

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

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

28

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

31 627.0651 Making and use of rates for motor vehicle
32 insurance.—

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

47 Section 2. Subsection (9) of section 627.3518, Florida
48 Statutes, is amended to read:

49 627.3518 Citizens Property Insurance Corporation
50 policyholder eligibility clearinghouse program.—The purpose of
51 this section is to provide a framework for the corporation to
52 implement a clearinghouse program by January 1, 2014.

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

58 Section 3. Paragraph (b) of subsection (2) of section
 59 627.4133, Florida Statutes, is amended to read:

60 627.4133 Notice of cancellation, nonrenewal, or renewal
 61 premium.—

62 (2) With respect to any personal lines or commercial
 63 residential property insurance policy, including, but not
 64 limited to, any homeowner, mobile home owner, farmowner,
 65 condominium association, condominium unit owner, apartment
 66 building, or other policy covering a residential structure or
 67 its contents:

68 (b) The insurer shall give the first-named insured written
 69 notice of nonrenewal, cancellation, or termination at least 120
 70 ~~100~~ days before the effective date of the nonrenewal,
 71 cancellation, or termination. ~~However, the insurer shall give at~~
 72 ~~least 100 days' written notice, or written notice by June 1,~~
 73 ~~whichever is earlier, for any nonrenewal, cancellation, or~~
 74 ~~termination that would be effective between June 1 and November~~
 75 ~~30.~~ The notice must include the reason for the nonrenewal,
 76 cancellation, or termination, except that:

77 ~~1. The insurer shall give the first-named insured written~~
 78 ~~notice of nonrenewal, cancellation, or termination at least 120~~

79 ~~days before the effective date of the nonrenewal, cancellation,~~
 80 ~~or termination for a first-named insured whose residential~~
 81 ~~structure has been insured by that insurer or an affiliated~~
 82 ~~insurer for at least 5 years before the date of the written~~
 83 ~~notice.~~

84 1.2. If cancellation is for nonpayment of premium, at
 85 least 10 days' written notice of cancellation accompanied by the
 86 reason therefor must be given. As used in this subparagraph, the
 87 term "nonpayment of premium" means failure of the named insured
 88 to discharge when due her or his obligations for paying the
 89 premium on a policy or an installment of such premium, whether
 90 the premium is payable directly to the insurer or its agent or
 91 indirectly under a premium finance plan or extension of credit,
 92 or failure to maintain membership in an organization if such
 93 membership is a condition precedent to insurance coverage. The
 94 term also means the failure of a financial institution to honor
 95 an insurance applicant's check after delivery to a licensed
 96 agent for payment of a premium even if the agent has previously
 97 delivered or transferred the premium to the insurer. If a
 98 dishonored check represents the initial premium payment, the
 99 contract and all contractual obligations are void ab initio
 100 unless the nonpayment is cured within the earlier of 5 days
 101 after actual notice by certified mail is received by the
 102 applicant or 15 days after notice is sent to the applicant by
 103 certified mail or registered mail. If the contract is void, any
 104 premium received by the insurer from a third party must be

105 refunded to that party in full.

106 ~~2.3.~~ If cancellation or termination occurs during the
 107 first 90 days the insurance is in force and the insurance is
 108 canceled or terminated for reasons other than nonpayment of
 109 premium, at least 20 days' written notice of cancellation or
 110 termination accompanied by the reason therefor must be given
 111 unless there has been a material misstatement or
 112 misrepresentation or a failure to comply with the underwriting
 113 requirements established by the insurer.

114 3. After the policy has been in effect for 90 days, the
 115 policy may not be canceled by the insurer unless there has been
 116 a material misstatement, a nonpayment of premium, a failure to
 117 comply, within 90 days after the date of effectuation of
 118 coverage, with underwriting requirements established by the
 119 insurer prior to the effectuation of coverage, or a substantial
 120 change in the risk covered by the policy or unless the
 121 cancellation is for all insureds under such policies for a given
 122 class of insureds. This subparagraph does not apply to
 123 individually rated risks that have a policy term of less than 90
 124 days.

125 4. After a policy or contract has been in effect for more
 126 than 90 days, the insurer may not cancel or terminate the policy
 127 or contract based on credit information available in public
 128 records.

129 ~~5. The requirement for providing written notice by June 1~~
 130 ~~of any nonrenewal that would be effective between June 1 and~~

131 ~~November 30 does not apply to the following situations, but the~~
 132 ~~insurer remains subject to the requirement to provide such~~
 133 ~~notice at least 100 days before the effective date of~~
 134 ~~nonrenewal:~~

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

138 5.b. A policy that is nonrenewed by Citizens Property
 139 Insurance Corporation, pursuant to s. 627.351(6), for a policy
 140 that has been assumed by an authorized insurer offering
 141 replacement coverage to the policyholder is exempt from the
 142 notice requirements of paragraph (a) and this paragraph. In such
 143 cases, the corporation must give the named insured written
 144 notice of nonrenewal at least 45 days before the effective date
 145 of the nonrenewal.

