



694432

LEGISLATIVE ACTION

Senate

.

House

.

.

Floor: WD/2R

.

03/04/2016 08:25 AM

.

.

Senator Brandes moved the following:

Senate Amendment (with title amendment)

Between lines 1043 and 1044

insert:

Section 21. Paragraph (m) is added to subsection (3) of section 627.311, Florida Statutes, to read:

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

(3) The office may, after consultation with insurers licensed to write automobile insurance in this state, approve a joint underwriting plan for purposes of equitable apportionment



694432

12 or sharing among insurers of automobile liability insurance and
13 other motor vehicle insurance, as an alternate to the plan
14 required in s. 627.351(1). All insurers authorized to write
15 automobile insurance in this state shall subscribe to the plan
16 and participate therein. The plan shall be subject to continuous
17 review by the office which may at any time disapprove the entire
18 plan or any part thereof if it determines that conditions have
19 changed since prior approval and that in view of the purposes of
20 the plan changes are warranted. Any disapproval by the office
21 shall be subject to the provisions of chapter 120. The Florida
22 Automobile Joint Underwriting Association is created under the
23 plan. The plan and the association:

24 (m) May cancel personal lines or commercial policies issued
25 by the plan within the first 60 days after the effective date of
26 the policy or binder for nonpayment of premium if the check
27 issued for payment of the premium is dishonored for any reason
28 or if any other form of payment is rejected or deemed invalid.
29 An insured may not cancel a policy or binder within the first 90
30 days after its effective date, or within a lesser period as
31 required by the plan, except:

- 32 1. Upon total destruction of the insured motor vehicle;
33 2. Upon transfer of ownership of the insured motor vehicle;
34 or
35 3. After purchase of another policy or binder covering the
36 motor vehicle that was covered under the policy being canceled.

37 Section 22. Section 627.7283, Florida Statutes, is amended
38 to read:

39 627.7283 Cancellation; return of unearned premium.—

40 (1) If the insured cancels a policy of motor vehicle



694432

41 insurance, the insurer must mail or electronically transfer the
42 unearned portion of any premium paid within 30 days after the
43 effective date of the policy cancellation or receipt of notice
44 or request for cancellation, whichever is later. This
45 requirement applies to a cancellation initiated by an insured
46 for any reason. However, the insured may apply the unearned
47 portion of any premium paid to unpaid balances of other policies
48 with the same insurer or insurer group.

49 (2) If an insurer cancels a policy of motor vehicle
50 insurance, the insurer must mail or electronically transfer the
51 unearned premium portion of any premium within 15 days after the
52 effective date of the policy cancellation. However, the insured
53 may apply the unearned portion of any premium paid to unpaid
54 balances of other policies with the same insurer or insurer
55 group.

56 (3) If the unearned premium is not mailed, ~~or~~
57 electronically transferred, or applied to the unpaid balance of
58 other policies within the applicable period, the insurer must
59 pay to the insured 8 percent interest on the amount due. If the
60 unearned premium is not mailed or electronically transferred
61 within 45 days after the applicable period, the insured may
62 bring an action against the insurer pursuant to s. 624.155.

63 (4) If the insured cancels, the insurer may retain up to 10
64 percent of the unearned premium and must refund at least 90
65 percent of the unearned premium. If the insurer cancels, the
66 insurer must refund 100 percent of the unearned premium.
67 Cancellation is without prejudice to any claim originating prior
68 to the effective date of the cancellation. For purposes of this
69 section, unearned premiums must be computed on a pro rata basis.



694432

70 (5) The insurer must refund 100 percent of the unearned
71 premium if the insured is a servicemember, as defined in s.
72 250.01, who cancels because he or she is called to active duty
73 or transferred by the United States Armed Forces to a location
74 where the insurance is not required. The insurer may require a
75 servicemember to submit either a copy of the official military
76 orders or a written verification signed by the servicemember's
77 commanding officer to support the refund authorized under this
78 subsection. If the insurer cancels, the insurer must refund 100
79 percent of the unearned premium. Cancellation is without
80 prejudice to any claim originating prior to the effective date
81 of the cancellation. For purposes of this section, unearned
82 premiums must be computed on a pro rata basis.

