

By the Committee on Banking and Insurance; and Senator Brandes

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1 A bill to be entitled
2 An act relating to property and casualty insurance;
3 amending s. 627.0628, F.S.; increasing the length of
4 time during which an insurer is not required to adhere
5 to certain models found by the Commission on Hurricane
6 Loss Projection Methodology to be accurate or reliable
7 in determining probable maximum loss levels with
8 respect to certain rate filings; amending s. 627.0651,
9 F.S.; revising provisions for the making and use of
10 rates for motor vehicle insurance; amending s.
11 627.3518, F.S.; conforming a cross-reference; amending
12 s. 627.4133, F.S.; increasing the amount of prior
13 notice required with respect to the nonrenewal,
14 cancellation, or termination of certain insurance
15 policies; deleting certain provisions that require
16 extended periods of prior notice with respect to the
17 nonrenewal, cancellation, or termination of certain
18 insurance policies; prohibiting the cancellation of
19 certain policies that have been in effect for a
20 specified amount of time except under certain
21 circumstances; amending s. 627.421, F.S.; authorizing
22 a policyholder of personal lines insurance to
23 affirmatively elect delivery of policy documents by
24 electronic means; amending s. 627.7074, F.S.; revising
25 notification requirements for participation in the
26 neutral evaluation program; amending s. 627.736, F.S.;
27 revising the applicability of certain Medicare fee
28 schedules or payment limitations; defining the term
29 "service year"; amending s. 627.744, F.S.; revising

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30 the preinsurance inspection requirements for private
31 passenger motor vehicles; repealing s. 631.65, F.S.,
32 relating to prohibited advertisement or solicitation;
33 providing an effective date.

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

36
37 Section 1. Paragraph (d) of subsection (3) of section
38 627.0628, Florida Statutes, is amended to read:

39 627.0628 Florida Commission on Hurricane Loss Projection
40 Methodology; public records exemption; public meetings
41 exemption.—

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

43 (d) With respect to a rate filing under s. 627.062, an
44 insurer shall employ and may not modify or adjust actuarial
45 methods, principles, standards, models, or output ranges found
46 by the commission to be accurate or reliable in determining
47 hurricane loss factors for use in a rate filing under s.
48 627.062. An insurer shall employ and may not modify or adjust
49 models found by the commission to be accurate or reliable in
50 determining probable maximum loss levels pursuant to paragraph
51 (b) with respect to a rate filing under s. 627.062 made more
52 than 180 ~~60~~ days after the commission has made such findings.
53 This paragraph does not prohibit an insurer from using a
54 straight average of model results or output ranges for the
55 purposes of a rate filing for personal lines residential flood
56 insurance coverage under s. 627.062.

57 Section 2. Subsection (8) of section 627.0651, Florida
58 Statutes, is amended to read:

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59 627.0651 Making and use of rates for motor vehicle
60 insurance.—

61 (8) Rates are not unfairly discriminatory if averaged
62 broadly among members of a group; nor are rates unfairly
63 discriminatory even though they are lower than rates for
64 nonmembers of the group. However, such rates are unfairly
65 discriminatory if they are not actuarially measurable and
66 credible and sufficiently related to actual or expected loss and
67 expense experience of the group so as to ensure ~~assure~~ that
68 nonmembers of the group are not unfairly discriminated against.
69 Use of a single United States Postal Service zip code as a
70 rating territory shall be deemed unfairly discriminatory unless
71 filed pursuant to paragraph (1)(a) and such territory
72 incorporates sufficient actual or expected loss and loss
73 adjustment expense experience so as to be actuarially measurable
74 and credible.

75 Section 3. Subsection (9) of section 627.3518, Florida
76 Statutes, is amended to read:

77 627.3518 Citizens Property Insurance Corporation
78 policyholder eligibility clearinghouse program.—The purpose of
79 this section is to provide a framework for the corporation to
80 implement a clearinghouse program by January 1, 2014.

