

By the Committees on Rules; 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.
3 627.311, 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; authorizing an additional form of payment
18 for certain motor vehicle insurance contract premiums;
19 authorizing an insurer to impose a specified
20 insufficient funds fee under certain circumstances;
21 amending s. 627.736, F.S.; requiring that a certain
22 standard form be approved by the office and adopted by
23 the Financial Services Commission, rather than
24 approved by the office or adopted by the commission;
25 revising standards for compliance for specified
26 billings for medical services; adding a specified
27 entity to a list of entities that are not required to
28 be licensed as a clinic to receive reimbursement under
29 the Florida Motor Vehicle No-Fault Law; providing an
30 effective date.
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32 Be It Enacted by the Legislature of the State of Florida:

33
34 Section 1. Paragraph (m) is added to subsection (3) of
35 section 627.311, Florida Statutes, to read:

36 627.311 Joint underwriters and joint reinsurers; public
37 records and public meetings exemptions.—

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

53 (m) May cancel personal lines or commercial policies issued
54 by the plan within the first 60 days after the effective date of
55 the policy or binder for nonpayment of premium if the check
56 issued for payment of the premium is dishonored for any reason
57 or if any other form of payment is rejected or deemed invalid.
58 An insured may not cancel a policy or binder within the first 90
59 days after its effective date, or within a lesser period as
60 required by the plan, except:

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

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

63 or

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

66 Section 2. Section 627.7283, Florida Statutes, is amended
67 to read:

68 627.7283 Cancellation; return of unearned premium.—

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

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

85 (3) If the unearned premium is not mailed, ~~or~~
86 electronically transferred, or applied to the unpaid balance of
87 other policies within the applicable period, the insurer must
88 pay to the insured 8 percent interest on the amount due. If the
89 unearned premium is not mailed or electronically transferred

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90 within 45 days after the applicable period, the insured may
91 bring an action against the insurer pursuant to s. 624.155.

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

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

112 Section 3. Subsection (7) of section 627.7295, Florida
113 Statutes, is amended, and subsection (9) is added to that
114 section, to read:

115 627.7295 Motor vehicle insurance contracts.—

116 (7) A policy of private passenger motor vehicle insurance
117 or a binder for such a policy may be initially issued in this
118 state only if, before the effective date of such binder or

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119 policy, the insurer or agent has collected from the insured an
120 amount equal to 2 months' premium. An insurer, agent, or premium
121 finance company may not, directly or indirectly, take any action
122 resulting in the insured having paid from the insured's own
123 funds an amount less than the 2 months' premium required by this
124 subsection. This subsection applies without regard to whether
125 the premium is financed by a premium finance company or is paid
126 pursuant to a periodic payment plan of an insurer or an
127 insurance agent. This subsection does not apply if an insured or
128 member of the insured's family is renewing or replacing a policy
129 or a binder for such policy written by the same insurer or a
130 member of the same insurer group. This subsection does not apply
131 to an insurer that issues private passenger motor vehicle
132 coverage primarily to active duty or former military personnel
133 or their dependents. This subsection does not apply if all
134 policy payments are paid pursuant to a payroll deduction plan,
135 ~~or~~ an automatic electronic funds transfer payment plan from the
136 policyholder, or a recurring credit card or debit card agreement
137 with the insurer. This subsection and subsection (4) do not
138 apply if all policy payments to an insurer are paid pursuant to
139 an automatic electronic funds transfer payment plan from an
140 agent, a managing general agent, or a premium finance company
141 and if the policy includes, at a minimum, personal injury
142 protection pursuant to ss. 627.730-627.7405; motor vehicle
143 property damage liability pursuant to s. 627.7275; and bodily
144 injury liability in at least the amount of \$10,000 because of
145 bodily injury to, or death of, one person in any one accident
146 and in the amount of \$20,000 because of bodily injury to, or
147 death of, two or more persons in any one accident. This

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148 subsection and subsection (4) do not apply if an insured has had
149 a policy in effect for at least 6 months, the insured's agent is
150 terminated by the insurer that issued the policy, and the
151 insured obtains coverage on the policy's renewal date with a new
152 company through the terminated agent.

