

1 A bill to be entitled
2 An act relating to property and casualty insurance;
3 amending s. 627.0651, F.S.; revising provisions for
4 making and use of rates for motor vehicle insurance;
5 providing for expiration; amending s. 627.3518, F.S.;
6 conforming a cross-reference; amending s. 627.4133,
7 F.S.; increasing the amount of prior notice required
8 with respect to the nonrenewal, cancellation, or
9 termination of certain insurance policies; deleting
10 certain provisions that require extended periods of
11 prior notice with respect to the nonrenewal,
12 cancellation, or termination of certain insurance
13 policies; prohibiting the cancellation of certain
14 policies that have been in effect for a specified
15 amount of time except under certain circumstances;
16 amending s. 627.421, F.S.; authorizing a policyholder
17 of personal lines insurance to affirmatively elect
18 delivery of policy documents by electronic means;
19 amending s. 627.7074, F.S.; revising notification
20 requirements for participation in the neutral
21 evaluation program; amending s. 627.736, F.S.;
22 revising the period for applicability of certain
23 Medicare fee schedules or payment limitations;
24 amending s. 627.744, F.S.; revising preinsurance
25 inspection requirements for private passenger motor
26 vehicles; providing an effective date.

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

Section 1. Subsection (8) of section 627.0651, Florida Statutes, is amended to read:

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

(8) Rates are not unfairly discriminatory if averaged broadly among members of a group; nor are rates unfairly discriminatory even though they are lower than rates for nonmembers of the group. However, such rates are unfairly discriminatory if they are not actuarially measurable and credible and sufficiently related to actual or expected loss and expense experience of the group so as to ensure ~~assure~~ that nonmembers of the group are not unfairly discriminated against. Use of a single United States Postal Service zip code as a rating territory shall be deemed unfairly discriminatory unless filed pursuant to paragraph (1)(a) and such territory incorporates sufficient actual or expected loss and loss adjustment expense experience so as to be actuarially measurable and credible.

Section 2. The amendment made by this act to s. 627.0651(8), Florida Statutes, expires July 1, 2018, and the text of that section shall revert to that in existence on June 30, 2015, except that any amendments to such text enacted other than by this act shall be preserved and continue to operate to

53 the extent that such amendments are not dependent upon the
 54 portions of text that expire pursuant to this section.

55 Section 3. Subsection (9) of section 627.3518, Florida
 56 Statutes, is amended to read:

57 627.3518 Citizens Property Insurance Corporation
 58 policyholder eligibility clearinghouse program.—The purpose of
 59 this section is to provide a framework for the corporation to
 60 implement a clearinghouse program by January 1, 2014.

61 (9) The 45-day notice of nonrenewal requirement set forth
 62 in s. 627.4133(2)(b)5. ~~627.4133(2)(b)5.b.~~ applies when a policy
 63 is nonrenewed by the corporation because the risk has received
 64 an offer of coverage pursuant to this section which renders the
 65 risk ineligible for coverage by the corporation.

66 Section 4. Paragraph (b) of subsection (2) of section
 67 627.4133, Florida Statutes, is amended to read:

68 627.4133 Notice of cancellation, nonrenewal, or renewal
 69 premium.—

70 (2) With respect to any personal lines or commercial
 71 residential property insurance policy, including, but not
 72 limited to, any homeowner, mobile home owner, farmowner,
 73 condominium association, condominium unit owner, apartment
 74 building, or other policy covering a residential structure or
 75 its contents:

76 (b) The insurer shall give the first-named insured written
 77 notice of nonrenewal, cancellation, or termination at least 120
 78 ~~100~~ days before the effective date of the nonrenewal,

79 | cancellation, or termination. ~~However, the insurer shall give at~~
80 | ~~least 100 days' written notice, or written notice by June 1,~~
81 | ~~whichever is earlier, for any nonrenewal, cancellation, or~~
82 | ~~termination that would be effective between June 1 and November~~
83 | ~~30.~~ The notice must include the reason for the nonrenewal,
84 | cancellation, or termination, except that:

85 | ~~1. The insurer shall give the first-named insured written~~
86 | ~~notice of nonrenewal, cancellation, or termination at least 120~~
87 | ~~days before the effective date of the nonrenewal, cancellation,~~
88 | ~~or termination for a first-named insured whose residential~~
89 | ~~structure has been insured by that insurer or an affiliated~~
90 | ~~insurer for at least 5 years before the date of the written~~
91 | ~~notice.~~

