

By the Committees on Appropriations; and 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.; requiring an insurer to
4 employ in certain rate filings actuarial methods,
5 principles, standards, models, or output ranges found
6 by the Florida Commission on Hurricane Loss Projection
7 Methodology to be accurate or reliable in determining
8 probable maximum loss levels; authorizing an insurer
9 to employ a model in a rate filing until 120 days
10 after the expiration of the commission's acceptance of
11 that model; deleting a provision that required
12 insurers to employ a specified model in a rate filing
13 made more than 60 days after the commission found the
14 model to be accurate or reliable; amending s.
15 627.0651, F.S.; revising provisions for the making and
16 use of rates for motor vehicle insurance; amending s.
17 627.3518, F.S.; conforming a cross-reference; amending
18 s. 627.4133, F.S.; increasing the amount of prior
19 notice required with respect to the nonrenewal,
20 cancellation, or termination of certain insurance
21 policies; deleting certain provisions that require
22 extended periods of prior notice with respect to the
23 nonrenewal, cancellation, or termination of certain
24 insurance policies; prohibiting the cancellation of
25 certain policies that have been in effect for a
26 specified amount of time except under certain
27 circumstances; amending s. 627.4137, F.S.; adding
28 licensed company adjusters to the list of persons who
29 may respond to a claimant's written request for

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30 information relating to liability insurance coverage;
 31 amending s. 627.421, F.S.; authorizing a policyholder
 32 of personal lines insurance to affirmatively elect
 33 delivery of policy documents by electronic means;
 34 amending s. 627.7074, F.S.; revising notification
 35 requirements for participation in the neutral
 36 evaluation program; amending s. 627.736, F.S.;

37 revising the applicability of certain Medicare fee
 38 schedules or payment limitations; defining the term
 39 "service year"; amending s. 627.744, F.S.; revising
 40 the preinsurance inspection requirements for private
 41 passenger motor vehicles; repealing s. 631.65, F.S.,
 42 relating to prohibited advertisement or solicitation;
 43 providing an effective date.

44
 45 Be It Enacted by the Legislature of the State of Florida:

46 Section 1. Paragraph (d) of subsection (3) of section
 47 627.0628, Florida Statutes, is amended to read:

48 627.0628 Florida Commission on Hurricane Loss Projection
 49 Methodology; public records exemption; public meetings
 50 exemption.—

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

52 (d) With respect to a rate filing under s. 627.062, an
 53 insurer shall employ and may not modify or adjust actuarial
 54 methods, principles, standards, models, or output ranges found
 55 by the commission to be accurate or reliable in determining
 56 hurricane loss factors and probable maximum loss levels for use
 57 in a rate filing under s. 627.062. An insurer may ~~shall~~ employ a
 58 model in a rate filing until 120 days after the expiration of

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59 ~~the commission's acceptance of that model and may not modify or~~
60 ~~adjust models found by the commission to be accurate or reliable~~
61 ~~in determining probable maximum loss levels pursuant to~~
62 ~~paragraph (b) with respect to a rate filing under s. 627.062~~
63 ~~made more than 60 days after the commission has made such~~
64 ~~findings.~~ This paragraph does not prohibit an insurer from using
65 a straight average of model results or output ranges for the
66 purposes of a rate filing for personal lines residential flood
67 insurance coverage under s. 627.062.

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

70 627.0651 Making and use of rates for motor vehicle
71 insurance.—

72 (8) Rates are not unfairly discriminatory if averaged
73 broadly among members of a group; nor are rates unfairly
74 discriminatory even though they are lower than rates for
75 nonmembers of the group. However, such rates are unfairly
76 discriminatory if they are not actuarially measurable and
77 credible and sufficiently related to actual or expected loss and
78 expense experience of the group so as to ensure ~~assure~~ that
79 nonmembers of the group are not unfairly discriminated against.
80 Use of a single United States Postal Service zip code as a
81 rating territory shall be deemed unfairly discriminatory unless
82 filed pursuant to paragraph (1)(a) and such territory
83 incorporates sufficient actual or expected loss and loss
84 adjustment expense experience so as to be actuarially measurable
85 and credible.