146
 147 ~~After the policy has been in effect for 90 days, the policy may~~
 148 ~~not be canceled by the insurer unless there has been a material~~
 149 ~~misstatement, a nonpayment of premium, a failure to comply with~~
 150 ~~underwriting requirements established by the insurer within 90~~
 151 ~~days after the date of effectuation of coverage, a substantial~~
 152 ~~change in the risk covered by the policy, or the cancellation is~~
 153 ~~for all insureds under such policies for a given class of~~
 154 ~~insureds. This paragraph does not apply to individually rated~~
 155 ~~risks that have a policy term of less than 90 days.~~

156 6. Notwithstanding any other provision of law, an insurer

157 | may cancel or nonrenew a property insurance policy after at
 158 | least 45 days' notice if the office finds that the early
 159 | cancellation of some or all of the insurer's policies is
 160 | necessary to protect the best interests of the public or
 161 | policyholders and the office approves the insurer's plan for
 162 | early cancellation or nonrenewal of some or all of its policies.
 163 | The office may base such finding upon the financial condition of
 164 | the insurer, lack of adequate reinsurance coverage for hurricane
 165 | risk, or other relevant factors. The office may condition its
 166 | finding on the consent of the insurer to be placed under
 167 | administrative supervision pursuant to s. 624.81 or to the
 168 | appointment of a receiver under chapter 631.

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

172 | Section 4. Subsection (1) of section 627.421, Florida
 173 | Statutes, is amended to read:

174 | 627.421 Delivery of policy.—

175 | (1) Subject to the insurer's requirement as to payment of
 176 | premium, every policy shall be mailed, delivered, or
 177 | electronically transmitted to the insured or to the person
 178 | entitled thereto not later than 60 days after the effectuation
 179 | of coverage. Notwithstanding any other provision of law, an
 180 | insurer may allow a policyholder of personal lines insurance to
 181 | affirmatively elect delivery of the policy documents, including,
 182 | but not limited to, policies, endorsements, notices, or

183 documents, by electronic means in lieu of delivery by mail.
 184 Electronic transmission of a policy for commercial risks,
 185 including, but not limited to, workers' compensation and
 186 employers' liability, commercial automobile liability,
 187 commercial automobile physical damage, commercial lines
 188 residential property, commercial nonresidential property,
 189 farmowners insurance, and the types of commercial lines risks
 190 set forth in s. 627.062(3)(d), constitutes ~~shall constitute~~
 191 delivery to the insured or to the person entitled to delivery,
 192 unless the insured or the person entitled to delivery
 193 communicates to the insurer in writing or electronically that he
 194 or she does not agree to delivery by electronic means.
 195 Electronic transmission shall include a notice to the insured or
 196 to the person entitled to delivery of a policy of his or her
 197 right to receive the policy via United States mail rather than
 198 via electronic transmission. A paper copy of the policy shall be
 199 provided to the insured or to the person entitled to delivery at
 200 his or her request.

201 Section 5. Subsection (3) of section 627.7074, Florida
 202 Statutes, is amended to read:

203 627.7074 Alternative procedure for resolution of disputed
 204 sinkhole insurance claims.—

205 (3) Following the receipt of the report provided under s.
 206 627.7073 or the denial of a claim for a sinkhole loss, the
 207 insurer shall notify the policyholder of his or her right to
 208 participate in the neutral evaluation program under this section

209 if there is coverage available under the policy and the claim
 210 was submitted within the timeframe provided in s. 627.706(5).
 211 Neutral evaluation supersedes the alternative dispute resolution
 212 process under s. 627.7015 but does not invalidate the appraisal
 213 clause of the insurance policy. The insurer shall provide to the
 214 policyholder the consumer information pamphlet prepared by the
 215 department pursuant to subsection (1) electronically or by
 216 United States mail.

217 Section 6. Paragraph (a) of subsection (5) of section
 218 627.736, Florida Statutes, is amended to read:

219 627.736 Required personal injury protection benefits;
 220 exclusions; priority; claims.—

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

222 (a) A physician, hospital, clinic, or other person or
 223 institution lawfully rendering treatment to an injured person
 224 for a bodily injury covered by personal injury protection
 225 insurance may charge the insurer and injured party only a
 226 reasonable amount pursuant to this section for the services and
 227 supplies rendered, and the insurer providing such coverage may
 228 pay for such charges directly to such person or institution
 229 lawfully rendering such treatment if the insured receiving such
 230 treatment or his or her guardian has countersigned the properly
 231 completed invoice, bill, or claim form approved by the office
 232 upon which such charges are to be paid for as having actually
 233 been rendered, to the best knowledge of the insured or his or
 234 her guardian. However, such a charge may not exceed the amount

235 the person or institution customarily charges for like services
 236 or supplies. In determining whether a charge for a particular
 237 service, treatment, or otherwise is reasonable, consideration
 238 may be given to evidence of usual and customary charges and
 239 payments accepted by the provider involved in the dispute,
 240 reimbursement levels in the community and various federal and
 241 state medical fee schedules applicable to motor vehicle and
 242 other insurance coverages, and other information relevant to the
 243 reasonableness of the reimbursement for the service, treatment,
 244 or supply.

