

1 A bill to be entitled

2 An act relating to property and casualty insurance;  
3 amending s. 627.062, F.S.; requiring the Office of  
4 Insurance Regulation to use certain models or methods,  
5 or a straight average of model results or output  
6 ranges, to estimate hurricane losses when determining  
7 whether the rates in a rate filing are excessive,  
8 inadequate, or unfairly discriminatory; amending s.  
9 627.0628, F.S.; increasing the length of time during  
10 which an insurer must adhere to certain findings made  
11 by the Commission on Hurricane Loss Projection  
12 Methodology with respect to certain methods,  
13 principles, standards, models, or output ranges used  
14 in a rate filing; providing that the requirement to  
15 adhere to such findings does not prohibit an insurer  
16 from using a straight average of model results or  
17 output ranges under specified circumstances; amending  
18 s. 627.0651, F.S.; revising provisions for making and  
19 use of rates for motor vehicle insurance; amending s.  
20 627.3518, F.S.; conforming a cross-reference; amending  
21 s. 627.4133, F.S.; increasing the amount of prior  
22 notice required with respect to the nonrenewal,  
23 cancellation, or termination of certain insurance  
24 policies; deleting certain provisions that require  
25 extended periods of prior notice with respect to the  
26 nonrenewal, cancellation, or termination of certain

Page 1 of 18

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

27 insurance policies; prohibiting the cancellation of  
 28 certain policies that have been in effect for a  
 29 specified amount of time except under certain  
 30 circumstances; amending s. 627.421, F.S.; authorizing  
 31 a policyholder of personal lines insurance to  
 32 affirmatively elect delivery of policy documents by  
 33 electronic means; amending s. 627.7074, F.S.; revising  
 34 notification requirements for participation in the  
 35 neutral evaluation program; amending s. 627.736, F.S.;  
 36 revising the period for applicability of certain  
 37 Medicare fee schedules or payment limitations;  
 38 amending s. 627.744, F.S.; revising preinsurance  
 39 inspection requirements for private passenger motor  
 40 vehicles; providing an effective date.

41

42 Be It Enacted by the Legislature of the State of Florida:

43

44 Section 1. Paragraph (b) of subsection (2) of section  
 45 627.062, Florida Statutes, is amended to read:

46 627.062 Rate standards.—

47 (2) As to all such classes of insurance:

48 (b) Upon receiving a rate filing, the office shall review  
 49 the filing to determine whether ~~if~~ a rate is excessive,  
 50 inadequate, or unfairly discriminatory. In making that  
 51 determination, the office shall, in accordance with generally  
 52 accepted and reasonable actuarial techniques, consider the

53 following factors:

54 1. Past and prospective loss experience within and without  
55 this state.

56 2. Past and prospective expenses.

57 3. The degree of competition among insurers for the risk  
58 insured.

59 4. Investment income reasonably expected by the insurer,  
60 consistent with the insurer's investment practices, from  
61 investable premiums anticipated in the filing, plus any other  
62 expected income from currently invested assets representing the  
63 amount expected on unearned premium reserves and loss reserves.  
64 The commission may adopt rules using reasonable techniques of  
65 actuarial science and economics to specify the manner in which  
66 insurers calculate investment income attributable to classes of  
67 insurance written in this state and the manner in which  
68 investment income is used to calculate insurance rates. Such  
69 manner must contemplate allowances for an underwriting profit  
70 factor and full consideration of investment income that produces  
71 a reasonable rate of return; however, investment income from  
72 invested surplus may not be considered.

73 5. The reasonableness of the judgment reflected in the  
74 filing.

75 6. Dividends, savings, or unabsorbed premium deposits  
76 allowed or returned to policyholders, members, or subscribers in  
77 this state.

78 7. The adequacy of loss reserves.

