

By Senator Brandes

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1                                   A bill to be entitled  
2       An act relating to automobile insurance; amending s.  
3       627.311, F.S.; authorizing the Florida Automobile  
4       Joint Underwriting Association and a joint  
5       underwriting plan approved by the Office of Insurance  
6       Regulation to cancel personal lines or commercial  
7       policies within a specified time for nonpayment of  
8       premium due to certain reasons; prohibiting an insured  
9       from cancelling a policy or binder within a specified  
10      time except under certain conditions; amending s.  
11      627.7283, F.S.; authorizing an insured who cancels a  
12      policy to apply the unearned portion of any premium  
13      paid to unpaid balances of other policies with the  
14      same insurer or insurer group; amending s. 627.7295,  
15      F.S.; updating applicability language to include a  
16      reference to recurring credit card or debit card  
17      payments; amending s. 627.736, F.S.; requiring that a  
18      certain standard form be approved by the office and  
19      adopted by the Financial Services Commission, rather  
20      than approved by the office or adopted by the  
21      commission; revising standards for compliance for  
22      specified billings for medical services; amending s.  
23      627.739, F.S.; revising applicability; providing a  
24      limitation to an amount of expenses and losses  
25      applicable to a deductible related to personal injury  
26      protection benefits under a certain condition;  
27      amending s. 627.744, F.S.; authorizing an insurer to  
28      opt out of the preinsurance inspection of private  
29      passenger motor vehicles and to establish its own

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30 preinsurance inspection program if it files a certain  
31 manual rule with the office; providing an effective  
32 date.

33  
34 Be It Enacted by the Legislature of the State of Florida:

35  
36 Section 1. Paragraph (m) is added to subsection (3) of  
37 section 627.311, Florida Statutes, to read:

38 627.311 Joint underwriters and joint reinsurers; public  
39 records and public meetings exemptions.—

40 (3) The office may, after consultation with insurers  
41 licensed to write automobile insurance in this state, approve a  
42 joint underwriting plan for purposes of equitable apportionment  
43 or sharing among insurers of automobile liability insurance and  
44 other motor vehicle insurance, as an alternate to the plan  
45 required in s. 627.351(1). All insurers authorized to write  
46 automobile insurance in this state shall subscribe to the plan  
47 and participate therein. The plan shall be subject to continuous  
48 review by the office which may at any time disapprove the entire  
49 plan or any part thereof if it determines that conditions have  
50 changed since prior approval and that in view of the purposes of  
51 the plan changes are warranted. Any disapproval by the office  
52 shall be subject to the provisions of chapter 120. The Florida  
53 Automobile Joint Underwriting Association is created under the  
54 plan. The plan and the association:

55 (m) May cancel personal lines or commercial policies issued  
56 by the plan within the first 60 days after the effective date of  
57 the policy or binder for nonpayment of premium if the check  
58 issued for payment of the premium is dishonored for any reason

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59 or if any other form of payment is rejected or deemed invalid.

60 An insured may not cancel a policy or binder within the first 90

61 days after its effective date, or within a lesser period as

62 required by the plan, except:

63 1. Upon total destruction of the insured motor vehicle;

64 2. Upon transfer of ownership of the insured motor vehicle;

65 or

66 3. After purchase of another policy or binder covering the  
67 motor vehicle that was covered under the policy being canceled.

68 Section 2. Section 627.7283, Florida Statutes, is amended  
69 to read:

70 627.7283 Cancellation; return of unearned premium.—

71 (1) If the insured cancels a policy of motor vehicle  
72 insurance, the insurer must mail or electronically transfer the  
73 unearned portion of any premium paid within 30 days after the  
74 effective date of the policy cancellation or receipt of notice  
75 or request for cancellation, whichever is later. This  
76 requirement applies to a cancellation initiated by an insured  
77 for any reason. However, the insured may apply the unearned  
78 portion of any premium paid to unpaid balances of other policies  
79 with the same insurer or insurer group.

80 (2) If an insurer cancels a policy of motor vehicle  
81 insurance, the insurer must mail or electronically transfer the  
82 unearned premium portion of any premium within 15 days after the  
83 effective date of the policy cancellation. However, the insured  
84 may apply the unearned portion of any premium paid to unpaid  
85 balances of other policies with the same insurer or insurer  
86 group.