83 Section 23. Subsection (7) of section 627.7295, Florida
84 Statutes, is amended, and subsection (9) is added to that
85 section, to read:

86 627.7295 Motor vehicle insurance contracts.—

87 (7) A policy of private passenger motor vehicle insurance
88 or a binder for such a policy may be initially issued in this
89 state only if, before the effective date of such binder or
90 policy, the insurer or agent has collected from the insured an
91 amount equal to 2 months' premium. An insurer, agent, or premium
92 finance company may not, directly or indirectly, take any action
93 resulting in the insured having paid from the insured's own
94 funds an amount less than the 2 months' premium required by this
95 subsection. This subsection applies without regard to whether
96 the premium is financed by a premium finance company or is paid
97 pursuant to a periodic payment plan of an insurer or an
98 insurance agent. This subsection does not apply if an insured or



694432

99 member of the insured's family is renewing or replacing a policy
100 or a binder for such policy written by the same insurer or a
101 member of the same insurer group. This subsection does not apply
102 to an insurer that issues private passenger motor vehicle
103 coverage primarily to active duty or former military personnel
104 or their dependents. This subsection does not apply if all
105 policy payments are paid pursuant to a payroll deduction plan,
106 ~~or~~ an automatic electronic funds transfer payment plan from the
107 policyholder, or a recurring credit card or debit card agreement
108 with the insurer. This subsection and subsection (4) do not
109 apply if all policy payments to an insurer are paid pursuant to
110 an automatic electronic funds transfer payment plan from an
111 agent, a managing general agent, or a premium finance company
112 and if the policy includes, at a minimum, personal injury
113 protection pursuant to ss. 627.730-627.7405; motor vehicle
114 property damage liability pursuant to s. 627.7275; and bodily
115 injury liability in at least the amount of \$10,000 because of
116 bodily injury to, or death of, one person in any one accident
117 and in the amount of \$20,000 because of bodily injury to, or
118 death of, two or more persons in any one accident. This
119 subsection and subsection (4) do not apply if an insured has had
120 a policy in effect for at least 6 months, the insured's agent is
121 terminated by the insurer that issued the policy, and the
122 insured obtains coverage on the policy's renewal date with a new
123 company through the terminated agent.

124 (9) (a) In addition to the methods provided in s.
125 627.4035(1), the premiums for motor vehicle insurance contracts
126 issued in this state or covering risk located in this state may
127 be paid in cash in the form of a draft or drafts.



694432

128 (b) If, due to insufficient funds, a payment of premium
129 under this subsection by debit card, credit card, electronic
130 funds transfer, or electronic check is returned or declined or
131 cannot be processed, the insurer may impose an insufficient
132 funds fee of up to \$15 per occurrence pursuant to the policy
133 terms.

134 Section 24. Paragraphs (d) and (h) of subsection (5) of
135 section 627.736, Florida Statutes, are amended to read:

136 627.736 Required personal injury protection benefits;
137 exclusions; priority; claims.—

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

139 (d) All statements and bills for medical services rendered
140 by a physician, hospital, clinic, or other person or institution
141 shall be submitted to the insurer on a properly completed
142 Centers for Medicare and Medicaid Services (CMS) 1500 form, UB
143 92 forms, or any other standard form approved by the office and
144 ~~or~~ adopted by the commission for purposes of this paragraph. All
145 billings for such services rendered by providers must, to the
146 extent applicable, comply with the CMS 1500 form instructions,
147 the American Medical Association CPT Editorial Panel, and the
148 Healthcare Common Procedure Coding System (HCPCS); and must
149 follow the Physicians' Current Procedural Terminology (CPT), the
150 HCPCS in effect for the year in which services are rendered, and
151 the International Classification of Diseases (ICD) adopted by
152 the United States Department of Health and Human Services for
153 the service year in which the services, supplies, or care is
154 rendered as described in subparagraph (a)2. ~~follow the~~
155 ~~Physicians' Current Procedural Terminology (CPT) or Healthcare~~
156 ~~Correct Procedural Coding System (HCPCS), or ICD-9 in effect for~~