79 8. The cost of reinsurance. The office may not disapprove  
 80 a rate as excessive solely due to the insurer's ~~insurer~~ having  
 81 obtained catastrophic reinsurance to cover the insurer's  
 82 estimated 250-year probable maximum loss or any lower level of  
 83 loss.

84 9. Trend factors, including trends in actual losses per  
 85 insured unit for the insurer making the filing.

86 10. Conflagration and catastrophe hazards, if applicable.

87 11. Projected hurricane losses, if applicable, which must  
 88 be estimated using a model or method, or a straight average of  
 89 model results or output ranges, independently found to be  
 90 acceptable or reliable by the Florida Commission on Hurricane  
 91 Loss Projection Methodology, and as further provided in s.  
 92 627.0628.

93 12. Projected flood losses for personal residential  
 94 property insurance, if applicable, which may be estimated using  
 95 a model or method, or a straight average of model results or  
 96 output ranges, independently found to be acceptable or reliable  
 97 by the Florida Commission on Hurricane Loss Projection  
 98 Methodology and as further provided in s. 627.0628.

99 13. A reasonable margin for underwriting profit and  
 100 contingencies.

101 14. The cost of medical services, if applicable.

102 15. Other relevant factors that affect the frequency or  
 103 severity of claims or expenses.

104

105 ~~The provisions of~~ This subsection does ~~de~~ not apply to workers'  
 106 compensation, employer's liability insurance, and motor vehicle  
 107 insurance.

108 Section 2. Paragraph (d) of subsection (3) of section  
 109 627.0628, Florida Statutes, is amended to read:

110 627.0628 Florida Commission on Hurricane Loss Projection  
 111 Methodology; public records exemption; public meetings  
 112 exemption.—

113 (3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.—

114 (d) With respect to a rate filing under s. 627.062, an  
 115 insurer shall employ and may not modify or adjust actuarial  
 116 methods, principles, standards, models, or output ranges found  
 117 by the commission to be accurate or reliable in determining  
 118 hurricane loss factors for use in a rate filing under s.  
 119 627.062. An insurer shall employ and may not modify or adjust  
 120 models found by the commission to be accurate or reliable in  
 121 determining probable maximum loss levels pursuant to paragraph  
 122 (b) with respect to a rate filing under s. 627.062 made more  
 123 than 180 ~~60~~ days after the commission has made such findings.  
 124 This paragraph does not prohibit an insurer from using a  
 125 straight average of model results or output ranges for the  
 126 purposes of a rate filing ~~for personal lines residential flood~~  
 127 ~~insurance coverage~~ under s. 627.062.

128 Section 3. Subsection (8) of section 627.0651, Florida  
 129 Statutes, is amended to read:

130 627.0651 Making and use of rates for motor vehicle

131 insurance.—

132 (8) Rates are not unfairly discriminatory if averaged  
 133 broadly among members of a group; nor are rates unfairly  
 134 discriminatory even though they are lower than rates for  
 135 nonmembers of the group. However, such rates are unfairly  
 136 discriminatory if they are not actuarially measurable and  
 137 credible and sufficiently related to actual or expected loss and  
 138 expense experience of the group so as to ensure ~~assure~~ that  
 139 nonmembers of the group are not unfairly discriminated against.  
 140 Use of a single United States Postal Service zip code as a  
 141 rating territory shall be deemed unfairly discriminatory unless  
 142 filed pursuant to paragraph (1)(a) and such territory  
 143 incorporates sufficient actual or expected loss and loss  
 144 adjustment expense experience so as to be actuarially measurable  
 145 and credible.

146 Section 4. Subsection (9) of section 627.3518, Florida  
 147 Statutes, is amended to read:

148 627.3518 Citizens Property Insurance Corporation  
 149 policyholder eligibility clearinghouse program.—The purpose of  
 150 this section is to provide a framework for the corporation to  
 151 implement a clearinghouse program by January 1, 2014.