87 (3) If the unearned premium is not mailed, ~~or~~

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88 electronically transferred, or applied to the unpaid balance of  
89 other policies within the applicable period, the insurer must  
90 pay to the insured 8 percent interest on the amount due. If the  
91 unearned premium is not mailed or electronically transferred  
92 within 45 days after the applicable period, the insured may  
93 bring an action against the insurer pursuant to s. 624.155.

94 (4) If the insured cancels, the insurer may retain up to 10  
95 percent of the unearned premium and must refund at least 90  
96 percent of the unearned premium. If the insurer cancels, the  
97 insurer must refund 100 percent of the unearned premium.  
98 Cancellation is without prejudice to any claim originating prior  
99 to the effective date of the cancellation. For purposes of this  
100 section, unearned premiums must be computed on a pro rata basis.

101 (5) The insurer must refund 100 percent of the unearned  
102 premium if the insured is a servicemember, as defined in s.  
103 250.01, who cancels because he or she is called to active duty  
104 or transferred by the United States Armed Forces to a location  
105 where the insurance is not required. The insurer may require a  
106 servicemember to submit either a copy of the official military  
107 orders or a written verification signed by the servicemember's  
108 commanding officer to support the refund authorized under this  
109 subsection. If the insurer cancels, the insurer must refund 100  
110 percent of the unearned premium. Cancellation is without  
111 prejudice to any claim originating prior to the effective date  
112 of the cancellation. For purposes of this section, unearned  
113 premiums must be computed on a pro rata basis.

114 Section 3. Subsection (7) of section 627.7295, Florida  
115 Statutes, is amended to read:

116 627.7295 Motor vehicle insurance contracts.—

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117 (7) A policy of private passenger motor vehicle insurance  
118 or a binder for such a policy may be initially issued in this  
119 state only if, before the effective date of such binder or  
120 policy, the insurer or agent has collected from the insured an  
121 amount equal to 2 months' premium. An insurer, agent, or premium  
122 finance company may not, directly or indirectly, take any action  
123 resulting in the insured having paid from the insured's own  
124 funds an amount less than the 2 months' premium required by this  
125 subsection. This subsection applies without regard to whether  
126 the premium is financed by a premium finance company or is paid  
127 pursuant to a periodic payment plan of an insurer or an  
128 insurance agent. This subsection does not apply if an insured or  
129 member of the insured's family is renewing or replacing a policy  
130 or a binder for such policy written by the same insurer or a  
131 member of the same insurer group. This subsection does not apply  
132 to an insurer that issues private passenger motor vehicle  
133 coverage primarily to active duty or former military personnel  
134 or their dependents. This subsection does not apply if all  
135 policy payments are paid pursuant to a payroll deduction plan,  
136 ~~or~~ an automatic electronic funds transfer payment plan from the  
137 policyholder, or a recurring credit card or debit card agreement  
138 with the insurer. This subsection and subsection (4) do not  
139 apply if all policy payments to an insurer are paid pursuant to  
140 an automatic electronic funds transfer payment plan from an  
141 agent, a managing general agent, or a premium finance company  
142 and if the policy includes, at a minimum, personal injury  
143 protection pursuant to ss. 627.730-627.7405; motor vehicle  
144 property damage liability pursuant to s. 627.7275; and bodily  
145 injury liability in at least the amount of \$10,000 because of

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146 bodily injury to, or death of, one person in any one accident  
 147 and in the amount of \$20,000 because of bodily injury to, or  
 148 death of, two or more persons in any one accident. This  
 149 subsection and subsection (4) do not apply if an insured has had  
 150 a policy in effect for at least 6 months, the insured's agent is  
 151 terminated by the insurer that issued the policy, and the  
 152 insured obtains coverage on the policy's renewal date with a new  
 153 company through the terminated agent.