694432

157 ~~the year in which services are rendered and comply with the CMS~~
158 ~~1500 form instructions, the American Medical Association CPT~~
159 ~~Editorial Panel, and the HCPCS.~~ All providers, other than
160 hospitals, must include on the applicable claim form the
161 professional license number of the provider in the line or space
162 provided for "Signature of Physician or Supplier, Including
163 Degrees or Credentials." In determining compliance with
164 applicable CPT and HCPCS coding, guidance shall be provided by
165 the ~~Physicians' Current Procedural Terminology (CPT)~~ or the
166 ~~Healthcare Correct Procedural Coding System (HCPCS)~~ in effect
167 for the year in which services were rendered, the Office of the
168 Inspector General, Physicians Compliance Guidelines, and other
169 authoritative treatises designated by rule by the Agency for
170 Health Care Administration. A statement of medical services may
171 not include charges for medical services of a person or entity
172 that performed such services without possessing the valid
173 licenses required to perform such services. For purposes of
174 paragraph (4) (b), an insurer is not considered to have been
175 furnished with notice of the amount of covered loss or medical
176 bills due unless the statements or bills comply with this
177 paragraph and are properly completed in their entirety as to all
178 material provisions, with all relevant information being
179 provided therein.

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

185 1. An entity wholly owned by a physician licensed under



694432

186 chapter 458 or chapter 459, or by the physician and the spouse,
187 parent, child, or sibling of the physician;
188 2. An entity wholly owned by a dentist licensed under
189 chapter 466, or by the dentist and the spouse, parent, child, or
190 sibling of the dentist;
191 3. An entity wholly owned by a chiropractic physician
192 licensed under chapter 460, or by the chiropractic physician and
193 the spouse, parent, child, or sibling of the chiropractic
194 physician;
195 4. A hospital or ambulatory surgical center licensed under
196 chapter 395;
197 5. An entity that wholly owns or is wholly owned, directly
198 or indirectly, by a hospital or hospitals licensed under chapter
199 395;
200 6. An entity that is a clinical facility affiliated with an
201 accredited medical school at which training is provided for
202 medical students, residents, or fellows; ~~or~~
203 7. An entity that is certified under 42 C.F.R. part 485,
204 subpart H; or
205 8. An entity that is owned by a publicly traded
206 corporation, either directly or indirectly through its
207 subsidiaries, that has \$250 million or more in total annual
208 sales of health care services provided by licensed health care
209 practitioners, if one or more of the persons responsible for the
210 operations of the entity are health care practitioners who are
211 licensed in this state and are responsible for supervising the
212 business activities of the entity and the entity's compliance
213 with state law for purposes of this section.
214



694432

215 ===== T I T L E A M E N D M E N T =====

216 And the title is amended as follows:

217 Between lines 120 and 121

218 insert:

219 s. 627.311, F.S.; authorizing the Florida Automobile
220 Joint Underwriting Association and a joint
221 underwriting plan approved by the Office of Insurance
222 Regulation to cancel personal lines or commercial
223 policies within a specified time for nonpayment of
224 premium due to certain reasons; prohibiting an insured
225 from cancelling a policy or binder within a specified
226 time, except under certain conditions; amending s.
227 627.7283, F.S.; authorizing an insured who cancels a
228 policy to apply the unearned portion of any premium
229 paid to unpaid balances of other policies with the
230 same insurer or insurer group; amending s. 627.7295,
231 F.S.; updating applicability language to include a
232 reference to recurring credit card or debit card
233 payments; authorizing an additional form of payment
234 for certain motor vehicle insurance contract premiums;
235 authorizing an insurer to impose a specified
236 insufficient funds fee under certain circumstances;
237 amending s. 627.736, F.S.; requiring that a certain
238 standard form be approved by the office and adopted by
239 the Financial Services Commission, rather than
240 approved by the office or adopted by the commission;
241 revising standards for compliance for specified
242 billings for medical services; adding a specified
243 entity to a list of entities that are not required to



694432

244
245

be licensed as clinics to receive reimbursement under
the Florida Motor Vehicle No-Fault Law; amending