

1 A bill to be entitled
 2 An act relating to insurance claims; providing a short
 3 title; amending s. 627.0651, F.S.; requiring the
 4 Office of Insurance Regulation to consider the
 5 recovery of funds under specified provisions in
 6 reviewing rates; amending s. 817.234, F.S.; requiring
 7 insurers to report the recovery of funds under
 8 specified provisions; specifying that an insured's
 9 payment of a deductible or copayment is not a
 10 condition of an insurer's payment obligations;
 11 providing an effective date.

12
 13 Be It Enacted by the Legislature of the State of Florida:

14
 15 Section 1. This act may be cited as the "Transparency in
 16 Recoveries Act."

17 Section 2. Paragraphs (g) through (l) of subsection (2) of
 18 section 627.0651, Florida Statutes, are redesignated as
 19 paragraphs (h) through (m), respectively, a new paragraph (g) is
 20 added to that subsection, and paragraphs (d) and (e) of
 21 subsection (14) of that section are amended, to read:

22 627.0651 Making and use of rates for motor vehicle
 23 insurance.—

24 (2) Upon receiving notice of a rate filing or rate change,
 25 the office shall review the rate or rate change to determine if

26 | the rate is excessive, inadequate, or unfairly discriminatory.
 27 | In making that determination, the office shall in accordance
 28 | with generally accepted and reasonable actuarial techniques
 29 | consider the following factors:

30 | (g) Recovery of funds by judgment or settlement and
 31 | attorney fees and costs awarded or returned for payments
 32 | recovered as a result of claimed violations of s. 456.054, part
 33 | X of chapter 440, part II of chapter 501, s. 627.732, s.
 34 | 627.736(17), s. 817.234, or s. 817.505 or repayment of claims
 35 | paid for pursuant to actions or allegations of common law fraud,
 36 | civil conspiracy, unjust enrichment, or unlawful conduct.

37 | (14)

38 | (d) An insurer must notify the office of any changes to
 39 | rates for type of insurance described in this subsection no
 40 | later than 30 days after the effective date of the change. The
 41 | notice shall include the name of the insurer, the type or kind
 42 | of insurance subject to rate change, and the average statewide
 43 | percentage change in rates. Actuarial data with regard to rates
 44 | for risks described in this subsection shall be maintained by
 45 | the insurer for 2 years after the effective date of changes to
 46 | those rates and are subject to examination by the office. The
 47 | office may require the insurer to incur the costs associated
 48 | with an examination. Upon examination, the office shall, in
 49 | accordance with generally accepted and reasonable actuarial
 50 | techniques, consider the factors in paragraphs (2) (a) - (m)

51 ~~(2)(a)-(1)~~ and apply subsections (3)-(8) to determine if the
 52 rate is excessive, inadequate, or unfairly discriminatory.

53 (e) A rating organization must notify the office of any
 54 changes to loss cost for the type of insurance described in this
 55 subsection no later than 30 days after the effective date of the
 56 change. The notice shall include the name of the rating
 57 organization, the type or kind of insurance subject to a loss
 58 cost change, loss costs during the immediately preceding year
 59 for the type or kind of insurance subject to the loss cost
 60 change, and the average statewide percentage change in loss
 61 cost. Actuarial data with regard to changes to loss cost for
 62 risks not subject to subsection (1), subsection (2), or
 63 subsection (9) shall be maintained by the rating organization
 64 for 2 years after the effective date of the change and are
 65 subject to examination by the office. The office may require the
 66 rating organization to incur the costs associated with an
 67 examination. Upon examination, the office shall, in accordance
 68 with generally accepted and reasonable actuarial techniques,
 69 consider the rate factors in paragraphs (2)(a)-(m) ~~(2)(a)-(1)~~
 70 and apply subsections (3)-(8) to determine if the rate is
 71 excessive, inadequate, or unfairly discriminatory.

72 Section 3. Paragraph (c) is added to subsection (5) of
 73 section 817.234, Florida Statutes, and subsection (7) of that
 74 section is amended, to read:

75 817.234 False and fraudulent insurance claims.—

(5)

(c) If an insurer damaged as a result of a violation of any provision of this section or s. 456.054, part X of chapter 440, part II of chapter 501, s. 627.732, s. 627.736(17), s. 817.234, or s. 817.505 and the insurer obtains repayment or a refund of claims paid pursuant to s. 627.736, the insurer shall report to the department the amount of funds received as a result of a claim, settlement, or judgment, inclusive of attorney fees and costs, of such repayment of funds.

(7)(a) It shall constitute a material omission and insurance fraud, punishable as provided in subsection (11), for any service provider, other than a hospital, to engage in a general business practice of billing amounts as its usual and customary charge, if such provider has agreed with the insured or intends to waive deductibles or copayments, or does not for any other reason intend to collect the total amount of such charge. With respect to a determination as to whether a service provider has engaged in such general business practice, consideration shall be given to evidence of whether the physician or other provider made a good faith attempt to collect such deductible or copayment. This paragraph does not apply to physicians or other providers who defer collection of ~~waive~~ deductibles or copayments or reduce their bills as part of a bodily injury settlement or verdict. Payment by an insured of a deductible or copayment is not a condition of an insurer's

101 payment obligations.

102 (b) The provisions of this section shall also apply as to
 103 any insurer or adjusting firm or its agents or representatives
 104 who, with intent, injure, defraud, or deceive any claimant with
 105 regard to any claim. The claimant shall have the right to
 106 recover the damages provided in this section.

107 (c) An insurer, or any person acting at the direction of
 108 or on behalf of an insurer, may not change an opinion in a
 109 mental or physical report prepared under s. 627.736(7) or direct
 110 the physician preparing the report to change such opinion;
 111 however, this paragraph provision does not preclude the insurer
 112 from calling to the attention of the physician errors of fact in
 113 the report based upon information in the claim file. Any person
 114 who violates this paragraph commits a felony of the third
 115 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 116 775.084.

117 (d) A contractor, or a person acting on behalf of a
 118 contractor, may not knowingly or willfully and with intent to
 119 injure, defraud, or deceive, pay, waive, or rebate all or part
 120 of an insurance deductible applicable to payment to the
 121 contractor, or a person acting on behalf of a contractor, for
 122 repairs to property covered by a property insurance policy. A
 123 person who violates this paragraph commits a ~~third-degree~~ felony
 124 of the third degree, punishable as provided in s. 775.082, s.
 125 775.083, or s. 775.084.

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Section 4. This act shall take effect July 1, 2023.