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

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88 627.3518 Citizens Property Insurance Corporation
89 policyholder eligibility clearinghouse program.—The purpose of
90 this section is to provide a framework for the corporation to
91 implement a clearinghouse program by January 1, 2014.

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

97 Section 4. Paragraph (b) of subsection (2) of section
98 627.4133, Florida Statutes, is amended to read:

99 627.4133 Notice of cancellation, nonrenewal, or renewal
100 premium.—

101 (2) With respect to any personal lines or commercial
102 residential property insurance policy, including, but not
103 limited to, any homeowner, mobile home owner, farmowner,
104 condominium association, condominium unit owner, apartment
105 building, or other policy covering a residential structure or
106 its contents:

107 (b) The insurer shall give the first-named insured written
108 notice of nonrenewal, cancellation, or termination at least 120
109 ~~100~~ days before the effective date of the nonrenewal,
110 cancellation, or termination. ~~However, the insurer shall give at~~
111 ~~least 100 days' written notice, or written notice by June 1,~~
112 ~~whichever is earlier, for any nonrenewal, cancellation, or~~
113 ~~termination that would be effective between June 1 and November~~
114 ~~30.~~ The notice must include the reason for the nonrenewal,
115 cancellation, or termination, except that:

116 ~~1. The insurer shall give the first-named insured written~~

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117 ~~notice of nonrenewal, cancellation, or termination at least 120~~
118 ~~days before the effective date of the nonrenewal, cancellation,~~
119 ~~or termination for a first-named insured whose residential~~
120 ~~structure has been insured by that insurer or an affiliated~~
121 ~~insurer for at least 5 years before the date of the written~~
122 ~~notice.~~

123 1.2. If cancellation is for nonpayment of premium, at least
124 10 days' written notice of cancellation accompanied by the
125 reason therefor must be given. As used in this subparagraph, the
126 term "nonpayment of premium" means failure of the named insured
127 to discharge when due her or his obligations for paying the
128 premium on a policy or an installment of such premium, whether
129 the premium is payable directly to the insurer or its agent or
130 indirectly under a premium finance plan or extension of credit,
131 or failure to maintain membership in an organization if such
132 membership is a condition precedent to insurance coverage. The
133 term also means the failure of a financial institution to honor
134 an insurance applicant's check after delivery to a licensed
135 agent for payment of a premium even if the agent has previously
136 delivered or transferred the premium to the insurer. If a
137 dishonored check represents the initial premium payment, the
138 contract and all contractual obligations are void ab initio
139 unless the nonpayment is cured within the earlier of 5 days
140 after actual notice by certified mail is received by the
141 applicant or 15 days after notice is sent to the applicant by
142 certified mail or registered mail. If the contract is void, any
143 premium received by the insurer from a third party must be
144 refunded to that party in full.

145 2.3. If cancellation or termination occurs during the first

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146 90 days the insurance is in force and the insurance is canceled
147 or terminated for reasons other than nonpayment of premium, at
148 least 20 days' written notice of cancellation or termination
149 accompanied by the reason therefor must be given unless there
150 has been a material misstatement or misrepresentation or a
151 failure to comply with the underwriting requirements established
152 by the insurer.

153 3. After the policy has been in effect for 90 days, the
154 policy may not be canceled by the insurer unless there has been
155 a material misstatement, a nonpayment of premium, a failure to
156 comply, within 90 days after the date of effectuation of
157 coverage, with the underwriting requirements established by the
158 insurer before the effectuation of coverage, or a substantial
159 change in the risk covered by the policy or unless the
160 cancellation is for all insureds under such policies for a given
161 class of insureds. This subparagraph does not apply to
162 individually rated risks that have a policy term of less than 90
163 days.

164 4. After a policy or contract has been in effect for more
165 than 90 days, the insurer may not cancel or terminate the policy
166 or contract based on credit information available in public
167 records.

