

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 automobile insurance; amending s.  
3           627.0651, F.S.; providing an exception to a provision  
4           that deems use of a single zip code as a rating  
5           territory for insurance rates to be unfairly  
6           discriminatory; requiring the Office of Insurance  
7           Regulation to ensure that rates or rate changes  
8           contained in certain rate filings are not excessive,  
9           inadequate, or unfairly discriminatory; amending s.  
10          627.311, F.S.; authorizing the Florida Automobile  
11          Joint Underwriting Association and a joint  
12          underwriting plan approved by the Office of Insurance  
13          Regulation to cancel personal lines or commercial  
14          policies within a specified time for nonpayment of  
15          premium due to certain reasons; prohibiting an insured  
16          from cancelling a policy or binder within a specified  
17          time except under certain conditions; amending s.  
18          627.7283, F.S.; authorizing an insured who cancels a  
19          policy to apply the unearned portion of any premium  
20          paid to unpaid balances of other policies with the  
21          same insurer or insurer group; amending s. 627.7295,  
22          F.S.; updating applicability language to include a  
23          reference to recurring credit card or debit card  
24          payments; authorizing an additional form of payment  
25          for certain motor vehicle insurance contract premiums;  
26          authorizing an insurer to impose a specified  
27          insufficient funds fee under certain circumstances;  
28          amending s. 627.736, F.S.; requiring that a certain  
29          standard form be approved by the office and adopted by  
30          the Financial Services Commission, rather than  
31          approved by the office or adopted by the commission;  
32          revising standards for compliance for specified

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33 billings for medical services; adding a specified  
34 entity to a list of entities that are not required to  
35 be licensed as a clinic to receive reimbursement under  
36 the Florida Motor Vehicle No-Fault Law; amending s.  
37 627.744, F.S.; authorizing an insurer to opt out of  
38 the preinsurance inspection of private passenger motor  
39 vehicles and to establish its own preinsurance  
40 inspection program if it files a certain manual rule  
41 with the office; providing an effective date.

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

44  
45 Section 1. Subsection (8) of section 627.0651, Florida  
46 Statutes, is amended to read:

47 627.0651 Making and use of rates for motor vehicle  
48 insurance.—

49 (8) Rates are not unfairly discriminatory if averaged  
50 broadly among members of a group; nor are rates unfairly  
51 discriminatory even though they are lower than rates for  
52 nonmembers of the group. However, such rates are unfairly  
53 discriminatory if they are not actuarially measurable and  
54 credible and sufficiently related to actual or expected loss and  
55 expense experience of the group so as to assure that nonmembers  
56 of the group are not unfairly discriminated against. Use of a  
57 single United States Postal Service zip code as a rating  
58 territory shall be deemed unfairly discriminatory unless filed  
59 pursuant to paragraph (1) (a) and the territory incorporates  
60 sufficient actual or expected loss and loss adjustment expense  
61 experience so as to be actuarially measurable and credible. The

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62 office shall ensure that any rate filing resulting from the use  
63 of a single zip code as a rating territory does not contain a  
64 rate or rate change that is excessive, inadequate, or unfairly  
65 discriminatory.

66 Section 2. Paragraph (m) is added to subsection (3) of  
67 section 627.311, Florida Statutes, to read:

68 627.311 Joint underwriters and joint reinsurers; public  
69 records and public meetings exemptions.—

70 (3) The office may, after consultation with insurers  
71 licensed to write automobile insurance in this state, approve a  
72 joint underwriting plan for purposes of equitable apportionment  
73 or sharing among insurers of automobile liability insurance and  
74 other motor vehicle insurance, as an alternate to the plan  
75 required in s. 627.351(1). All insurers authorized to write  
76 automobile insurance in this state shall subscribe to the plan  
77 and participate therein. The plan shall be subject to continuous  
78 review by the office which may at any time disapprove the entire  
79 plan or any part thereof if it determines that conditions have  
80 changed since prior approval and that in view of the purposes of  
81 the plan changes are warranted. Any disapproval by the office  
82 shall be subject to the provisions of chapter 120. The Florida  
83 Automobile Joint Underwriting Association is created under the  
84 plan. The plan and the association:

85 (m) May cancel personal lines or commercial policies issued  
86 by the plan within the first 60 days after the effective date of  
87 the policy or binder for nonpayment of premium if the check  
88 issued for payment of the premium is dishonored for any reason  
89 or if any other form of payment is rejected or deemed invalid.  
90 An insured may not cancel a policy or binder within the first 90