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

86 Section 4. Paragraph (b) of subsection (2) of section
87 627.4133, Florida Statutes, is amended to read:

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88 627.4133 Notice of cancellation, nonrenewal, or renewal
89 premium.-

90 (2) With respect to any personal lines or commercial
91 residential property insurance policy, including, but not
92 limited to, any homeowner, mobile home owner, farmowner,
93 condominium association, condominium unit owner, apartment
94 building, or other policy covering a residential structure or
95 its contents:

96 (b) The insurer shall give the first-named insured written
97 notice of nonrenewal, cancellation, or termination at least 120
98 ~~100~~ days before the effective date of the nonrenewal,
99 cancellation, or termination. ~~However, the insurer shall give at~~
100 ~~least 100 days' written notice, or written notice by June 1,~~
101 ~~whichever is earlier, for any nonrenewal, cancellation, or~~
102 ~~termination that would be effective between June 1 and November~~
103 ~~30.~~ The notice must include the reason for the nonrenewal,
104 cancellation, or termination, except that:

105 ~~1. The insurer shall give the first-named insured written~~
106 ~~notice of nonrenewal, cancellation, or termination at least 120~~
107 ~~days before the effective date of the nonrenewal, cancellation,~~
108 ~~or termination for a first-named insured whose residential~~
109 ~~structure has been insured by that insurer or an affiliated~~
110 ~~insurer for at least 5 years before the date of the written~~
111 ~~notice.~~

112 ~~1.2.~~ If cancellation is for nonpayment of premium, at least
113 10 days' written notice of cancellation accompanied by the
114 reason therefor must be given. As used in this subparagraph, the
115 term "nonpayment of premium" means failure of the named insured
116 to discharge when due her or his obligations for paying the

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117 premium on a policy or an installment of such premium, whether
118 the premium is payable directly to the insurer or its agent or
119 indirectly under a premium finance plan or extension of credit,
120 or failure to maintain membership in an organization if such
121 membership is a condition precedent to insurance coverage. The
122 term also means the failure of a financial institution to honor
123 an insurance applicant's check after delivery to a licensed
124 agent for payment of a premium even if the agent has previously
125 delivered or transferred the premium to the insurer. If a
126 dishonored check represents the initial premium payment, the
127 contract and all contractual obligations are void ab initio
128 unless the nonpayment is cured within the earlier of 5 days
129 after actual notice by certified mail is received by the
130 applicant or 15 days after notice is sent to the applicant by
131 certified mail or registered mail. If the contract is void, any
132 premium received by the insurer from a third party must be
133 refunded to that party in full.

134 ~~2.3.~~ If cancellation or termination occurs during the first
135 90 days the insurance is in force and the insurance is canceled
136 or terminated for reasons other than nonpayment of premium, at
137 least 20 days' written notice of cancellation or termination
138 accompanied by the reason therefor must be given unless there
139 has been a material misstatement or misrepresentation or a
140 failure to comply with the underwriting requirements established
141 by the insurer.

142 3. After the policy has been in effect for 90 days, the
143 policy may not be canceled by the insurer unless there has been
144 a material misstatement, a nonpayment of premium, a failure to
145 comply, within 90 days after the date of effectuation of

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146 coverage, with the underwriting requirements established by the
147 insurer before the effectuation of coverage, or a substantial
148 change in the risk covered by the policy or unless the
149 cancellation is for all insureds under such policies for a given
150 class of insureds. This subparagraph does not apply to
151 individually rated risks that have a policy term of less than 90
152 days.

153 4. After a policy or contract has been in effect for more
154 than 90 days, the insurer may not cancel or terminate the policy
155 or contract based on credit information available in public
156 records.

157 ~~5. The requirement for providing written notice by June 1~~
158 ~~of any nonrenewal that would be effective between June 1 and~~
159 ~~November 30 does not apply to the following situations, but the~~
160 ~~insurer remains subject to the requirement to provide such~~
161 ~~notice at least 100 days before the effective date of~~
162 ~~nonrenewal:~~

163 a. ~~A policy that is nonrenewed due to a revision in the~~
164 ~~coverage for sinkhole losses and catastrophic ground cover~~
165 ~~collapse pursuant to s. 627.706.~~

166 ~~5.b.~~ A policy that is nonrenewed by Citizens Property
167 Insurance Corporation, pursuant to s. 627.351(6), for a policy
168 that has been assumed by an authorized insurer offering
169 replacement coverage to the policyholder is exempt from the
170 notice requirements of paragraph (a) and this paragraph. In such
171 cases, the corporation must give the named insured written
172 notice of nonrenewal at least 45 days before the effective date
173 of the nonrenewal.