168 ~~5. The requirement for providing written notice by June 1~~
169 ~~of any nonrenewal that would be effective between June 1 and~~
170 ~~November 30 does not apply to the following situations, but the~~
171 ~~insurer remains subject to the requirement to provide such~~
172 ~~notice at least 100 days before the effective date of~~
173 ~~nonrenewal:~~

174 a. ~~A policy that is nonrenewed due to a revision in the~~

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175 ~~coverage for sinkhole losses and catastrophic ground cover~~
176 ~~collapse pursuant to s. 627.706.~~

177 5.b. A policy that is nonrenewed by Citizens Property
178 Insurance Corporation, pursuant to s. 627.351(6), for a policy
179 that has been assumed by an authorized insurer offering
180 replacement coverage to the policyholder is exempt from the
181 notice requirements of paragraph (a) and this paragraph. In such
182 cases, the corporation must give the named insured written
183 notice of nonrenewal at least 45 days before the effective date
184 of the nonrenewal.

185
186 ~~After the policy has been in effect for 90 days, the policy may~~
187 ~~not be canceled by the insurer unless there has been a material~~
188 ~~misstatement, a nonpayment of premium, a failure to comply with~~
189 ~~underwriting requirements established by the insurer within 90~~
190 ~~days after the date of effectuation of coverage, a substantial~~
191 ~~change in the risk covered by the policy, or the cancellation is~~
192 ~~for all insureds under such policies for a given class of~~
193 ~~insureds. This paragraph does not apply to individually rated~~
194 ~~risks that have a policy term of less than 90 days.~~

195 6. Notwithstanding any other provision of law, an insurer
196 may cancel or nonrenew a property insurance policy after at
197 least 45 days' notice if the office finds that the early
198 cancellation of some or all of the insurer's policies is
199 necessary to protect the best interests of the public or
200 policyholders and the office approves the insurer's plan for
201 early cancellation or nonrenewal of some or all of its policies.
202 The office may base such finding upon the financial condition of
203 the insurer, lack of adequate reinsurance coverage for hurricane

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204 risk, or other relevant factors. The office may condition its
205 finding on the consent of the insurer to be placed under
206 administrative supervision pursuant to s. 624.81 or to the
207 appointment of a receiver under chapter 631.

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

211 Section 5. Subsection (1) of section 627.4137, Florida
212 Statutes, is amended to read:

213 627.4137 Disclosure of certain information required.—

214 (1) Each insurer that provides ~~which does~~ or may provide
215 liability insurance coverage to pay all or a portion of a ~~any~~
216 claim that ~~which~~ might be made shall provide, within 30 days
217 after ~~of~~ the written request of the claimant, a statement, under
218 oath, of a corporate officer or the insurer's claims manager, ~~or~~
219 superintendent, or licensed company adjuster setting forth the
220 following information with regard to each known policy of
221 insurance, including excess or umbrella insurance:

222 (a) The name of the insurer.

223 (b) The name of each insured.

224 (c) The limits of the liability coverage.

225 (d) A statement of any policy or coverage defense that the
226 ~~which such~~ insurer reasonably believes is available to the ~~such~~
227 insurer at the time of filing such statement.

228 (e) A copy of the policy.

229
230 In addition, the insured, or her or his insurance agent, upon
231 written request of the claimant or the claimant's attorney,
232 shall disclose the name and coverage of each known insurer to

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233 the claimant and shall forward such request for information as
234 required by this subsection to all affected insurers. The
235 insurer shall then supply the information required in this
236 subsection to the claimant within 30 days after ~~of~~ receipt of
237 such request.

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

240 627.421 Delivery of policy.—

241 (1) Subject to the insurer's requirement as to payment of
242 premium, every policy shall be mailed, delivered, or
243 electronically transmitted to the insured or to the person
244 entitled thereto not later than 60 days after the effectuation
245 of coverage. Notwithstanding any other provision of law, an
246 insurer may allow a policyholder of personal lines insurance to
247 affirmatively elect delivery of the policy documents, including,
248 but not limited to, policies, endorsements, notices, or
249 documents, by electronic means in lieu of delivery by mail.