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91 days after its effective date, or within a lesser period as  
92 required by the plan, except:

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

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

95 or

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

98 Section 3. Section 627.7283, Florida Statutes, is amended  
99 to read:

100 627.7283 Cancellation; return of unearned premium.—

101 (1) If the insured cancels a policy of motor vehicle  
102 insurance, the insurer must mail or electronically transfer the  
103 unearned portion of any premium paid within 30 days after the  
104 effective date of the policy cancellation or receipt of notice  
105 or request for cancellation, whichever is later. This  
106 requirement applies to a cancellation initiated by an insured  
107 for any reason. However, the insured may apply the unearned  
108 portion of any premium paid to unpaid balances of other policies  
109 with the same insurer or insurer group.

110 (2) If an insurer cancels a policy of motor vehicle  
111 insurance, the insurer must mail or electronically transfer the  
112 unearned premium portion of any premium within 15 days after the  
113 effective date of the policy cancellation. However, the insured  
114 may apply the unearned portion of any premium paid to unpaid  
115 balances of other policies with the same insurer or insurer  
116 group.

117 (3) If the unearned premium is not mailed, ~~or~~  
118 electronically transferred, or applied to the unpaid balance of  
119 other policies within the applicable period, the insurer must

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120 pay to the insured 8 percent interest on the amount due. If the  
121 unearned premium is not mailed or electronically transferred  
122 within 45 days after the applicable period, the insured may  
123 bring an action against the insurer pursuant to s. 624.155.

124 (4) If the insured cancels, the insurer may retain up to 10  
125 percent of the unearned premium and must refund at least 90  
126 percent of the unearned premium. If the insurer cancels, the  
127 insurer must refund 100 percent of the unearned premium.

128 Cancellation is without prejudice to any claim originating prior  
129 to the effective date of the cancellation. For purposes of this  
130 section, unearned premiums must be computed on a pro rata basis.

131 (5) The insurer must refund 100 percent of the unearned  
132 premium if the insured is a servicemember, as defined in s.  
133 250.01, who cancels because he or she is called to active duty  
134 or transferred by the United States Armed Forces to a location  
135 where the insurance is not required. The insurer may require a  
136 servicemember to submit either a copy of the official military  
137 orders or a written verification signed by the servicemember's  
138 commanding officer to support the refund authorized under this  
139 subsection. If the insurer cancels, the insurer must refund 100  
140 percent of the unearned premium. Cancellation is without  
141 prejudice to any claim originating prior to the effective date  
142 of the cancellation. For purposes of this section, unearned  
143 premiums must be computed on a pro rata basis.

144 Section 4. Subsection (7) of section 627.7295, Florida  
145 Statutes, is amended, and a new subsection (9) is added to that  
146 section, to read:

147 627.7295 Motor vehicle insurance contracts.—

148 (7) A policy of private passenger motor vehicle insurance

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149 or a binder for such a policy may be initially issued in this  
150 state only if, before the effective date of such binder or  
151 policy, the insurer or agent has collected from the insured an  
152 amount equal to 2 months' premium. An insurer, agent, or premium  
153 finance company may not, directly or indirectly, take any action  
154 resulting in the insured having paid from the insured's own  
155 funds an amount less than the 2 months' premium required by this  
156 subsection. This subsection applies without regard to whether  
157 the premium is financed by a premium finance company or is paid  
158 pursuant to a periodic payment plan of an insurer or an  
159 insurance agent. This subsection does not apply if an insured or  
160 member of the insured's family is renewing or replacing a policy  
161 or a binder for such policy written by the same insurer or a  
162 member of the same insurer group. This subsection does not apply  
163 to an insurer that issues private passenger motor vehicle  
164 coverage primarily to active duty or former military personnel  
165 or their dependents. This subsection does not apply if all  
166 policy payments are paid pursuant to a payroll deduction plan,  
167 ~~or~~ an automatic electronic funds transfer payment plan from the  
168 policyholder, or a recurring credit card or debit card agreement  
169 with the insurer. This subsection and subsection (4) do not  
170 apply if all policy payments to an insurer are paid pursuant to  
171 an automatic electronic funds transfer payment plan from an  
172 agent, a managing general agent, or a premium finance company  
173 and if the policy includes, at a minimum, personal injury  
174 protection pursuant to ss. 627.730-627.7405; motor vehicle  
175 property damage liability pursuant to s. 627.7275; and bodily  
176 injury liability in at least the amount of \$10,000 because of  
177 bodily injury to, or death of, one person in any one accident

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178 and in the amount of \$20,000 because of bodily injury to, or  
179 death of, two or more persons in any one accident. This  
180 subsection and subsection (4) do not apply if an insured has had  
181 a policy in effect for at least 6 months, the insured's agent is  
182 terminated by the insurer that issued the policy, and the  
183 insured obtains coverage on the policy's renewal date with a new  
184 company through the terminated agent.