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175 ~~After the policy has been in effect for 90 days, the policy may~~
176 ~~not be canceled by the insurer unless there has been a material~~
177 ~~misstatement, a nonpayment of premium, a failure to comply with~~
178 ~~underwriting requirements established by the insurer within 90~~
179 ~~days after the date of effectuation of coverage, a substantial~~
180 ~~change in the risk covered by the policy, or the cancellation is~~
181 ~~for all insureds under such policies for a given class of~~
182 ~~insureds. This paragraph does not apply to individually rated~~
183 ~~risks that have a policy term of less than 90 days.~~

184 6. Notwithstanding any other provision of law, an insurer
185 may cancel or nonrenew a property insurance policy after at
186 least 45 days' notice if the office finds that the early
187 cancellation of some or all of the insurer's policies is
188 necessary to protect the best interests of the public or
189 policyholders and the office approves the insurer's plan for
190 early cancellation or nonrenewal of some or all of its policies.
191 The office may base such finding upon the financial condition of
192 the insurer, lack of adequate reinsurance coverage for hurricane
193 risk, or other relevant factors. The office may condition its
194 finding on the consent of the insurer to be placed under
195 administrative supervision pursuant to s. 624.81 or to the
196 appointment of a receiver under chapter 631.

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

200 Section 5. Subsection (1) of section 627.421, Florida
201 Statutes, is amended to read:

202 627.421 Delivery of policy.—

203 (1) Subject to the insurer's requirement as to payment of

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204 premium, every policy shall be mailed, delivered, or
205 electronically transmitted to the insured or to the person
206 entitled thereto not later than 60 days after the effectuation
207 of coverage. Notwithstanding any other provision of law, an
208 insurer may allow a policyholder of personal lines insurance to
209 affirmatively elect delivery of the policy documents, including,
210 but not limited to, policies, endorsements, notices, or
211 documents, by electronic means in lieu of delivery by mail.
212 Electronic transmission of a policy for commercial risks,
213 including, but not limited to, workers' compensation and
214 employers' liability, commercial automobile liability,
215 commercial automobile physical damage, commercial lines
216 residential property, commercial nonresidential property,
217 farmowners insurance, and the types of commercial lines risks
218 set forth in s. 627.062(3)(d), constitutes ~~shall constitute~~
219 delivery to the insured or to the person entitled to delivery,
220 unless the insured or the person entitled to delivery
221 communicates to the insurer in writing or electronically that he
222 or she does not agree to delivery by electronic means.
223 Electronic transmission shall include a notice to the insured or
224 to the person entitled to delivery of a policy of his or her
225 right to receive the policy via United States mail rather than
226 via electronic transmission. A paper copy of the policy shall be
227 provided to the insured or to the person entitled to delivery at
228 his or her request.

229 Section 6. Subsection (3) of section 627.7074, Florida
230 Statutes, is amended to read:

231 627.7074 Alternative procedure for resolution of disputed
232 sinkhole insurance claims.-

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233 (3) Following the receipt of the report provided under s.
234 627.7073 or the denial of a claim for a sinkhole loss, the
235 insurer shall notify the policyholder of his or her right to
236 participate in the neutral evaluation program under this section
237 if there is coverage available under the policy and the claim
238 was submitted within the timeframe provided in s. 627.706(5).
239 Neutral evaluation supersedes the alternative dispute resolution
240 process under s. 627.7015 but does not invalidate the appraisal
241 clause of the insurance policy. The insurer shall provide to the
242 policyholder the consumer information pamphlet prepared by the
243 department pursuant to subsection (1) electronically or by
244 United States mail.

245 Section 7. Paragraph (a) of subsection (5) of section
246 627.736, Florida Statutes, is amended to read:

247 627.736 Required personal injury protection benefits;
248 exclusions; priority; claims.—

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

250 (a) A physician, hospital, clinic, or other person or
251 institution lawfully rendering treatment to an injured person
252 for a bodily injury covered by personal injury protection
253 insurance may charge the insurer and injured party only a
254 reasonable amount pursuant to this section for the services and
255 supplies rendered, and the insurer providing such coverage may
256 pay for such charges directly to such person or institution
257 lawfully rendering such treatment if the insured receiving such
258 treatment or his or her guardian has countersigned the properly
259 completed invoice, bill, or claim form approved by the office
260 upon which such charges are to be paid for as having actually
261 been rendered, to the best knowledge of the insured or his or

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262 her guardian. However, such a charge may not exceed the amount
263 the person or institution customarily charges for like services
264 or supplies. In determining whether a charge for a particular
265 service, treatment, or otherwise is reasonable, consideration
266 may be given to evidence of usual and customary charges and
267 payments accepted by the provider involved in the dispute,
268 reimbursement levels in the community and various federal and
269 state medical fee schedules applicable to motor vehicle and
270 other insurance coverages, and other information relevant to the
271 reasonableness of the reimbursement for the service, treatment,
272 or supply.