154 Section 4. Paragraph (d) of subsection (5) of section  
 155 627.736, Florida Statutes, is amended to read:

156 627.736 Required personal injury protection benefits;  
 157 exclusions; priority; claims.—

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

159 (d) All statements and bills for medical services rendered  
 160 by a physician, hospital, clinic, or other person or institution  
 161 shall be submitted to the insurer on a properly completed  
 162 Centers for Medicare and Medicaid Services (CMS) 1500 form, UB  
 163 92 forms, or any other standard form approved by the office and  
 164 ~~or~~ adopted by the commission for purposes of this paragraph. All  
 165 billings for such services rendered by providers must, to the  
 166 extent applicable, comply with the CMS 1500 form instructions,  
 167 the American Medical Association CPT Editorial Panel, and the  
 168 Healthcare Common Procedure Coding System (HCPCS); and must  
 169 follow the Physicians' Current Procedural Terminology (CPT), the  
 170 HCPCS in effect for the year in which services are rendered, and  
 171 the International Classification of Diseases (ICD) adopted by  
 172 the United States Department of Health and Human Services for  
 173 the year in which services are rendered ~~follow the Physicians'~~  
 174 ~~Current Procedural Terminology (CPT) or Healthcare Correct~~

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175 ~~Procedural Coding System (HCPCS), or ICD-9 in effect for the~~  
176 ~~year in which services are rendered and comply with the CMS 1500~~  
177 ~~form instructions, the American Medical Association CPT~~  
178 ~~Editorial Panel, and the HCPCS.~~ All providers, other than  
179 hospitals, must include on the applicable claim form the  
180 professional license number of the provider in the line or space  
181 provided for "Signature of Physician or Supplier, Including  
182 Degrees or Credentials." In determining compliance with  
183 applicable CPT and HCPCS coding, guidance shall be provided by  
184 the ~~Physicians' Current Procedural Terminology (CPT) or the~~  
185 ~~Healthcare Correct Procedural Coding System (HCPCS)~~ in effect  
186 for the year in which services were rendered, the Office of the  
187 Inspector General, Physicians Compliance Guidelines, and other  
188 authoritative treatises designated by rule by the Agency for  
189 Health Care Administration. A statement of medical services may  
190 not include charges for medical services of a person or entity  
191 that performed such services without possessing the valid  
192 licenses required to perform such services. For purposes of  
193 paragraph (4) (b), an insurer is not considered to have been  
194 furnished with notice of the amount of covered loss or medical  
195 bills due unless the statements or bills comply with this  
196 paragraph and are properly completed in their entirety as to all  
197 material provisions, with all relevant information being  
198 provided therein.

199 Section 5. Subsection (2) of section 627.739, Florida  
200 Statutes, is amended to read:

201 627.739 Personal injury protection; optional limitations;  
202 deductibles.—

203 (2) Insurers shall offer to each applicant and to each

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204 policyholder, upon the renewal of an existing policy,  
205 deductibles, in amounts of \$250, \$500, and \$1,000. The  
206 deductible amount must be applied to 100 percent of the expenses  
207 and losses covered under personal injury protection benefits  
208 coverage issued pursuant to ~~described in~~ s. 627.736. If an  
209 insurer has elected to apply the schedule of maximum charges  
210 authorized under this chapter, the amount of expenses and losses  
211 applicable to the deductible will be limited to 100 percent of  
212 such authorized reimbursement limitations or fee schedules.  
213 After the deductible is met, each insured is eligible to receive  
214 up to \$10,000 in total benefits described in s. 627.736(1).  
215 However, this subsection shall not be applied to reduce the  
216 amount of any benefits received in accordance with s.  
217 627.736(1) (c).

218 Section 6. Section 627.744, Florida Statutes, is amended to  
219 read:

220 627.744 ~~Required~~ Preinsurance inspection of private  
221 passenger motor vehicles.—

222 (1) A private passenger motor vehicle insurance policy  
223 providing physical damage coverage, including collision or  
224 comprehensive coverage, may not be issued in this state unless  
225 the insurer has inspected the motor vehicle in accordance with  
226 this section or has opted out of the inspection under this  
227 section. An insurer opting out of the inspection must file a  
228 manual rule with the office indicating that the insurer will not  
229 be participating in the inspection program under this section  
230 and will not require the preinsurance inspection of its  
231 insureds' motor vehicles. An insurer that files such a manual  
232 rule with the office may establish its own preinsurance



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233 inspection program.