152 (9) The 45-day notice of nonrenewal requirement set forth  
 153 in s. 627.4133(2)(b)5. ~~627.4133(2)(b)5.b.~~ applies when a policy  
 154 is nonrenewed by the corporation because the risk has received  
 155 an offer of coverage pursuant to this section which renders the  
 156 risk ineligible for coverage by the corporation.

157 Section 5. Paragraph (b) of subsection (2) of section  
 158 627.4133, Florida Statutes, is amended to read:

159 627.4133 Notice of cancellation, nonrenewal, or renewal  
 160 premium.—

161 (2) With respect to any personal lines or commercial  
 162 residential property insurance policy, including, but not  
 163 limited to, any homeowner, mobile home owner, farmowner,  
 164 condominium association, condominium unit owner, apartment  
 165 building, or other policy covering a residential structure or  
 166 its contents:

167 (b) The insurer shall give the first-named insured written  
 168 notice of nonrenewal, cancellation, or termination at least 120  
 169 ~~100~~ days before the effective date of the nonrenewal,  
 170 cancellation, or termination. ~~However, the insurer shall give at~~  
 171 ~~least 100 days' written notice, or written notice by June 1,~~  
 172 ~~whichever is earlier, for any nonrenewal, cancellation, or~~  
 173 ~~termination that would be effective between June 1 and November~~  
 174 ~~30.~~ The notice must include the reason for the nonrenewal,  
 175 cancellation, or termination, except that:

176 ~~1. The insurer shall give the first-named insured written~~  
 177 ~~notice of nonrenewal, cancellation, or termination at least 120~~  
 178 ~~days before the effective date of the nonrenewal, cancellation,~~  
 179 ~~or termination for a first-named insured whose residential~~  
 180 ~~structure has been insured by that insurer or an affiliated~~  
 181 ~~insurer for at least 5 years before the date of the written~~  
 182 ~~notice.~~

183        ~~1.2.~~ If cancellation is for nonpayment of premium, at  
184 least 10 days' written notice of cancellation accompanied by the  
185 reason therefor must be given. As used in this subparagraph, the  
186 term "nonpayment of premium" means failure of the named insured  
187 to discharge when due her or his obligations for paying the  
188 premium on a policy or an installment of such premium, whether  
189 the premium is payable directly to the insurer or its agent or  
190 indirectly under a premium finance plan or extension of credit,  
191 or failure to maintain membership in an organization if such  
192 membership is a condition precedent to insurance coverage. The  
193 term also means the failure of a financial institution to honor  
194 an insurance applicant's check after delivery to a licensed  
195 agent for payment of a premium even if the agent has previously  
196 delivered or transferred the premium to the insurer. If a  
197 dishonored check represents the initial premium payment, the  
198 contract and all contractual obligations are void ab initio  
199 unless the nonpayment is cured within the earlier of 5 days  
200 after actual notice by certified mail is received by the  
201 applicant or 15 days after notice is sent to the applicant by  
202 certified mail or registered mail. If the contract is void, any  
203 premium received by the insurer from a third party must be  
204 refunded to that party in full.

205        ~~2.3.~~ If cancellation or termination occurs during the  
206 first 90 days the insurance is in force and the insurance is  
207 canceled or terminated for reasons other than nonpayment of  
208 premium, at least 20 days' written notice of cancellation or



209 termination accompanied by the reason therefor must be given  
210 unless there has been a material misstatement or  
211 misrepresentation or a failure to comply with the underwriting  
212 requirements established by the insurer.

213 3. After the policy has been in effect for 90 days, the  
214 policy may not be canceled by the insurer unless there has been  
215 a material misstatement, a nonpayment of premium, a failure to  
216 comply with underwriting requirements established by the insurer  
217 within 90 days after the date of effectuation of coverage, or a  
218 substantial change in the risk covered by the policy or unless  
219 the cancellation is for all insureds under such policies for a  
220 given class of insureds. This subparagraph does not apply to  
221 individually rated risks that have a policy term of less than 90  
222 days.

