

By the Committees on Commerce and Tourism; and 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;

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32 revising standards for compliance for specified
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; providing an
37 effective date.

38
39 Be It Enacted by the Legislature of the State of Florida:

40
41 Section 1. Subsection (8) of section 627.0651, Florida
42 Statutes, is amended to read:

43 627.0651 Making and use of rates for motor vehicle
44 insurance.—

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

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61 discriminatory.

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

64 627.311 Joint underwriters and joint reinsurers; public
65 records and public meetings exemptions.—

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

81 (m) May cancel personal lines or commercial policies issued
82 by the plan within the first 60 days after the effective date of
83 the policy or binder for nonpayment of premium if the check
84 issued for payment of the premium is dishonored for any reason
85 or if any other form of payment is rejected or deemed invalid.
86 An insured may not cancel a policy or binder within the first 90
87 days after its effective date, or within a lesser period as
88 required by the plan, except:

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

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

91 or

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

94 Section 3. Section 627.7283, Florida Statutes, is amended
95 to read:

96 627.7283 Cancellation; return of unearned premium.—

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

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

113 (3) If the unearned premium is not mailed, ~~or~~
114 electronically transferred, or applied to the unpaid balance of
115 other policies within the applicable period, the insurer must
116 pay to the insured 8 percent interest on the amount due. If the
117 unearned premium is not mailed or electronically transferred
118 within 45 days after the applicable period, the insured may

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119 bring an action against the insurer pursuant to s. 624.155.

120 (4) If the insured cancels, the insurer may retain up to 10
121 percent of the unearned premium and must refund at least 90
122 percent of the unearned premium. If the insurer cancels, the
123 insurer must refund 100 percent of the unearned premium.

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

127 (5) The insurer must refund 100 percent of the unearned
128 premium if the insured is a servicemember, as defined in s.
129 250.01, who cancels because he or she is called to active duty
130 or transferred by the United States Armed Forces to a location
131 where the insurance is not required. The insurer may require a
132 servicemember to submit either a copy of the official military
133 orders or a written verification signed by the servicemember's
134 commanding officer to support the refund authorized under this
135 subsection. If the insurer cancels, the insurer must refund 100
136 percent of the unearned premium. Cancellation is without
137 prejudice to any claim originating prior to the effective date
138 of the cancellation. For purposes of this section, unearned
139 premiums must be computed on a pro rata basis.

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

143 627.7295 Motor vehicle insurance contracts.—

144 (7) A policy of private passenger motor vehicle insurance
145 or a binder for such a policy may be initially issued in this
146 state only if, before the effective date of such binder or
147 policy, the insurer or agent has collected from the insured an

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148 amount equal to 2 months' premium. An insurer, agent, or premium
149 finance company may not, directly or indirectly, take any action
150 resulting in the insured having paid from the insured's own
151 funds an amount less than the 2 months' premium required by this
152 subsection. This subsection applies without regard to whether
153 the premium is financed by a premium finance company or is paid
154 pursuant to a periodic payment plan of an insurer or an
155 insurance agent. This subsection does not apply if an insured or
156 member of the insured's family is renewing or replacing a policy
157 or a binder for such policy written by the same insurer or a
158 member of the same insurer group. This subsection does not apply
159 to an insurer that issues private passenger motor vehicle
160 coverage primarily to active duty or former military personnel
161 or their dependents. This subsection does not apply if all
162 policy payments are paid pursuant to a payroll deduction plan,
163 ~~or~~ an automatic electronic funds transfer payment plan from the
164 policyholder, or a recurring credit card or debit card agreement
165 with the insurer. This subsection and subsection (4) do not
166 apply if all policy payments to an insurer are paid pursuant to
167 an automatic electronic funds transfer payment plan from an
168 agent, a managing general agent, or a premium finance company
169 and if the policy includes, at a minimum, personal injury
170 protection pursuant to ss. 627.730-627.7405; motor vehicle
171 property damage liability pursuant to s. 627.7275; and bodily
172 injury liability in at least the amount of \$10,000 because of
173 bodily injury to, or death of, one person in any one accident
174 and in the amount of \$20,000 because of bodily injury to, or
175 death of, two or more persons in any one accident. This
176 subsection and subsection (4) do not apply if an insured has had

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177 a policy in effect for at least 6 months, the insured's agent is
178 terminated by the insurer that issued the policy, and the
179 insured obtains coverage on the policy's renewal date with a new
180 company through the terminated agent.

181 (9) (a) In addition to the methods provided in s.
182 627.4035(1), the premiums for motor vehicle insurance contracts
183 issued in this state or covering risk located in this state may
184 be paid in cash in the form of a draft or drafts.

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

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

192 627.736 Required personal injury protection benefits;
193 exclusions; priority; claims.-

194 (5) CHARGES FOR TREATMENT OF INJURED PERSONS.-

195 (d) All statements and bills for medical services rendered
196 by a physician, hospital, clinic, or other person or institution
197 shall be submitted to the insurer on a properly completed
198 Centers for Medicare and Medicaid Services (CMS) 1500 form, UB
199 92 forms, or any other standard form approved by the office and
200 ~~or~~ adopted by the commission for purposes of this paragraph. All
201 billings for such services rendered by providers must, to the
202 extent applicable, comply with the CMS 1500 form instructions,
203 the American Medical Association CPT Editorial Panel, and the
204 Healthcare Common Procedure Coding System (HCPCS); and must
205 follow the Physicians' Current Procedural Terminology (CPT), the

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

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235 provided therein.

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

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

244 2. An entity wholly owned by a dentist licensed under
245 chapter 466, or by the dentist and the spouse, parent, child, or
246 sibling of the dentist;

247 3. An entity wholly owned by a chiropractic physician
248 licensed under chapter 460, or by the chiropractic physician and
249 the spouse, parent, child, or sibling of the chiropractic
250 physician;

251 4. A hospital or ambulatory surgical center licensed under
252 chapter 395;

253 5. An entity that wholly owns or is wholly owned, directly
254 or indirectly, by a hospital or hospitals licensed under chapter
255 395;

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

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

261 8. An entity that is owned by a publicly traded
262 corporation, either directly or indirectly through its
263 subsidiaries, that has \$250 million or more in total annual

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264 sales of health care services provided by licensed health care
265 practitioners, if one or more of the persons responsible for the
266 operations of the entity are health care practitioners who are
267 licensed in this state and are responsible for supervising the
268 business activities of the entity and the entity's compliance
269 with state law for purposes of this section.

270 Section 6. This act shall take effect July 1, 2016.