

## CHAPTER 2016-133

### Committee Substitute for Committee Substitute for House Bill No. 659

An act relating to automobile insurance; amending s. 627.0651, F.S.; providing an exception to a provision that deems use of a single zip code as a rating territory for insurance rates to be unfairly discriminatory; requiring the Office of Insurance Regulation to ensure that rates or rate changes contained in certain rate filings are not excessive, inadequate, or unfairly discriminatory; amending s. 627.311, F.S.; authorizing the Florida Automobile Joint Underwriting Association and a joint underwriting plan approved by the Office of Insurance Regulation to cancel personal lines or commercial policies within a specified time for nonpayment of premium due to certain reasons; prohibiting an insured from cancelling a policy or binder within a specified time except under certain conditions; amending s. 627.7283, F.S.; authorizing an insured who cancels a policy to apply the unearned portion of any premium paid to unpaid balances of other policies with the same insurer or insurer group; amending s. 627.7295, F.S.; updating applicability language to include a reference to recurring credit card or debit card payments; authorizing additional forms of premium payment for motor vehicle insurance contracts; authorizing insurers to charge an insufficient funds fee of up to a specified amount; amending s. 627.744, F.S.; requiring the Division of Insurance Fraud of the Department of Financial Services to provide a report on the required preinsurance inspection of private passenger motor vehicles; specifying data to be included in the report; authorizing the Legislature to use specified data in determining the future public necessity for specified provisions; amending s. 627.736, F.S.; requiring that a certain standard form be approved by the office and adopted by the Financial Services Commission, rather than approved by the office or adopted by the commission; revising standards for compliance for specified billings for medical services; specifying additional entities that may receive reimbursement under the Florida Motor Vehicle No-Fault Law regardless of whether they meet a specified licensure requirement; providing an effective date.

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 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 the justification for its rate incorporates sufficient actual or expected loss and loss adjustment expense experience so as to be actuarially sound. The office shall require that any rate filing resulting from the use of a single zip code as a rating territory does not contain a rate or rate change that is excessive, inadequate, or unfairly discriminatory.

Section 2. 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 or sharing among insurers of automobile liability insurance and other motor vehicle insurance, as an alternate to the plan required in s. 627.351(1). All insurers authorized to write automobile insurance in this state shall subscribe to the plan and participate therein. The plan shall be subject to continuous review by the office which may at any time disapprove the entire plan or any part thereof if it determines that conditions have changed since prior approval and that in view of the purposes of the plan changes are warranted. Any disapproval by the office shall be subject to the provisions of chapter 120. The Florida Automobile Joint Underwriting Association is created under the plan. The plan and the association:

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

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

Section 3. Subsections (1), (2), and (3) of section 627.7283, Florida Statutes, are amended to read:

627.7283 Cancellation; return of unearned premium.—

(1) If the insured cancels a policy of motor vehicle insurance, the insurer must mail or electronically transfer the unearned portion of any premium paid within 30 days after the effective date of the policy cancellation or receipt of notice or request for cancellation, whichever is later. This requirement applies to a cancellation initiated by an insured for any reason. However, the insured may elect to apply the unearned portion of any premium paid to unpaid balances of other policies with the same insurer or insurer group.

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

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

Section 4. Subsection (7) of section 627.7295, Florida Statutes, is amended, and subsection (9) is added to that section, to read:

627.7295 Motor vehicle insurance contracts.—

(7) A policy of private passenger motor vehicle insurance or a binder for such a policy may be initially issued in this state only if, before the effective date of such binder or policy, the insurer or agent has collected from the insured an amount equal to 2 months' premium. An insurer, agent, or premium finance company may not, directly or indirectly, take any action resulting in the insured having paid from the insured's own funds an amount less than the 2 months' premium required by this subsection. This subsection applies without regard to whether the premium is financed by a premium finance company or is paid pursuant to a periodic payment plan of an insurer or an insurance agent. This subsection does not apply if an insured or member of the insured's family is renewing or replacing a policy or a binder for such policy written by the same insurer or a member of the same insurer group. This subsection does not apply to an insurer that issues private passenger motor vehicle coverage primarily to active duty or former military personnel or their dependents. This subsection does not apply if all policy payments are paid pursuant to a payroll deduction plan, ~~or~~ an automatic electronic funds transfer payment plan from the policyholder, or a recurring credit card or debit card agreement with the insurer. This subsection and subsection (4) do not apply if all policy payments to an insurer are paid pursuant to an automatic electronic funds transfer payment plan from an agent, a managing general agent, or a premium finance company and if the policy includes, at a minimum, personal injury protection

pursuant to ss. 627.730-627.7405; motor vehicle property damage liability pursuant to s. 627.7275; and bodily injury liability in at least the amount of \$10,000 because of bodily injury to, or death of, one person in any one accident and in the amount of \$20,000 because of bodily injury to, or death of, two or more persons in any one accident. This subsection and subsection (4) do not apply if an insured has had a policy in effect for at least 6 months, the insured's agent is terminated by the insurer that issued the policy, and the insured obtains coverage on the policy's renewal date with a new company through the terminated agent.