223 4. After a policy or contract has been in effect for more  
224 than 90 days, the insurer may not cancel or terminate the policy  
225 or contract based on credit information available in public  
226 records.

227 ~~5. The requirement for providing written notice by June 1~~  
228 ~~of any nonrenewal that would be effective between June 1 and~~  
229 ~~November 30 does not apply to the following situations, but the~~  
230 ~~insurer remains subject to the requirement to provide such~~  
231 ~~notice at least 100 days before the effective date of~~  
232 ~~nonrenewal:~~

233 a. ~~A policy that is nonrenewed due to a revision in the~~  
234 ~~coverage for sinkhole losses and catastrophic ground cover~~

235 ~~collapse pursuant to s. 627.706.~~

236 5.b. A policy that is nonrenewed by Citizens Property  
237 Insurance Corporation, pursuant to s. 627.351(6), for a policy  
238 that has been assumed by an authorized insurer offering  
239 replacement coverage to the policyholder is exempt from the  
240 notice requirements of paragraph (a) and this paragraph. In such  
241 cases, the corporation must give the named insured written  
242 notice of nonrenewal at least 45 days before the effective date  
243 of the nonrenewal.

244

245 ~~After the policy has been in effect for 90 days, the policy may~~  
246 ~~not be canceled by the insurer unless there has been a material~~  
247 ~~misstatement, a nonpayment of premium, a failure to comply with~~  
248 ~~underwriting requirements established by the insurer within 90~~  
249 ~~days after the date of effectuation of coverage, a substantial~~  
250 ~~change in the risk covered by the policy, or the cancellation is~~  
251 ~~for all insureds under such policies for a given class of~~  
252 ~~insureds. This paragraph does not apply to individually rated~~  
253 ~~risks that have a policy term of less than 90 days.~~

254 6. Notwithstanding any other provision of law, an insurer  
255 may cancel or nonrenew a property insurance policy after at  
256 least 45 days' notice if the office finds that the early  
257 cancellation of some or all of the insurer's policies is  
258 necessary to protect the best interests of the public or  
259 policyholders and the office approves the insurer's plan for  
260 early cancellation or nonrenewal of some or all of its policies.

261 The office may base such finding upon the financial condition of  
262 the insurer, lack of adequate reinsurance coverage for hurricane  
263 risk, or other relevant factors. The office may condition its  
264 finding on the consent of the insurer to be placed under  
265 administrative supervision pursuant to s. 624.81 or to the  
266 appointment of a receiver under chapter 631.

267 7. A policy covering both a home and a motor vehicle may  
268 be nonrenewed for any reason applicable to the property or motor  
269 vehicle insurance after providing 90 days' notice.

270 Section 6. Subsection (1) of section 627.421, Florida  
271 Statutes, is amended to read:

272 627.421 Delivery of policy.—

273 (1) Subject to the insurer's requirement as to payment of  
274 premium, every policy shall be mailed, delivered, or  
275 electronically transmitted to the insured or to the person  
276 entitled thereto not later than 60 days after the effectuation  
277 of coverage. Notwithstanding any other provision of law, an  
278 insurer may allow a policyholder of personal lines insurance to  
279 affirmatively elect delivery of the policy documents, including,  
280 but not limited to, policies, endorsements, notices, or  
281 documents, by electronic means in lieu of delivery by mail.

282 Electronic transmission of a policy for commercial risks,  
283 including, but not limited to, workers' compensation and  
284 employers' liability, commercial automobile liability,  
285 commercial automobile physical damage, commercial lines  
286 residential property, commercial nonresidential property,

287 farmowners insurance, and the types of commercial lines risks  
288 set forth in s. 627.062(3)(d), constitutes ~~shall constitute~~  
289 delivery to the insured or to the person entitled to delivery,  
290 unless the insured or the person entitled to delivery  
291 communicates to the insurer in writing or electronically that he  
292 or she does not agree to delivery by electronic means.  
293 Electronic transmission shall include a notice to the insured or  
294 to the person entitled to delivery of a policy of his or her  
295 right to receive the policy via United States mail rather than  
296 via electronic transmission. A paper copy of the policy shall be  
297 provided to the insured or to the person entitled to delivery at  
298 his or her request.

