

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 funds
5 recovered under specified provisions in reviewing
6 rates; amending s. 817.234, F.S.; requiring insurers
7 to report funds recovered under specified provisions;
8 specifying that an insured's payment of a deductible
9 or copayment is not a condition of an insurer's
10 payment obligations; making technical changes;
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. Present paragraphs (g) through (l) of subsection
18 (2) of 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 part X of chapter
33 400, s. 456.054, part II of chapter 501, s. 627.736, s. 817.234,
34 or s. 817.505, or repayment of claims paid pursuant to actions
35 or allegations of common law fraud, civil conspiracy, unjust
36 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. Subsection (7) of section 817.234, Florida
73 Statutes, is amended, and paragraph (c) is added to subsection
74 (5) of that section, to read:

75 817.234 False and fraudulent insurance claims.-

76 (5)

77 (c) If an insurer is damaged as a result of a violation of
78 any provision of this section, part X of chapter 400, s.
79 456.054, part II of chapter 501, s. 627.736, or s. 817.505, and
80 the insurer obtains repayment or a refund of claims paid
81 pursuant to s. 627.736, the insurer must report to the
82 department the amount of funds received, inclusive of attorney
83 fees and costs, as a result of a claim, settlement, or judgment.

84 (7) (a) It shall constitute a material omission and
85 insurance fraud, punishable as provided in subsection (11), for
86 any service provider, other than a hospital, to engage in a
87 general business practice of billing amounts as its usual and

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88 customary charge, if such provider has agreed with the insured
89 or intends to waive deductibles or copayments, or does not for
90 any other reason intend to collect the total amount of such
91 charge. ~~With respect To~~ determine ~~a determination as to~~ whether
92 a service provider has engaged in such general business
93 practice, consideration must ~~shall~~ be given to evidence of
94 whether the physician or other provider made a good faith
95 attempt to collect such deductible or copayment. This paragraph
96 does not apply to physicians or other providers who defer
97 collection of ~~waive~~ deductibles or copayments or reduce their
98 bills as part of a bodily injury settlement or verdict. Payment
99 by an insured of a deductible or copayment is not a condition of
100 an insurer's payment obligations.

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

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

115 (d) A contractor, or a person acting on behalf of a
116 contractor, may not knowingly or willfully and with intent to

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117 injure, defraud, or deceive, pay, waive, or rebate all or part
118 of an insurance deductible applicable to payment to the
119 contractor, or a person acting on behalf of a contractor, for
120 repairs to property covered by a property insurance policy. A
121 person who violates this paragraph commits a ~~third-degree~~ felony
122 of the third degree, punishable as provided in s. 775.082, s.
123 775.083, or s. 775.084.

124 Section 4. This act shall take effect July 1, 2024.