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

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

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

252 c. For emergency services and care as defined by s.
 253 395.002 provided in a facility licensed under chapter 395
 254 rendered by a physician or dentist, and related hospital
 255 inpatient services rendered by a physician or dentist, the usual
 256 and customary charges in the community.

257 d. For hospital inpatient services, other than emergency
 258 services and care, 200 percent of the Medicare Part A
 259 prospective payment applicable to the specific hospital
 260 providing the inpatient services.

261 e. For hospital outpatient services, other than emergency
 262 services and care, 200 percent of the Medicare Part A Ambulatory
 263 Payment Classification for the specific hospital providing the
 264 outpatient services.

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

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

270 (II) Medicare Part B, in the case of services, supplies,
 271 and care provided by ambulatory surgical centers and clinical
 272 laboratories.

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

276
 277 However, if such services, supplies, or care is not reimbursable
 278 under Medicare Part B, as provided in this sub-subparagraph, the
 279 insurer may limit reimbursement to 80 percent of the maximum
 280 reimbursable allowance under workers' compensation, as
 281 determined under s. 440.13 and rules adopted thereunder which
 282 are in effect at the time such services, supplies, or care is
 283 provided. Services, supplies, or care that is not reimbursable
 284 under Medicare or workers' compensation is not required to be
 285 reimbursed by the insurer.

286 2. For purposes of subparagraph 1., the applicable fee

287 | schedule or payment limitation under Medicare is the fee
 288 | schedule or payment limitation in effect on March 1 of the
 289 | service year in which the services, supplies, or care is
 290 | rendered and for the area in which such services, supplies, or
 291 | care is rendered, and the applicable fee schedule or payment
 292 | limitation applies to services, supplies, or care rendered
 293 | during that service year ~~throughout the remainder of that year,~~
 294 | notwithstanding any subsequent change made to the fee schedule
 295 | or payment limitation, except that it may not be less than the
 296 | allowable amount under the applicable schedule of Medicare Part
 297 | B for 2007 for medical services, supplies, and care subject to
 298 | Medicare Part B. For the purposes of this paragraph, "service
 299 | year" means the period from March 1 through the end of February
 300 | of the following year.

301 | 3. Subparagraph 1. does not allow the insurer to apply any
 302 | limitation on the number of treatments or other utilization
 303 | limits that apply under Medicare or workers' compensation. An
 304 | insurer that applies the allowable payment limitations of
 305 | subparagraph 1. must reimburse a provider who lawfully provided
 306 | care or treatment under the scope of his or her license,
 307 | regardless of whether such provider is entitled to reimbursement
 308 | under Medicare due to restrictions or limitations on the types
 309 | or discipline of health care providers who may be reimbursed for
 310 | particular procedures or procedure codes. However, subparagraph
 311 | 1. does not prohibit an insurer from using the Medicare coding
 312 | policies and payment methodologies of the federal Centers for

313 Medicare and Medicaid Services, including applicable modifiers,
 314 to determine the appropriate amount of reimbursement for medical
 315 services, supplies, or care if the coding policy or payment
 316 methodology does not constitute a utilization limit.

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

323 5. ~~Effective July 1, 2012,~~ An insurer may limit payment as
 324 authorized by this paragraph only if the insurance policy
 325 includes a notice at the time of issuance or renewal that the
 326 insurer may limit payment pursuant to the schedule of charges
 327 specified in this paragraph. A policy form approved by the
 328 office satisfies this requirement. If a provider submits a
 329 charge for an amount less than the amount allowed under
 330 subparagraph 1., the insurer may pay the amount of the charge
 331 submitted.

332 Section 7. Paragraphs (a) and (b) of subsection (2) of
 333 section 627.744, Florida Statutes, are amended to read:

334 627.744 Required preinsurance inspection of private
 335 passenger motor vehicles.—

336 (2) This section does not apply:

337 (a) To a policy for a policyholder who has been insured
 338 for 2 years or longer, without interruption, under a private

339 passenger motor vehicle policy that ~~which~~ provides physical
 340 damage coverage for any vehicle,~~7~~ if the agent of the insurer
 341 verifies the previous coverage.

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

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

348 2. A copy of the title or registration that ~~which~~
 349 establishes transfer of ownership from the dealer or leasing
 350 company to the customer and a copy of the window sticker ~~or the~~
 351 ~~dealer invoice showing the itemized options and equipment and~~
 352 ~~the total retail price of the vehicle.~~

353
 354 For the purposes of this paragraph, the physical damage coverage
 355 on the motor vehicle may not be suspended during the term of the
 356 policy due to the applicant's failure to provide or the
 357 insurer's option not to require the ~~required~~ documents. However,
 358 if the insurer requires a document under this paragraph at the
 359 time the policy is issued, payment of a claim may be ~~is~~
 360 conditioned upon the receipt by the insurer of the required
 361 documents, and no physical damage loss occurring after the
 362 effective date of the coverage may be ~~is~~ payable until the
 363 documents are provided to the insurer.

364 Section 8. This act shall take effect July 1, 2015.