234 (2) This section does not apply:

235 (a) To a policy for a policyholder who has been insured for  
236 2 years or longer, without interruption, under a private  
237 passenger motor vehicle policy that provides physical damage  
238 coverage for any vehicle if the agent of the insurer verifies  
239 the previous coverage.

240 (b) To a new, unused motor vehicle purchased or leased from  
241 a licensed motor vehicle dealer or leasing company. The insurer  
242 may require:

243 1. A bill of sale, buyer's order, or lease agreement that  
244 contains a full description of the motor vehicle; or

245 2. A copy of the title or registration that establishes  
246 transfer of ownership from the dealer or leasing company to the  
247 customer and a copy of the window sticker.

248

249 For the purposes of this paragraph, the physical damage coverage  
250 on the motor vehicle may not be suspended during the term of the  
251 policy due to the applicant's failure to provide or the  
252 insurer's option not to require the documents. However, if the  
253 insurer requires a document under this paragraph at the time the  
254 policy is issued, payment of a claim may be conditioned upon the  
255 receipt by the insurer of the required documents, and no  
256 physical damage loss occurring after the effective date of the  
257 coverage may be payable until the documents are provided to the  
258 insurer.

259 (c) To a temporary substitute motor vehicle.

260 (d) To a motor vehicle which is leased for less than 6  
261 months, if the insurer receives the lease or rental agreement

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262 containing a description of the leased motor vehicle, including  
263 its condition. Payment of a physical damage claim is conditioned  
264 upon receipt of the lease or rental agreement.

265 (e) To a vehicle that is 10 years old or older, as  
266 determined by reference to the model year.

267 (f) To any renewal policy.

268 (g) To a motor vehicle policy issued in a county with a  
269 1988 estimated population of less than 500,000.

270 (h) To any other vehicle or policy exempted by rule of the  
271 commission. The commission may base a rule under this paragraph  
272 only on a determination that the likelihood of a fraudulent  
273 physical damage claim is remote or that the inspection would  
274 cause a serious hardship to the insurer or the applicant.

275 (i) When the insurer's authorized inspection service has no  
276 inspection facility either in the municipality in which the  
277 automobile is principally garaged or within 10 miles of such  
278 municipality.

279 (j) When the insured vehicle is insured under a  
280 commercially rated policy that insures five or more vehicles.

281 (k) When an insurance producer is transferring a book of  
282 business from one insurer to another.

283 (l) When an individual insured's coverage is being  
284 transferred and initiated by a producer to a new insurer.

285 (3) This subsection does not prohibit an insurer from  
286 requiring a preinsurance inspection of any motor vehicle as a  
287 condition of issuance of physical damage coverage.

288 (4) The inspection required by this section shall be  
289 provided by the insurer or by a person or organization  
290 authorized by the insurer. The applicant may be required to pay

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291 the cost of the inspection, not to exceed \$5. The inspection  
292 shall be recorded on a form prescribed by the commission, and  
293 the form or a copy shall be retained by the insurer with its  
294 policy records for the insured. The insurer shall provide a copy  
295 of the form to the insured upon request. Any inspection fee paid  
296 directly by the applicant may not be considered part of the  
297 premium. However, an insurer that provides the inspection at no  
298 cost to the applicant may include the expense of the inspection  
299 within a rate filing.

300 (5) The inspection shall include at least the following:

301 (a) Taking a physical imprint of the vehicle identification  
302 number of the vehicle or otherwise recording the vehicle  
303 identification number in a manner prescribed by the commission.

304 (b) Recording the presence of accessories required by the  
305 commission to be recorded.

306 (c) Recording the locations of and a description of  
307 existing damage to the vehicle.

308 (6) An insurer may defer an inspection for 30 calendar days  
309 following the effective date of coverage for a new policy, but  
310 not for a renewal policy, and for additional or replacement  
311 vehicles to an existing policy, if an inspection at the time of  
312 the request for coverage would create a serious inconvenience  
313 for the applicant and such hardship is documented in the  
314 insured's policy record.

315 (7) The commission may, by rule, establish such procedures  
316 and notice requirements that it finds necessary to implement  
317 this section.

318 Section 7. This act shall take effect July 1, 2016.