250 Electronic transmission of a policy for commercial risks,
251 including, but not limited to, workers' compensation and
252 employers' liability, commercial automobile liability,
253 commercial automobile physical damage, commercial lines
254 residential property, commercial nonresidential property,
255 farmowners insurance, and the types of commercial lines risks
256 set forth in s. 627.062(3)(d), constitutes ~~shall constitute~~
257 delivery to the insured or to the person entitled to delivery,
258 unless the insured or the person entitled to delivery
259 communicates to the insurer in writing or electronically that he
260 or she does not agree to delivery by electronic means.

261 Electronic transmission shall include a notice to the insured or

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262 to the person entitled to delivery of a policy of his or her
263 right to receive the policy via United States mail rather than
264 via electronic transmission. A paper copy of the policy shall be
265 provided to the insured or to the person entitled to delivery at
266 his or her request.

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

269 627.7074 Alternative procedure for resolution of disputed
270 sinkhole insurance claims.—

271 (3) If there is coverage available under the policy and the
272 claim was submitted within the timeframe provided in s.
273 627.706(5), following the receipt of the report provided under
274 s. 627.7073 or the denial of a claim for a sinkhole loss, the
275 insurer shall notify the policyholder of his or her right to
276 participate in the neutral evaluation program under this
277 section. Neutral evaluation supersedes the alternative dispute
278 resolution process under s. 627.7015 but does not invalidate the
279 appraisal clause of the insurance policy. The insurer shall
280 provide to the policyholder the consumer information pamphlet
281 prepared by the department pursuant to subsection (1)
282 electronically or by United States mail.

283 Section 8. Paragraph (a) of subsection (5) of section
284 627.736, Florida Statutes, is amended to read:

285 627.736 Required personal injury protection benefits;
286 exclusions; priority; claims.—

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

288 (a) A physician, hospital, clinic, or other person or
289 institution lawfully rendering treatment to an injured person
290 for a bodily injury covered by personal injury protection

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291 insurance may charge the insurer and injured party only a
292 reasonable amount pursuant to this section for the services and
293 supplies rendered, and the insurer providing such coverage may
294 pay for such charges directly to such person or institution
295 lawfully rendering such treatment if the insured receiving such
296 treatment or his or her guardian has countersigned the properly
297 completed invoice, bill, or claim form approved by the office
298 upon which such charges are to be paid for as having actually
299 been rendered, to the best knowledge of the insured or his or
300 her guardian. However, such a charge may not exceed the amount
301 the person or institution customarily charges for like services
302 or supplies. In determining whether a charge for a particular
303 service, treatment, or otherwise is reasonable, consideration
304 may be given to evidence of usual and customary charges and
305 payments accepted by the provider involved in the dispute,
306 reimbursement levels in the community and various federal and
307 state medical fee schedules applicable to motor vehicle and
308 other insurance coverages, and other information relevant to the
309 reasonableness of the reimbursement for the service, treatment,
310 or supply.

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

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

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

318 c. For emergency services and care as defined by s. 395.002
319 provided in a facility licensed under chapter 395 rendered by a

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320 physician or dentist, and related hospital inpatient services
321 rendered by a physician or dentist, the usual and customary
322 charges in the community.

323 d. For hospital inpatient services, other than emergency
324 services and care, 200 percent of the Medicare Part A
325 prospective payment applicable to the specific hospital
326 providing the inpatient services.

327 e. For hospital outpatient services, other than emergency
328 services and care, 200 percent of the Medicare Part A Ambulatory
329 Payment Classification for the specific hospital providing the
330 outpatient services.

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

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

336 (II) Medicare Part B, in the case of services, supplies,
337 and care provided by ambulatory surgical centers and clinical
338 laboratories.

