

By Senator Grall

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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:

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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:

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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

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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.-

76 (5)

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

85 (7) (a) It shall constitute a material omission and
86 insurance fraud, punishable as provided in subsection (11), for
87 any service provider, other than a hospital, to engage in a

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88 general business practice of billing amounts as its usual and
89 customary charge, if such provider has agreed with the insured
90 or intends to waive deductibles or copayments, or does not for
91 any other reason intend to collect the total amount of such
92 charge. With respect to a determination as to whether a service
93 provider has engaged in such general business practice,
94 consideration shall be given to evidence of whether the
95 physician or other provider made a good faith attempt to collect
96 such deductible or copayment. This paragraph does not apply to
97 physicians or other providers who defer collection of ~~waive~~
98 deductibles or copayments or reduce their bills as part of a
99 bodily injury settlement or verdict. Payment by an insured of a
100 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 or
108 on behalf of an insurer, may not change an opinion in a mental
109 or physical report prepared under s. 627.736(7) or direct the
110 physician preparing the report to change such opinion; however,
111 this paragraph ~~provision~~ does not preclude the insurer from
112 calling to the attention of the physician errors of fact in the
113 report based upon information in the claim file. Any person who
114 violates this paragraph commits a felony of the third degree,
115 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

116 (d) A contractor, or a person acting on behalf of a

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

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