

**CS/SB 1250** by **BI, Montford**; (Similar to CS/CS/H 1053) Motor Vehicle Insurance

279168 A S RCS TR, Simpson Delete L.120 - 124: 04/15 09:33 AM

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**

**TRANSPORTATION**  
**Senator Brandes, Chair**  
**Senator Bullard, Vice Chair**

**MEETING DATE:** Wednesday, April 15, 2015  
**TIME:** 9:00 —10:00 a.m.  
**PLACE:** *Mallory Horne Committee Room, 37 Senate Office Building*

**MEMBERS:** Senator Brandes, Chair; Senator Bullard, Vice Chair; Senators Braynon, Evers, Grimsley, Simpson, and Thompson

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>CS/SB 1250</b> Banking and Insurance / Montford (Similar CS/CS/H 1053, Compare CS/CS/H 165, CS/CS/S 258)	Motor Vehicle Insurance; Authorizing a joint underwriting plan and the Florida Automobile Joint Underwriting Association to cancel certain insurance policies within a specified period under certain circumstances; authorizing insurers to electronically provide a form to reject, or to select lower coverage amounts of, uninsured motorist vehicle coverage to a named insured; revising the period during which the applicable fee schedule or payment limitation under Medicare applies with respect to certain personal injury protection insurance coverage, etc.  BI      03/31/2015 Fav/CS TR      04/15/2015 Fav/CS FP	Fav/CS Yeas 6 Nays 0

Other Related Meeting Documents

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Transportation

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BILL: CS/CS/SB 1250

INTRODUCER: Banking and Insurance Committee and Senator Montford

SUBJECT: Motor Vehicle Insurance

DATE: April 15, 2015

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Matiyow</u>	<u>Knudson</u>	<u>BI</u>	<u>Fav/CS</u>
2.	<u>Jones</u>	<u>Eichin</u>	<u>TR</u>	<u>Fav/CS</u>
3.	_____	_____	<u>FP</u>	_____

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 1250 revises various laws related to motor vehicle insurance.

The bill allows the Florida Automobile Joint Underwriting Association (Auto JUA) the authority to cancel private passenger and commercial motor vehicle policies within the first 60 days of coverage for a rejected or invalid payment. The bill prohibits someone covered by the Auto JUA from cancelling their coverage in the first 90 days of the policy period, unless the vehicle is destroyed, ownership of the insured vehicle is transferred, or a voluntary market policy for the insured vehicle is purchased.

The bill allows insurers to electronically provide and receive the form necessary for an applicant for motor vehicle insurance to reject uninsured motorist (UM) coverage or select UM coverage with lower limits than bodily injury (BI) coverage.

A provision in the personal injury protection (PIP) statute is clarified to resolve an ambiguity relating to the applicability of medical fee schedules.

The bill also exempts new, unused leased motor vehicles from the preinsurance inspection requirements for private passenger motor vehicles, and allows insurers the option of requiring such inspections. The bill further clarifies that an insurer cannot cancel coverage for physical damage to a motor vehicle for failure to provide required documentation related to the

preinsurance inspection requirement, but can withhold payment, until such documents are received.

## **II. Present Situation:**

### **Cancellation of Florida Automobile Joint Underwriting Association Policies**

Insurers<sup>1</sup> that offer motor vehicle insurance in the state must participate in the Auto JUA.<sup>2</sup> The Auto JUA exists to provide motor vehicle insurance to individuals who cannot obtain such coverage in the voluntary insurance market. The Auto JUA distributes this risk among its members. It is subject to various limitations regarding issuance and cancellation of coverage, and provision of premium credits/discounts to protect its solvency, the coverage of its insureds, and to avoid Auto JUA policies being competitive with the voluntary market.