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

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

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

280 c. For emergency services and care as defined by s. 395.002
281 provided in a facility licensed under chapter 395 rendered by a
282 physician or dentist, and related hospital inpatient services
283 rendered by a physician or dentist, the usual and customary
284 charges in the community.

285 d. For hospital inpatient services, other than emergency
286 services and care, 200 percent of the Medicare Part A
287 prospective payment applicable to the specific hospital
288 providing the inpatient services.

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

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291 Payment Classification for the specific hospital providing the
292 outpatient services.

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

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

298 (II) Medicare Part B, in the case of services, supplies,
299 and care provided by ambulatory surgical centers and clinical
300 laboratories.

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

304

305 However, if such services, supplies, or care is not reimbursable
306 under Medicare Part B, as provided in this sub-subparagraph, the
307 insurer may limit reimbursement to 80 percent of the maximum
308 reimbursable allowance under workers' compensation, as
309 determined under s. 440.13 and rules adopted thereunder which
310 are in effect at the time such services, supplies, or care is
311 provided. Services, supplies, or care that is not reimbursable
312 under Medicare or workers' compensation is not required to be
313 reimbursed by the insurer.

314 2. For purposes of subparagraph 1., the applicable fee
315 schedule or payment limitation under Medicare is the fee
316 schedule or payment limitation in effect on March 1 of the
317 service year in which the services, supplies, or care is
318 rendered and for the area in which such services, supplies, or
319 care is rendered, and the applicable fee schedule or payment

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320 limitation applies to services, supplies, or care rendered
321 during ~~throughout the remainder of~~ that service year,
322 notwithstanding any subsequent change made to the fee schedule
323 or payment limitation, except that it may not be less than the
324 allowable amount under the applicable schedule of Medicare Part
325 B for 2007 for medical services, supplies, and care subject to
326 Medicare Part B. As used in this subparagraph, the term "service
327 year" means the period from March 1 through the last day of
328 February of the following year.

329 3. Subparagraph 1. does not allow the insurer to apply any
330 limitation on the number of treatments or other utilization
331 limits that apply under Medicare or workers' compensation. An
332 insurer that applies the allowable payment limitations of
333 subparagraph 1. must reimburse a provider who lawfully provided
334 care or treatment under the scope of his or her license,
335 regardless of whether such provider is entitled to reimbursement
336 under Medicare due to restrictions or limitations on the types
337 or discipline of health care providers who may be reimbursed for
338 particular procedures or procedure codes. However, subparagraph
339 1. does not prohibit an insurer from using the Medicare coding
340 policies and payment methodologies of the federal Centers for
341 Medicare and Medicaid Services, including applicable modifiers,
342 to determine the appropriate amount of reimbursement for medical
343 services, supplies, or care if the coding policy or payment
344 methodology does not constitute a utilization limit.

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

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

351 5. ~~Effective July 1, 2012,~~ An insurer may limit payment as
352 authorized by this paragraph only if the insurance policy
353 includes a notice at the time of issuance or renewal that the
354 insurer may limit payment pursuant to the schedule of charges
355 specified in this paragraph. A policy form approved by the
356 office satisfies this requirement. If a provider submits a
357 charge for an amount less than the amount allowed under
358 subparagraph 1., the insurer may pay the amount of the charge
359 submitted.

360 Section 8. Paragraphs (a) and (b) of subsection (2) of
361 section 627.744, Florida Statutes, are amended to read:

362 627.744 Required preinsurance inspection of private
363 passenger motor vehicles.—

364 (2) This section does not apply:

365 (a) To a policy for a policyholder who has been insured for
366 2 years or longer, without interruption, under a private
367 passenger motor vehicle policy that ~~which~~ provides physical
368 damage coverage for any vehicle, if the agent of the insurer
369 verifies the previous coverage.

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

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

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

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378 company to the customer and a copy of the window sticker ~~or the~~
379 ~~dealer invoice showing the itemized options and equipment and~~
380 ~~the total retail price of the vehicle.~~

381
382 For the purposes of this paragraph, the physical damage coverage
383 on the motor vehicle may not be suspended during the term of the
384 policy due to the applicant's failure to provide or the
385 insurer's option not to require the ~~required~~ documents. However,
386 if the insurer requires a document under this paragraph at the
387 time the policy is issued, payment of a claim may be ~~is~~
388 conditioned upon the receipt by the insurer of the required
389 documents, and no physical damage loss occurring after the
390 effective date of the coverage may be ~~is~~ payable until the
391 documents are provided to the insurer.

392 Section 9. Section 631.65, Florida Statutes, is repealed.

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