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

342
343 However, if such services, supplies, or care is not reimbursable
344 under Medicare Part B, as provided in this sub-subparagraph, the
345 insurer may limit reimbursement to 80 percent of the maximum
346 reimbursable allowance under workers' compensation, as
347 determined under s. 440.13 and rules adopted thereunder which
348 are in effect at the time such services, supplies, or care is

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349 provided. Services, supplies, or care that is not reimbursable
350 under Medicare or workers' compensation is not required to be
351 reimbursed by the insurer.

352 2. For purposes of subparagraph 1., the applicable fee
353 schedule or payment limitation under Medicare is the fee
354 schedule or payment limitation in effect on March 1 of the
355 service year in which the services, supplies, or care is
356 rendered and for the area in which such services, supplies, or
357 care is rendered, and the applicable fee schedule or payment
358 limitation applies to services, supplies, or care rendered
359 during ~~throughout the remainder of~~ that service year,
360 notwithstanding any subsequent change made to the fee schedule
361 or payment limitation, except that it may not be less than the
362 allowable amount under the applicable schedule of Medicare Part
363 B for 2007 for medical services, supplies, and care subject to
364 Medicare Part B. As used in this subparagraph, the term "service
365 year" means the period from March 1 through the last day of
366 February of the following year.

367 3. Subparagraph 1. does not allow the insurer to apply any
368 limitation on the number of treatments or other utilization
369 limits that apply under Medicare or workers' compensation. An
370 insurer that applies the allowable payment limitations of
371 subparagraph 1. must reimburse a provider who lawfully provided
372 care or treatment under the scope of his or her license,
373 regardless of whether such provider is entitled to reimbursement
374 under Medicare due to restrictions or limitations on the types
375 or discipline of health care providers who may be reimbursed for
376 particular procedures or procedure codes. However, subparagraph
377 1. does not prohibit an insurer from using the Medicare coding

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378 policies and payment methodologies of the federal Centers for
379 Medicare and Medicaid Services, including applicable modifiers,
380 to determine the appropriate amount of reimbursement for medical
381 services, supplies, or care if the coding policy or payment
382 methodology does not constitute a utilization limit.

383 4. If an insurer limits payment as authorized by
384 subparagraph 1., the person providing such services, supplies,
385 or care may not bill or attempt to collect from the insured any
386 amount in excess of such limits, except for amounts that are not
387 covered by the insured's personal injury protection coverage due
388 to the coinsurance amount or maximum policy limits.

389 5. ~~Effective July 1, 2012,~~ An insurer may limit payment as
390 authorized by this paragraph only if the insurance policy
391 includes a notice at the time of issuance or renewal that the
392 insurer may limit payment pursuant to the schedule of charges
393 specified in this paragraph. A policy form approved by the
394 office satisfies this requirement. If a provider submits a
395 charge for an amount less than the amount allowed under
396 subparagraph 1., the insurer may pay the amount of the charge
397 submitted.

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

400 627.744 Required preinsurance inspection of private
401 passenger motor vehicles.—

402 (2) This section does not apply:

403 (a) To a policy for a policyholder who has been insured for
404 2 years or longer, without interruption, under a private
405 passenger motor vehicle policy that ~~which~~ provides physical
406 damage coverage for any vehicle,~~7~~ if the agent of the insurer

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407 verifies the previous coverage.

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

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

414 2. A copy of the title or registration that ~~which~~
415 establishes transfer of ownership from the dealer or leasing
416 company to the customer and a copy of the window sticker ~~or the~~
417 ~~dealer invoice showing the itemized options and equipment and~~
418 ~~the total retail price of the vehicle.~~

419

420 For the purposes of this paragraph, the physical damage coverage
421 on the motor vehicle may not be suspended during the term of the
422 policy due to the applicant's failure to provide or the
423 insurer's option not to require the ~~required~~ documents. However,
424 if the insurer requires a document under this paragraph at the
425 time the policy is issued, payment of a claim ~~may be is~~
426 conditioned upon the receipt by the insurer of the required
427 documents, and no physical damage loss occurring after the
428 effective date of the coverage may be is payable until the
429 documents are provided to the insurer.

430 Section 10. Section 631.65, Florida Statutes, is repealed.

431 Section 11. This act shall take effect July 1, 2015.