Motor vehicle insurers, including the Auto JUA, are limited regarding the cancellation of insurance policies.<sup>3</sup> An insurer may not cancel a policy within 60 days of the effective date of the policy, except for non-payment of premium.<sup>4</sup>

### **Electronic Delivery/Signature of Uninsured Motorist Insurance Waivers**

Uninsured Motorist (UM) coverage protects insureds against injuries caused by owners or operators of uninsured or underinsured motor vehicles. The law requires insurers who offer bodily injury liability coverage also to offer UM coverage in the same amount as any policy limits applying to the bodily injury liability policy.<sup>5</sup>

Conventional UM insurance is “stackable.” This means that if one family member purchases one UM policy for one vehicle, that coverage extends to every resident and every vehicle in the household, whether or not those residents or vehicles are covered by their own UM policies. Moreover, if a family purchases UM coverage for multiple vehicles, any resident in the household may “stack” the UM benefits and recover the combined policy limits from each insured vehicle.

However, s. 627.727, F.S., allows an insured individual to waive this insurance, select a lower limit, or select “non-stacking” UM coverage if the named insured signs a policy waiver form approved by the Office of Insurance Regulation (OIR). The approved form must include a heading in 12-point bold type stating, “You are electing not to purchase certain valuable coverage which protects you and your family or you are purchasing uninsured motorist limits less than your bodily injury liability limits when you sign this form. Please read carefully.”<sup>6</sup>

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<sup>1</sup> Section 624.03, F.S.

<sup>2</sup> Section 627.311, F.S.

<sup>3</sup> Sections 627.7295 and 627.728, F.S.

<sup>4</sup> Section 627.7295(4), F.S.

<sup>5</sup> Section 627.727(1), F.S.

<sup>6</sup> *Id.*

The Federal Electronic Signatures in Global and National Commerce Act (E-SIGN) applies to electronic transactions involving interstate commerce.<sup>7</sup> Insurance is specifically included in E-SIGN.<sup>8</sup> E-SIGN provides contracts formed using electronic signatures on electronic records will not be denied legal effect only because they are electronic. However, E-SIGN requires consumer disclosure and consent to electronic records in certain instances before electronic records will be given legal effect. Under E-SIGN, if a statute requires information to be provided or made available to a consumer in writing, the use of an electronic record to provide or make the information available to the consumer will satisfy the statute's requirement of writing if the consumer affirmatively consents to use of an electronic record. The consumer must also be provided with a statement notifying the consumer of the right to have the electronic information made available in a paper format and of the right to withdraw consent to electronic records, among other notifications.

In addition, s. 668.50, F.S., Florida's Uniform Electronic Transaction Act (UETA), is similar to the federal E-SIGN law. UETA specifically applies to insurance and provides a requirement in statute that information that must be delivered in writing to another person can be satisfied by delivering the information electronically if the parties have agreed to conduct a transaction by electronic means.

### **Personal Injury Protection Insurance**

Florida's Motor Vehicle No-Fault Law (the "No-Fault Law")<sup>9</sup> requires motorists to carry at least \$10,000 of no-fault insurance, known as personal injury protection (PIP) coverage. The purpose of the No-Fault Law is to provide for medical, surgical, funeral, and disability insurance benefits without regard to fault. In return for assuring payment of these benefits, the No-Fault Law provides limitations on the right to bring lawsuits arising from motor vehicle accidents. Florida motorists are required to carry a minimum of \$10,000 of PIP insurance, \$10,000 per person and \$20,000 per incident, of bodily injury coverage, and \$10,000 of property damage liability coverage.<sup>10,11</sup>

PIP insurance benefits are payable as follows.<sup>12</sup>

- Up to a limit of \$10,000, 80 percent of reasonable medical expenses for:
  1. Initial services and care lawfully provided, supervised, ordered or prescribed by a medical doctor, osteopathic physician, chiropractic physician, or that are provided in a hospital or in a facility that owns, or is wholly owned by a hospital. Initial services and care may also be provided for emergency transport and treatment.
  2. Upon referral by any of the above-listed providers, follow-up services and care consistent with the underlying medical diagnosis, which may be provided, supervised, ordered, or prescribed only by a medical doctor, osteopathic physician, chiropractic physician, or

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<sup>7</sup> Section 101, Electronic Signatures in Global and National Commerce Act, Pub. L. no. 106-229, 114 Stat 464 (2000). Many of the provisions of E-SIGN took effective October 1, 2000.

<sup>8</sup> *Id.*

<sup>9</sup> Sections 627.730-627.7405, F.S.

<sup>10</sup> Section 627.7275, F.S.