299 Section 7. Subsection (3) of section 627.7074, Florida  
300 Statutes, is amended to read:

301 627.7074 Alternative procedure for resolution of disputed  
302 sinkhole insurance claims.—

303 (3) Following the receipt of the report provided under s.  
304 627.7073 or the denial of a claim for a sinkhole loss, the  
305 insurer shall notify the policyholder of his or her right to  
306 participate in the neutral evaluation program under this section  
307 if there is coverage available under the policy and the claim  
308 was submitted within the timeframe provided in s. 627.706(5).

309 Neutral evaluation supersedes the alternative dispute resolution  
310 process under s. 627.7015 but does not invalidate the appraisal  
311 clause of the insurance policy. The insurer shall provide to the  
312 policyholder the consumer information pamphlet prepared by the

313 department pursuant to subsection (1) electronically or by  
314 United States mail.

315 Section 8. Paragraph (a) of subsection (5) of section  
316 627.736, Florida Statutes, is amended to read:

317 627.736 Required personal injury protection benefits;  
318 exclusions; priority; claims.—

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

320 (a) A physician, hospital, clinic, or other person or  
321 institution lawfully rendering treatment to an injured person  
322 for a bodily injury covered by personal injury protection  
323 insurance may charge the insurer and injured party only a  
324 reasonable amount pursuant to this section for the services and  
325 supplies rendered, and the insurer providing such coverage may  
326 pay for such charges directly to such person or institution  
327 lawfully rendering such treatment if the insured receiving such  
328 treatment or his or her guardian has countersigned the properly  
329 completed invoice, bill, or claim form approved by the office  
330 upon which such charges are to be paid for as having actually  
331 been rendered, to the best knowledge of the insured or his or  
332 her guardian. However, such a charge may not exceed the amount  
333 the person or institution customarily charges for like services  
334 or supplies. In determining whether a charge for a particular  
335 service, treatment, or otherwise is reasonable, consideration  
336 may be given to evidence of usual and customary charges and  
337 payments accepted by the provider involved in the dispute,  
338 reimbursement levels in the community and various federal and

339 state medical fee schedules applicable to motor vehicle and  
340 other insurance coverages, and other information relevant to the  
341 reasonableness of the reimbursement for the service, treatment,  
342 or supply.

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

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

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

350 c. For emergency services and care as defined by s.  
351 395.002 provided in a facility licensed under chapter 395  
352 rendered by a physician or dentist, and related hospital  
353 inpatient services rendered by a physician or dentist, the usual  
354 and customary charges in the community.

355 d. For hospital inpatient services, other than emergency  
356 services and care, 200 percent of the Medicare Part A  
357 prospective payment applicable to the specific hospital  
358 providing the inpatient services.

359 e. For hospital outpatient services, other than emergency  
360 services and care, 200 percent of the Medicare Part A Ambulatory  
361 Payment Classification for the specific hospital providing the  
362 outpatient services.

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

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

368 (II) Medicare Part B, in the case of services, supplies,  
 369 and care provided by ambulatory surgical centers and clinical  
 370 laboratories.

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

374

375 However, if such services, supplies, or care is not reimbursable  
 376 under Medicare Part B, as provided in this sub-subparagraph, the  
 377 insurer may limit reimbursement to 80 percent of the maximum  
 378 reimbursable allowance under workers' compensation, as  
 379 determined under s. 440.13 and rules adopted thereunder which  
 380 are in effect at the time such services, supplies, or care is  
 381 provided. Services, supplies, or care that is not reimbursable  
 382 under Medicare or workers' compensation is not required to be  
 383 reimbursed by the insurer.