185 (9) (a) In addition to the methods provided in s.  
186 627.4035(1), the premiums for motor vehicle insurance contracts  
187 issued in this state or covering risk located in this state may  
188 be paid in cash in the form of a draft or drafts.

189 (b) If a payment of premium under this subsection by debit  
190 card, credit card, or automatic electronic funds transfer is  
191 returned or declined or cannot be processed due to insufficient  
192 funds, the insurer may impose an insufficient funds fee of up to  
193 \$15 per occurrence pursuant to the policy terms.

194 Section 5. Paragraphs (d) and (h) of subsection (5) of  
195 section 627.736, Florida Statutes, are amended to read:

196 627.736 Required personal injury protection benefits;  
197 exclusions; priority; claims.—

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

199 (d) All statements and bills for medical services rendered  
200 by a physician, hospital, clinic, or other person or institution  
201 shall be submitted to the insurer on a properly completed  
202 Centers for Medicare and Medicaid Services (CMS) 1500 form, UB  
203 92 forms, or any other standard form approved by the office and  
204 ~~or~~ adopted by the commission for purposes of this paragraph. All  
205 billings for such services rendered by providers must, to the  
206 extent applicable, comply with the CMS 1500 form instructions,

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207 the American Medical Association CPT Editorial Panel, and the  
208 Healthcare Common Procedure Coding System (HCPCS); and must  
209 follow the Physicians' Current Procedural Terminology (CPT), the  
210 HCPCS in effect for the year in which services are rendered, and  
211 the International Classification of Diseases (ICD) adopted by  
212 the United States Department of Health and Human Services for  
213 the service year in which the services, supplies, or care is  
214 rendered as described in subparagraph (a)2. ~~follow the~~  
215 ~~Physicians' Current Procedural Terminology (CPT) or Healthcare~~  
216 ~~Correct Procedural Coding System (HCPCS), or ICD-9 in effect for~~  
217 ~~the year in which services are rendered and comply with the CMS~~  
218 ~~1500 form instructions, the American Medical Association CPT~~  
219 ~~Editorial Panel, and the HCPCS. All providers, other than~~  
220 hospitals, must include on the applicable claim form the  
221 professional license number of the provider in the line or space  
222 provided for "Signature of Physician or Supplier, Including  
223 Degrees or Credentials." In determining compliance with  
224 applicable CPT and HCPCS coding, guidance shall be provided by  
225 the ~~Physicians' Current Procedural Terminology (CPT)~~ or the  
226 ~~Healthcare Correct Procedural Coding System (HCPCS)~~ in effect  
227 for the year in which services were rendered, the Office of the  
228 Inspector General, Physicians Compliance Guidelines, and other  
229 authoritative treatises designated by rule by the Agency for  
230 Health Care Administration. A statement of medical services may  
231 not include charges for medical services of a person or entity  
232 that performed such services without possessing the valid  
233 licenses required to perform such services. For purposes of  
234 paragraph (4) (b), an insurer is not considered to have been  
235 furnished with notice of the amount of covered loss or medical



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236 bills due unless the statements or bills comply with this  
237 paragraph and are properly completed in their entirety as to all  
238 material provisions, with all relevant information being  
239 provided therein.

240 (h) As provided in s. 400.9905, an entity excluded from the  
241 definition of a clinic shall be deemed a clinic and must be  
242 licensed under part X of chapter 400 in order to receive  
243 reimbursement under ss. 627.730-627.7405. However, this  
244 licensing requirement does not apply to:

245 1. An entity wholly owned by a physician licensed under  
246 chapter 458 or chapter 459, or by the physician and the spouse,  
247 parent, child, or sibling of the physician;

248 2. An entity wholly owned by a dentist licensed under  
249 chapter 466, or by the dentist and the spouse, parent, child, or  
250 sibling of the dentist;

251 3. An entity wholly owned by a chiropractic physician  
252 licensed under chapter 460, or by the chiropractic physician and  
253 the spouse, parent, child, or sibling of the chiropractic  
254 physician;

255 4. A hospital or ambulatory surgical center licensed under  
256 chapter 395;