92 | 1.2. If cancellation is for nonpayment of premium, at
93 | least 10 days' written notice of cancellation accompanied by the
94 | reason therefor must be given. As used in this subparagraph, the
95 | term "nonpayment of premium" means failure of the named insured
96 | to discharge when due her or his obligations for paying the
97 | premium on a policy or an installment of such premium, whether
98 | the premium is payable directly to the insurer or its agent or
99 | indirectly under a premium finance plan or extension of credit,
100 | or failure to maintain membership in an organization if such
101 | membership is a condition precedent to insurance coverage. The
102 | term also means the failure of a financial institution to honor
103 | an insurance applicant's check after delivery to a licensed
104 | agent for payment of a premium even if the agent has previously

105 delivered or transferred the premium to the insurer. If a
106 dishonored check represents the initial premium payment, the
107 contract and all contractual obligations are void ab initio
108 unless the nonpayment is cured within the earlier of 5 days
109 after actual notice by certified mail is received by the
110 applicant or 15 days after notice is sent to the applicant by
111 certified mail or registered mail. If the contract is void, any
112 premium received by the insurer from a third party must be
113 refunded to that party in full.

114 ~~2.3.~~ If cancellation or termination occurs during the
115 first 90 days the insurance is in force and the insurance is
116 canceled or terminated for reasons other than nonpayment of
117 premium, at least 20 days' written notice of cancellation or
118 termination accompanied by the reason therefor must be given
119 unless there has been a material misstatement or
120 misrepresentation or a failure to comply with the underwriting
121 requirements established by the insurer.

122 3. After the policy has been in effect for 90 days, the
123 policy may not be canceled by the insurer unless there has been
124 a material misstatement; a nonpayment of premium; a failure to
125 comply, within 90 days after the date of effectuation of
126 coverage, with underwriting requirements established by the
127 insurer before the date of effectuation of coverage; or a
128 substantial change in the risk covered by the policy or unless
129 the cancellation is for all insureds under such policies for a
130 given class of insureds. This subparagraph does not apply to

131 individually rated risks that have a policy term of less than 90
132 days.

133 4. After a policy or contract has been in effect for more
134 than 90 days, the insurer may not cancel or terminate the policy
135 or contract based on credit information available in public
136 records.

137 ~~5. The requirement for providing written notice by June 1~~
138 ~~of any nonrenewal that would be effective between June 1 and~~
139 ~~November 30 does not apply to the following situations, but the~~
140 ~~insurer remains subject to the requirement to provide such~~
141 ~~notice at least 100 days before the effective date of~~
142 ~~nonrenewal:~~

143 a. ~~A policy that is nonrenewed due to a revision in the~~
144 ~~coverage for sinkhole losses and catastrophic ground cover~~
145 ~~collapse pursuant to s. 627.706.~~

146 ~~5.b.~~ A policy that is nonrenewed by Citizens Property
147 Insurance Corporation, pursuant to s. 627.351(6), for a policy
148 that has been assumed by an authorized insurer offering
149 replacement coverage to the policyholder is exempt from the
150 notice requirements of paragraph (a) and this paragraph. In such
151 cases, the corporation must give the named insured written
152 notice of nonrenewal at least 45 days before the effective date
153 of the nonrenewal.

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155 ~~After the policy has been in effect for 90 days, the policy may~~
156 ~~not be canceled by the insurer unless there has been a material~~

157 ~~misstatement, a nonpayment of premium, a failure to comply with~~
158 ~~underwriting requirements established by the insurer within 90~~
159 ~~days after the date of effectuation of coverage, a substantial~~
160 ~~change in the risk covered by the policy, or the cancellation is~~
161 ~~for all insureds under such policies for a given class of~~
162 ~~insureds. This paragraph does not apply to individually rated~~
163 ~~risks that have a policy term of less than 90 days.~~

164 6. Notwithstanding any other provision of law, an insurer
165 may cancel or nonrenew a property insurance policy after at
166 least 45 days' notice if the office finds that the early
167 cancellation of some or all of the insurer's policies is
168 necessary to protect the best interests of the public or
169 policyholders and the office approves the insurer's plan for
170 early cancellation or nonrenewal of some or all of its policies.
171 The office may base such finding upon the financial condition of
172 the insurer, lack of adequate reinsurance coverage for hurricane
173 risk, or other relevant factors. The office may condition its
174 finding on the consent of the insurer to be placed under
175 administrative supervision pursuant to s. 624.81 or to the
176 appointment of a receiver under chapter 631.

177 7. A policy covering both a home and a motor vehicle may
178 be nonrenewed for any reason applicable to the property or motor
179 vehicle insurance after providing 90 days' notice.