384 2. For purposes of subparagraph 1., the applicable fee  
 385 schedule or payment limitation under Medicare is the fee  
 386 schedule or payment limitation in effect on March 1 of the year  
 387 in which the services, supplies, or care is rendered and for the  
 388 area in which such services, supplies, or care is rendered, and  
 389 the applicable fee schedule or payment limitation applies from  
 390 March 1 until the last day of February ~~throughout the remainder~~

391 of the following ~~that~~ year, notwithstanding any subsequent  
392 change made to the fee schedule or payment limitation, except  
393 that it may not be less than the allowable amount under the  
394 applicable schedule of Medicare Part B for 2007 for medical  
395 services, supplies, and care subject to Medicare Part B.

396 3. Subparagraph 1. does not allow the insurer to apply any  
397 limitation on the number of treatments or other utilization  
398 limits that apply under Medicare or workers' compensation. An  
399 insurer that applies the allowable payment limitations of  
400 subparagraph 1. must reimburse a provider who lawfully provided  
401 care or treatment under the scope of his or her license,  
402 regardless of whether such provider is entitled to reimbursement  
403 under Medicare due to restrictions or limitations on the types  
404 or discipline of health care providers who may be reimbursed for  
405 particular procedures or procedure codes. However, subparagraph  
406 1. does not prohibit an insurer from using the Medicare coding  
407 policies and payment methodologies of the federal Centers for  
408 Medicare and Medicaid Services, including applicable modifiers,  
409 to determine the appropriate amount of reimbursement for medical  
410 services, supplies, or care if the coding policy or payment  
411 methodology does not constitute a utilization limit.

412 4. If an insurer limits payment as authorized by  
413 subparagraph 1., the person providing such services, supplies,  
414 or care may not bill or attempt to collect from the insured any  
415 amount in excess of such limits, except for amounts that are not  
416 covered by the insured's personal injury protection coverage due



417 to the coinsurance amount or maximum policy limits.

418 5. ~~Effective July 1, 2012,~~ An insurer may limit payment as  
419 authorized by this paragraph only if the insurance policy  
420 includes a notice at the time of issuance or renewal that the  
421 insurer may limit payment pursuant to the schedule of charges  
422 specified in this paragraph. A policy form approved by the  
423 office satisfies this requirement. If a provider submits a  
424 charge for an amount less than the amount allowed under  
425 subparagraph 1., the insurer may pay the amount of the charge  
426 submitted.

427 Section 9. Paragraphs (a) and (b) of subsection (2) of  
428 section 627.744, Florida Statutes, are amended to read:

429 627.744 Required preinsurance inspection of private  
430 passenger motor vehicles.—

431 (2) This section does not apply:

432 (a) To a policy for a policyholder who has been insured  
433 for 2 years or longer, without interruption, under a private  
434 passenger motor vehicle policy that ~~which~~ provides physical  
435 damage coverage for any vehicle, ~~if~~ the agent of the insurer  
436 verifies the previous coverage.

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

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

443           2. A copy of the title or registration that ~~which~~  
444 establishes transfer of ownership from the dealer or leasing  
445 company to the customer and a copy of the window sticker ~~or the~~  
446 ~~dealer invoice showing the itemized options and equipment and~~  
447 ~~the total retail price of the vehicle.~~

448  
449 For the purposes of this paragraph, the physical damage coverage  
450 on the motor vehicle may not be suspended during the term of the  
451 policy due to the applicant's failure to provide or the  
452 insurer's option not to require the ~~required~~ documents. However,  
453 if the insurer requires a document under this paragraph at the  
454 time the policy is issued, payment of a claim may be ~~is~~  
455 conditioned upon the receipt by the insurer of the required  
456 documents, and no physical damage loss occurring after the  
457 effective date of the coverage may be ~~is~~ payable until the  
458 documents are provided to the insurer.

459           Section 10. This act shall take effect July 1, 2015.