile insurance maintained by the transportation
283 network company driver;

284 2. Automobile insurance maintained by the transportation
285 network company; or

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

287 (f) If automobile insurance maintained by a driver under
288 paragraph (b), paragraph (c), or paragraph (d) has lapsed or
289 does not provide the required coverage, automobile insurance
290 maintained by a transportation network company must provide the

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291 coverage required by this section beginning with the first
292 dollar of a claim and must require that the insurer have the
293 duty to defend such claim in this state.

294 (g) Coverage under an automobile insurance policy
295 maintained by the transportation network company may not be
296 dependent on a personal automobile liability insurance policy
297 first denying a claim.

298 (h) Automobile insurance required by this section must be
299 provided by an insurer authorized to do business in this state
300 which is a member of the Florida Insurance Guaranty Association.

301 (i) Automobile insurance satisfying the requirements of
302 this section shall be deemed to satisfy the financial
303 responsibility requirements for a motor vehicle under chapter
304 324 and the security required under s. 627.733.

305 (j) A transportation network company driver shall carry
306 proof of insurance coverage satisfying paragraphs (b), (c), and
307 (d) at all times during his or her use of a personal vehicle. In
308 the event of an accident:

309 1. The driver shall provide the insurance coverage
310 information to the directly involved parties, automobile
311 insurers, and investigating police officers. Proof of financial
312 responsibility may be provided through a digital telephone
313 application under s. 316.646 controlled by a transportation
314 network company.

315 2. The driver, upon request, shall disclose to the directly
316 involved parties, automobile insurers, and investigating police
317 officers whether the driver, at the time of the accident, was
318 logged on to the transportation network company's digital
319 network or engaged in prearranged ride.

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320 (k) Before a driver may accept a request for a prearranged
321 ride on the transportation network company's digital network,
322 the transportation network company shall disclose in writing to
323 each transportation network company driver each type of:

324 1. Insurance coverage and the limit for each coverage the
325 transportation network company provides; and

326 2. Automobile insurance coverage that the driver must
327 maintain while the driver uses a personal vehicle in connection
328 with the transportation network company.

329 (l) An insurer that provides personal automobile insurance
330 policies under part XI of chapter 627 may exclude from coverage
331 under a policy issued to an owner or operator of a personal
332 vehicle any loss or injury that occurs while a driver is logged
333 on to a transportation network company's digital network or
334 while a driver is engaged in a prearranged ride. Such right to
335 exclude coverage applies to any coverage under an automobile
336 insurance policy, including, but not limited to:

337 1. Liability coverage for bodily injury and property
338 damage.

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

340 3. Uninsured and underinsured motorist coverage.

341 4. Medical payments coverage.

342 5. Comprehensive physical damage coverage.

343 6. Collision physical damage coverage.

344 (m) The exclusions authorized under paragraph (l) apply
345 notwithstanding any financial responsibility requirements under
346 chapter 324. This section does not require that a personal
347 automobile insurance policy provide coverage while the driver is
348 logged on to the transportation network company's digital

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349 network, while the driver is engaged in a prearranged ride, or
350 while the driver otherwise uses a personal vehicle to transport
351 riders for compensation. However, an insurer may voluntarily
352 elect to provide coverage for such driver's personal vehicle by
353 contract or endorsement.

354 (n) An insurer that excludes coverage, as authorized under
355 paragraph (l):

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

360 2. Has a right of contribution against other insurers that
361 provide automobile insurance to the same driver in satisfaction
362 of the coverage requirements of this section at the time of loss
363 if the insurer defends or indemnifies a claim against a driver
364 which is excluded under the terms of its policy.

365 (o) In a claims investigation, a transportation network
366 company and any insurer potentially providing coverage for such
367 claim under this section shall cooperate to facilitate the
368 exchange of relevant information with directly involved parties
369 and insurers of the transportation network company driver, if
370 applicable. Such information must provide:

371 1. The precise times that a driver logged on and off the
372 transportation network company's digital network during the 12-
373 hour period immediately preceding and immediately after the
374 accident.

375 2. A clear description of the coverage, any exclusions, and
376 limits provided under any automobile insurance maintained under
377 this section.

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378 (p) Before allowing an individual to act as a driver on its
379 digital network, a transportation network company shall
380 determine whether the driver's personal vehicle is subject to a
381 lien. If the personal vehicle is subject to a lien, the
382 transportation network company shall verify that the insurance
383 required by this section provides coverage to the lienholder
384 while the driver is logged into the transportation network
385 company's digital network and while the driver is providing a
386 prearranged ride.

387 (3) The office may adopt rules to implement this section.
388 Section 4. This act shall take effect January 1, 2016.