180 Section 5. Subsection (1) of section 627.421, Florida
181 Statutes, is amended to read:

182 627.421 Delivery of policy.—

183 (1) Subject to the insurer's requirement as to payment of
184 premium, every policy shall be mailed, delivered, or
185 electronically transmitted to the insured or to the person
186 entitled thereto not later than 60 days after the effectuation
187 of coverage. Notwithstanding any other provision of law, an
188 insurer may allow a policyholder of personal lines insurance to
189 affirmatively elect delivery of the policy documents, including,
190 but not limited to, policies, endorsements, notices, or
191 documents, by electronic means in lieu of delivery by mail.
192 Electronic transmission of a policy for commercial risks,
193 including, but not limited to, workers' compensation and
194 employers' liability, commercial automobile liability,
195 commercial automobile physical damage, commercial lines
196 residential property, commercial nonresidential property,
197 farmowners insurance, and the types of commercial lines risks
198 set forth in s. 627.062(3)(d), constitutes ~~shall constitute~~
199 delivery to the insured or to the person entitled to delivery,
200 unless the insured or the person entitled to delivery
201 communicates to the insurer in writing or electronically that he
202 or she does not agree to delivery by electronic means.
203 Electronic transmission shall include a notice to the insured or
204 to the person entitled to delivery of a policy of his or her
205 right to receive the policy via United States mail rather than
206 via electronic transmission. A paper copy of the policy shall be
207 provided to the insured or to the person entitled to delivery at
208 his or her request.

209 Section 6. Subsection (3) of section 627.7074, Florida
 210 Statutes, is amended to read:

211 627.7074 Alternative procedure for resolution of disputed
 212 sinkhole insurance claims.—

213 (3) If there is coverage available under the policy and
 214 the claim was submitted within the timeframe provided in s.
 215 627.706(5), following the receipt of the report provided under
 216 s. 627.7073 or the denial of a claim for a sinkhole loss, the
 217 insurer shall notify the policyholder of his or her right to
 218 participate in the neutral evaluation program under this
 219 section. Neutral evaluation supersedes the alternative dispute
 220 resolution process under s. 627.7015 but does not invalidate the
 221 appraisal clause of the insurance policy. The insurer shall
 222 provide to the policyholder the consumer information pamphlet
 223 prepared by the department pursuant to subsection (1)
 224 electronically or by United States mail.

225 Section 7. Paragraph (a) of subsection (5) of section
 226 627.736, Florida Statutes, is amended to read:

227 627.736 Required personal injury protection benefits;
 228 exclusions; priority; claims.—

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

230 (a) A physician, hospital, clinic, or other person or
 231 institution lawfully rendering treatment to an injured person
 232 for a bodily injury covered by personal injury protection
 233 insurance may charge the insurer and injured party only a
 234 reasonable amount pursuant to this section for the services and

235 supplies rendered, and the insurer providing such coverage may
236 pay for such charges directly to such person or institution
237 lawfully rendering such treatment if the insured receiving such
238 treatment or his or her guardian has countersigned the properly
239 completed invoice, bill, or claim form approved by the office
240 upon which such charges are to be paid for as having actually
241 been rendered, to the best knowledge of the insured or his or
242 her guardian. However, such a charge may not exceed the amount
243 the person or institution customarily charges for like services
244 or supplies. In determining whether a charge for a particular
245 service, treatment, or otherwise is reasonable, consideration
246 may be given to evidence of usual and customary charges and
247 payments accepted by the provider involved in the dispute,
248 reimbursement levels in the community and various federal and
249 state medical fee schedules applicable to motor vehicle and
250 other insurance coverages, and other information relevant to the
251 reasonableness of the reimbursement for the service, treatment,
252 or supply.

253 1. The insurer may limit reimbursement to 80 percent of
254 the following schedule of maximum charges:

255 a. For emergency transport and treatment by providers
256 licensed under chapter 401, 200 percent of Medicare.

257 b. For emergency services and care provided by a hospital
258 licensed under chapter 395, 75 percent of the hospital's usual
259 and customary charges.

260 c. For emergency services and care as defined by s.

261 395.002 provided in a facility licensed under chapter 395
262 rendered by a physician or dentist, and related hospital
263 inpatient services rendered by a physician or dentist, the usual
264 and customary charges in the community.

265 d. For hospital inpatient services, other than emergency
266 services and care, 200 percent of the Medicare Part A
267 prospective payment applicable to the specific hospital
268 providing the inpatient services.

269 e. For hospital outpatient services, other than emergency
270 services and care, 200 percent of the Medicare Part A Ambulatory
271 Payment Classification for the specific hospital providing the
272 outpatient services.

273 f. For all other medical services, supplies, and care, 200
274 percent of the allowable amount under:

275 (I) The participating physicians fee schedule of Medicare
276 Part B, except as provided in sub-sub-subparagraphs (II) and
277 (III).

278 (II) Medicare Part B, in the case of services, supplies,
279 and care provided by ambulatory surgical centers and clinical
280 laboratories.

281 (III) The Durable Medical Equipment Prosthetics/Orthotics
282 and Supplies fee schedule of Medicare Part B, in the case of
283 durable medical equipment.