<sup>11</sup> Under Florida's Financial Responsibility Law (ch. 324, F.S.), motorists must also provide proof of ability to pay monetary damages for bodily injury and property damage liability at the time of motor vehicle accidents or when serious traffic violations occur.

<sup>12</sup> Section 627.736, F.S.

- dentist, or, to the extent permitted under applicable law and under the supervision of such provider, by a physician assistant or advanced registered nurse practitioner. Follow-up services and care may also be provided by:
- A licensed hospital or ambulatory surgical center.
  - An entity wholly owned<sup>13</sup> by a medical doctor, osteopathic physician, chiropractic physician, or by such practitioner(s) and specified family members.
  - An entity that owns or is wholly owned, directly or indirectly, by a hospital or hospitals.
  - A licensed physical therapist, based upon a referral by a provider listed in 2).
  - A licensed health care clinic that meets specified criteria.
3. Reimbursement for services and care pursuant to 1) or 2) of up to \$10,000 if a medical doctor, osteopathic physician, dentist, physician assistant, or an advanced registered nurse practitioner determines that the injured person had an emergency medical condition.
- Up to a limit of \$2,500, 80 percent of reasonable medical expenses when a provider listed in 1) or 2) determines that the injured person did not have an emergency medical condition.

Medical benefits do not include massages or acupuncture, regardless of the provider that performs the service. Massage therapists and acupuncturists are not eligible for reimbursement under PIP.

Medical providers and entities may charge the insurer and injured party only a reasonable amount for services and care rendered. Insurers that provide reimbursement under the schedule of charges may use all Medicare coding policies and Center for Medicare and Medicaid Services payment methodologies, including applicable modifiers, to determine the appropriate amount of reimbursement for medical services, supplies, or care, if such coding policy or payment methodology does not constitute a utilization limit. Effective July 1, 2012, insurers that want to utilize the PIP schedule of maximum charges must amend their forms to include the schedule.

House Bill 119, the PIP reform bill enacted in 2012,<sup>14</sup> amended s. 627.736(5)(a)2., F.S., by establishing the date on which changes to the Medicare fee schedule or payment limitation are effective. The legislation provides in part that:

[T]he applicable fee schedule or payment limitation under Medicare is the fee schedule or payment limitation in effect on March 1 of the year in which the services, supplies, or care is rendered...*and the applicable fee schedule or payment limitation applies throughout the remainder of that year* [italics added for emphasis]. . . .

The above-emphasized language created uncertainty as to whether the Medicare fee schedule in place on March 1 applied through the calendar year (through December 31) or whether it applied through the end of February of the following year. On November 6, 2012, the OIR issued

<sup>13</sup> Section 627.732(17), F.S., defines “entity wholly owned” as a proprietorship, group practice, partnership, or corporation that provides health care services rendered by licensed health care practitioners and in which licensed health care practitioners are the business owners of all aspects of the business entity...

<sup>14</sup> Ch. 2012-197, Laws of Fla.

Informational Memorandum OIR-12-06M,<sup>15</sup> stating that the plain language of the section requires the fee schedule be in place on March 1 to apply throughout the following 365 days, or until the following March 1.

### **Preinsurance Inspection of Private Passenger Motor Vehicles**

Section 627.744, F.S., requires insurers to perform preinsurance inspections of private passenger motor vehicles. It also provides various exemptions from the required preinsurance inspection, including for new, unused motor vehicles “purchased” from a licensed motor vehicle dealer or leasing company when the insurer is provided with the bill of sale, buyer’s order, or copy of the title and certain other documentation.

Despite the exemptions, an insurer may require a preinsurance inspection of any motor vehicle as a condition of issuance of physical damage coverage. Physical damage coverage may not be suspended during the policy period due to the applicant’s failure to provide the required documents. However, claim payments are conditioned upon and are not payable until the required documents are received by the insurer. Applicants for insurance may be required to pay the cost of the preinsurance inspection, not to exceed \$5.