257 5. An entity that wholly owns or is wholly owned, directly  
258 or indirectly, by a hospital or hospitals licensed under chapter  
259 395;

260 6. An entity that is a clinical facility affiliated with an  
261 accredited medical school at which training is provided for  
262 medical students, residents, or fellows; ~~or~~

263 7. An entity that is certified under 42 C.F.R. part 485,  
264 subpart H; or

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265 8. An entity that is owned by a publicly traded  
266 corporation, either directly or indirectly through its  
267 subsidiaries, that has \$250 million or more in total annual  
268 sales of health care services provided by licensed health care  
269 practitioners, if one or more of the persons responsible for the  
270 operations of the entity are health care practitioners who are  
271 licensed in this state and are responsible for supervising the  
272 business activities of the entity and the entity's compliance  
273 with state law for purposes of this section.

274 Section 6. Section 627.744, Florida Statutes, is amended to  
275 read:

276 627.744 ~~Required~~ Preinsurance inspection of private  
277 passenger motor vehicles.—

278 (1) A private passenger motor vehicle insurance policy  
279 providing physical damage coverage, including collision or  
280 comprehensive coverage, may not be issued in this state unless  
281 the insurer has inspected the motor vehicle in accordance with  
282 this section or has opted out of the inspection under this  
283 section. An insurer opting out of the inspection must file a  
284 manual rule with the office indicating that the insurer will not  
285 be participating in the inspection program under this section  
286 and will not require the preinsurance inspection of its  
287 insureds' motor vehicles. An insurer that files such a manual  
288 rule with the office may establish its own preinsurance  
289 inspection program.

290 (2) This section does not apply:

291 (a) To a policy for a policyholder who has been insured for  
292 2 years or longer, without interruption, under a private  
293 passenger motor vehicle policy that provides physical damage

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294 coverage for any vehicle if the agent of the insurer verifies  
295 the previous coverage.

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

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

301 2. A copy of the title or registration that establishes  
302 transfer of ownership from the dealer or leasing company to the  
303 customer and a copy of the window sticker.

304

305 For the purposes of this paragraph, the physical damage coverage  
306 on the motor vehicle may not be suspended during the term of the  
307 policy due to the applicant's failure to provide or the  
308 insurer's option not to require the documents. However, if the  
309 insurer requires a document under this paragraph at the time the  
310 policy is issued, payment of a claim may be conditioned upon the  
311 receipt by the insurer of the required documents, and no  
312 physical damage loss occurring after the effective date of the  
313 coverage may be payable until the documents are provided to the  
314 insurer.

315 (c) To a temporary substitute motor vehicle.

316 (d) To a motor vehicle which is leased for less than 6  
317 months, if the insurer receives the lease or rental agreement  
318 containing a description of the leased motor vehicle, including  
319 its condition. Payment of a physical damage claim is conditioned  
320 upon receipt of the lease or rental agreement.

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

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323 (f) To any renewal policy.

324 (g) To a motor vehicle policy issued in a county with a  
325 1988 estimated population of less than 500,000.

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

331 (i) When the insurer's authorized inspection service has no  
332 inspection facility either in the municipality in which the  
333 automobile is principally garaged or within 10 miles of such  
334 municipality.

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

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

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

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

344 (4) The inspection required by this section shall be  
345 provided by the insurer or by a person or organization  
346 authorized by the insurer. The applicant may be required to pay  
347 the cost of the inspection, not to exceed \$5. The inspection  
348 shall be recorded on a form prescribed by the commission, and  
349 the form or a copy shall be retained by the insurer with its  
350 policy records for the insured. The insurer shall provide a copy  
351 of the form to the insured upon request. Any inspection fee paid

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352 directly by the applicant may not be considered part of the  
353 premium. However, an insurer that provides the inspection at no  
354 cost to the applicant may include the expense of the inspection  
355 within a rate filing.

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

357 (a) Taking a physical imprint of the vehicle identification  
358 number of the vehicle or otherwise recording the vehicle  
359 identification number in a manner prescribed by the commission.

360 (b) Recording the presence of accessories required by the  
361 commission to be recorded.

362 (c) Recording the locations of and a description of  
363 existing damage to the vehicle.

364 (6) An insurer may defer an inspection for 30 calendar days  
365 following the effective date of coverage for a new policy, but  
366 not for a renewal policy, and for additional or replacement  
367 vehicles to an existing policy, if an inspection at the time of  
368 the request for coverage would create a serious inconvenience  
369 for the applicant and such hardship is documented in the  
370 insured's policy record.

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

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