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285 However, if such services, supplies, or care is not reimbursable
286 under Medicare Part B, as provided in this sub-subparagraph, the

287 insurer may limit reimbursement to 80 percent of the maximum
288 reimbursable allowance under workers' compensation, as
289 determined under s. 440.13 and rules adopted thereunder which
290 are in effect at the time such services, supplies, or care is
291 provided. Services, supplies, or care that is not reimbursable
292 under Medicare or workers' compensation is not required to be
293 reimbursed by the insurer.

294 2. For purposes of subparagraph 1., the applicable fee
295 schedule or payment limitation under Medicare is the fee
296 schedule or payment limitation in effect on March 1 of the
297 service year in which the services, supplies, or care is
298 rendered and for the area in which such services, supplies, or
299 care is rendered, and the applicable fee schedule or payment
300 limitation applies to services, supplies, or care rendered
301 during ~~throughout the remainder of~~ that service year,
302 notwithstanding any subsequent change made to the fee schedule
303 or payment limitation, except that it may not be less than the
304 allowable amount under the applicable schedule of Medicare Part
305 B for 2007 for medical services, supplies, and care subject to
306 Medicare Part B. For purposes of this subparagraph, the term
307 "service year" means the period from March 1 through the end of
308 February of the following year.

309 3. Subparagraph 1. does not allow the insurer to apply any
310 limitation on the number of treatments or other utilization
311 limits that apply under Medicare or workers' compensation. An
312 insurer that applies the allowable payment limitations of

313 subparagraph 1. must reimburse a provider who lawfully provided
314 care or treatment under the scope of his or her license,
315 regardless of whether such provider is entitled to reimbursement
316 under Medicare due to restrictions or limitations on the types
317 or discipline of health care providers who may be reimbursed for
318 particular procedures or procedure codes. However, subparagraph
319 1. does not prohibit an insurer from using the Medicare coding
320 policies and payment methodologies of the federal Centers for
321 Medicare and Medicaid Services, including applicable modifiers,
322 to determine the appropriate amount of reimbursement for medical
323 services, supplies, or care if the coding policy or payment
324 methodology does not constitute a utilization limit.

325 4. If an insurer limits payment as authorized by
326 subparagraph 1., the person providing such services, supplies,
327 or care may not bill or attempt to collect from the insured any
328 amount in excess of such limits, except for amounts that are not
329 covered by the insured's personal injury protection coverage due
330 to the coinsurance amount or maximum policy limits.

331 5. ~~Effective July 1, 2012,~~ An insurer may limit payment as
332 authorized by this paragraph only if the insurance policy
333 includes a notice at the time of issuance or renewal that the
334 insurer may limit payment pursuant to the schedule of charges
335 specified in this paragraph. A policy form approved by the
336 office satisfies this requirement. If a provider submits a
337 charge for an amount less than the amount allowed under
338 subparagraph 1., the insurer may pay the amount of the charge

339 submitted.

340 Section 8. Paragraphs (a) and (b) of subsection (2) of
341 section 627.744, Florida Statutes, are amended to read:

342 627.744 Required preinsurance inspection of private
343 passenger motor vehicles.—

344 (2) This section does not apply:

345 (a) To a policy for a policyholder who has been insured
346 for 2 years or longer, without interruption, under a private
347 passenger motor vehicle policy that ~~which~~ provides physical
348 damage coverage for any vehicle,⁷ if the agent of the insurer
349 verifies the previous coverage.

350 (b) To a new, unused motor vehicle purchased or leased
351 from a licensed motor vehicle dealer or leasing company.⁷ ~~if~~ The
352 insurer may require ~~is provided with~~:

353 1. A bill of sale, ~~or~~ buyer's order, or lease agreement
354 that ~~which~~ contains a full description of the motor vehicle,⁷
355 ~~including all options and accessories; or~~

356 2. A copy of the title or registration that ~~which~~
357 establishes transfer of ownership from the dealer or leasing
358 company to the customer and a copy of the window sticker ~~or the~~
359 ~~dealer invoice showing the itemized options and equipment and~~
360 ~~the total retail price of the vehicle.~~

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362 For the purposes of this paragraph, the physical damage coverage
363 on the motor vehicle may not be suspended during the term of the
364 policy due to the applicant's failure to provide or the

365 insurer's option not to require the ~~required~~ documents. However,
366 if the insurer requires a document under this paragraph at the
367 time the policy is issued, payment of a claim may be ~~is~~
368 conditioned upon the receipt by the insurer of the required
369 documents, and no physical damage loss occurring after the
370 effective date of the coverage may be ~~is~~ payable until the
371 documents are provided to the insurer.

372 Section 9. This act shall take effect July 1, 2015.