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

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

Section 5. Subsection (8) is added to section 627.744, Florida Statutes, to read:

627.744 Required preinsurance inspection of private passenger motor vehicles.—

(8) The Division of Insurance Fraud of the Department of Financial Services shall provide a report of data from the required preinsurance inspection of motor vehicles to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 1, 2016.

(a) The data must include, but need not be limited to:

1. A written estimate of the total cost incurred by insurers and policyholders in order to comply with the inspections.

2. A written estimate of the total cost incurred by insurers to have their motor vehicles inspected.

3. Documentation regarding the total premium savings for policyholders as a result of the inspections.

4. Documentation of the total number of inspected motor vehicles that had a preexisting condition.

5. Documentation regarding the potential fraud in motor vehicle claims incurred within the first 125 days after issuance of a new policy.

6. Documentation of the total number of referrals of fraudulent acts to the National Insurance Crime Bureau by preinsurance inspectors during the past 5 years.

(b) The Legislature may use the report data in determining the future public necessity for this section.

Section 6. Paragraphs (d) and (h) of subsection (5) of section 627.736, Florida Statutes, are amended to read:

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

(5) CHARGES FOR TREATMENT OF INJURED PERSONS.—

(d) All statements and bills for medical services rendered by a physician, hospital, clinic, or other person or institution shall be submitted to the insurer on a properly completed Centers for Medicare and Medicaid Services (CMS) 1500 form, UB 92 forms, or any other standard form approved by the office and ~~or~~ adopted by the commission for purposes of this paragraph. All billings for such services rendered by providers must, to the extent applicable, comply with the CMS 1500 form instructions, the American Medical Association CPT Editorial Panel, and the Healthcare Common Procedure Coding System (HCPCS); and must follow the Physicians' Current Procedural Terminology (CPT), the HCPCS in effect for the year in which services are rendered, and the International Classification of Diseases (ICD) adopted by the United States Department of Health and Human Services in effect for the year in which services are rendered follow the Physicians' Current Procedural Terminology (CPT) or Healthcare Correct Procedural Coding System (HCPCS), or ICD-9 in effect for the year in which services are rendered and comply with the CMS 1500 form instructions, the American Medical Association CPT Editorial Panel, and the HCPCS. All providers, other than hospitals, must include on the applicable claim form the professional license number of the provider in the line or space provided for "Signature of Physician or Supplier, Including Degrees or Credentials." In determining compliance with applicable CPT and HCPCS coding, guidance shall be provided by the ~~Physicians' Current Procedural Terminology (CPT) or the Healthcare Correct Procedural Coding System (HCPCS)~~ in effect for the year in which services were rendered, the Office of the Inspector General, Physicians Compliance Guidelines, and other authoritative treatises designated by rule by the Agency for Health Care Administration. A statement of medical services may not include charges for medical services of a person or entity that performed such services without possessing the valid licenses required to perform such services. For purposes of paragraph (4)(b), an insurer is not considered to have been furnished with notice of the amount of covered loss or medical bills due unless the statements or bills comply with this paragraph and are properly completed in their entirety as to all material provisions, with all relevant information being provided therein.

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

- 1. An entity wholly owned by a physician licensed under chapter 458 or chapter 459, or by the physician and the spouse, parent, child, or sibling of the physician;
- 2. An entity wholly owned by a dentist licensed under chapter 466, or by the dentist and the spouse, parent, child, or sibling of the dentist;
- 3. An entity wholly owned by a chiropractic physician licensed under chapter 460, or by the chiropractic physician and the spouse, parent, child, or sibling of the chiropractic physician;
- 4. A hospital or ambulatory surgical center licensed under chapter 395;
- 5. An entity that wholly owns or is wholly owned, directly or indirectly, by a hospital or hospitals licensed under chapter 395;
- 6. An entity that is a clinical facility affiliated with an accredited medical school at which training is provided for medical students, residents, or fellows; ~~or~~
- 7. An entity that is certified under 42 C.F.R. part 485, subpart H; or
- 8. An entity that is owned by a publicly traded corporation, either directly or indirectly through its subsidiaries, that has \$250 million or more in total annual sales of health care services provided by licensed health care practitioners if one or more of the persons responsible for the operations of the entity are health care practitioners who are licensed in this state and who are responsible for supervising the business activities of the entity and the entity's compliance with state law for purposes of this section.

Section 7. This act shall take effect July 1, 2016.

Approved by the Governor March 25, 2016.

Filed in Office Secretary of State March 25, 2016.