153 (9) (a) In addition to the methods provided in s.
154 627.4035(1), the premiums for motor vehicle insurance contracts
155 issued in this state or covering risk located in this state may
156 be paid in cash in the form of a draft or drafts.

157 (b) If, due to insufficient funds, a payment of premium
158 under this subsection by debit card, credit card, electronic
159 funds transfer, or electronic check is returned or declined or
160 cannot be processed, the insurer may impose an insufficient
161 funds fee of up to \$15 per occurrence pursuant to the policy
162 terms.

163 Section 4. Paragraphs (d) and (h) of subsection (5) of
164 section 627.736, Florida Statutes, are amended to read:

165 627.736 Required personal injury protection benefits;
166 exclusions; priority; claims.—

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

168 (d) All statements and bills for medical services rendered
169 by a physician, hospital, clinic, or other person or institution
170 shall be submitted to the insurer on a properly completed
171 Centers for Medicare and Medicaid Services (CMS) 1500 form, UB
172 92 forms, or any other standard form approved by the office and
173 ~~or~~ adopted by the commission for purposes of this paragraph. All
174 billings for such services rendered by providers must, to the
175 extent applicable, comply with the CMS 1500 form instructions,
176 the American Medical Association CPT Editorial Panel, and the

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177 Healthcare Common Procedure Coding System (HCPCS); and must
178 follow the Physicians' Current Procedural Terminology (CPT), the
179 HCPCS in effect for the year in which services are rendered, and
180 the International Classification of Diseases (ICD) adopted by
181 the United States Department of Health and Human Services for
182 the service year in which the services, supplies, or care is
183 rendered as described in subparagraph (a)2. ~~follow the~~
184 ~~Physicians' Current Procedural Terminology (CPT) or Healthcare~~
185 ~~Correct Procedural Coding System (HCPCS), or ICD-9 in effect for~~
186 ~~the year in which services are rendered and comply with the CMS~~
187 ~~1500 form instructions, the American Medical Association CPT~~
188 ~~Editorial Panel, and the HCPCS.~~ All providers, other than
189 hospitals, must include on the applicable claim form the
190 professional license number of the provider in the line or space
191 provided for "Signature of Physician or Supplier, Including
192 Degrees or Credentials." In determining compliance with
193 applicable CPT and HCPCS coding, guidance shall be provided by
194 the ~~Physicians' Current Procedural Terminology (CPT)~~ or the
195 ~~Healthcare Correct Procedural Coding System (HCPCS)~~ in effect
196 for the year in which services were rendered, the Office of the
197 Inspector General, Physicians Compliance Guidelines, and other
198 authoritative treatises designated by rule by the Agency for
199 Health Care Administration. A statement of medical services may
200 not include charges for medical services of a person or entity
201 that performed such services without possessing the valid
202 licenses required to perform such services. For purposes of
203 paragraph (4) (b), an insurer is not considered to have been
204 furnished with notice of the amount of covered loss or medical
205 bills due unless the statements or bills comply with this

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206 paragraph and are properly completed in their entirety as to all
207 material provisions, with all relevant information being
208 provided therein.

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

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

217 2. An entity wholly owned by a dentist licensed under
218 chapter 466, or by the dentist and the spouse, parent, child, or
219 sibling of the dentist;

220 3. An entity wholly owned by a chiropractic physician
221 licensed under chapter 460, or by the chiropractic physician and
222 the spouse, parent, child, or sibling of the chiropractic
223 physician;

224 4. A hospital or ambulatory surgical center licensed under
225 chapter 395;

226 5. An entity that wholly owns or is wholly owned, directly
227 or indirectly, by a hospital or hospitals licensed under chapter
228 395;

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

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

234 8. An entity that is owned by a publicly traded

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235 corporation, either directly or indirectly through its
236 subsidiaries, that has \$250 million or more in total annual
237 sales of health care services provided by licensed health care
238 practitioners, if one or more of the persons responsible for the
239 operations of the entity are health care practitioners who are
240 licensed in this state and are responsible for supervising the
241 business activities of the entity and the entity's compliance
242 with state law for purposes of this section.

243 Section 5. This act shall take effect July 1, 2016.