### **III. Effect of Proposed Changes:**

**Section 1** amends s. 627.311, F.S., to allow the Auto JUA the authority to cancel private passenger and commercial motor vehicle policies within the first 60 days of coverage for non-payment, if the reason is the payment check is dishonored for any reason or if any other payment type is rejected or deemed invalid (e.g., credit or debit card transactions). The bill also prohibits someone covered by the Auto JUA from cancelling their coverage in the first 90 days of the policy period, unless the vehicle is destroyed, they transfer ownership of the insured vehicle, or they purchase a voluntary market policy for the insured vehicle.<sup>16</sup> This provision guarantees the Auto JUA a minimum of three months of premium revenue on each policy, while allowing the cancellation of policies for non-payment.

**Section 2** amends s. 627.727, F.S., to allow electronic presentation and signature of the required uninsured motorist waiver form. If the form is presented electronically, the required header statement must be in boldfaced type and greater in size than the surrounding text, and either black type on a white background or white type on a black background. The electronic signature must be affixed using technology that stores and preserves the form as an exact image as viewed and signed by the insured. The technology used must also create a record of any attempt to modify or tamper with the form after electronically signed. The OIR has the authority to approve the form, including the electronic version, and has the obligation to ensure that the consumer has ready and reasonable access to the required notification based on the display characteristics of the electronic form being approved.

**Section 3** amends s. 627.736(5)(a)2., F.S., clarifying the medical fee schedule provisions of the No-Fault Law by defining a “service year” for rendered services, supplies, or care. For this purpose, a “service year” is from March 1 through the end of the following February. The period

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<sup>15</sup> Available at <http://www.flair.com/siteDocuments/OIR-12-06M.pdf> (last visited April 6, 2015).

<sup>16</sup> Proof of such coverage is required by statute. See Section 627.311(3)(l), F.S.

for the applicable Medicare fee schedule is then applied to this same period. This should provide certainty that reimbursement for any medical services, supplies, or care under PIP will be reimbursed based on the applicable Medicare fee schedule in effect on the preceding March 1.

**Section 4** amends s. 627.744, F.S., adding an exemption from preinsurance inspection for new, unused “leased” motor vehicles to the existing exemption for “purchased” vehicles, if the vehicle is leased from a licensed motor vehicle dealer or leasing company. If the insurer waives its right to a preinsurance inspection, it also provides an insurer the discretion to require persons who purchase or lease a new, unused motor vehicle to submit certain documents. Currently, such documents are required to be provided whenever the exemption is utilized. Persons who do not submit the required documentation, upon request, at the time the policy is issued are required to submit the document before any physical damage loss is payable under the policy. The bill amends the list of documents that an insurer may require to include the vehicle registration in addition to the existing option of providing the vehicle title along with the window sticker, and deletes from the list of documents the detailed dealer’s invoice. Failure of the insurer to request the documentation is added to the prohibition on suspending coverage due to the insured’s failure to provide documentation. Finally, the condition on claim payment pending receipt of documentation is revised to apply only if the carrier exercised its option to require the documentation.

**Section 5** provides an effective date of July 1, 2015.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

There could be a cost savings to applicants and insurers that opt to use electronic notifications.



Applicants will save costs when not required by an insurer to pay for and provide a preinsurance inspection.

C. **Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 627.311, 627.727, 627.736 and 627.744.

**IX. Additional Information:**

A. **Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS/CS by Transportation on April 15, 2015:**

The CS made changes to Section 2 of the bill related to the electronic uninsured motorist waiver form. Specifically, it adds:

- The heading of the form must be in boldfaced type and larger than the surrounding text, and must be in black type on a white background or white type on a black background ;
- An electronic signature of the named insured must be affixed using technology that stores and preserves the form as an exact image; and
- The technology used must create a record of any attempt to modify or tamper the form after it has been signed electronically.

**CS by Banking and Insurance on March 31, 2015:**

The bill made the following changes:

- Changed “applicant” to “named insured.”
- Clarified the “service year” for the medical fee schedule provisions of the No-Fault Law.
- Allow the Auto JUA the authority to cancel private passenger and commercial motor vehicle policies within the first 60 days of coverage for non-payment, if the reason is the payment check is dishonored for any reason or if any other payment type is rejected or deemed invalid.
- Prohibits someone covered by the Auto JUA from cancelling their coverage in the first 90 days of the policy period, unless the vehicle is destroyed, they transfer

ownership of the insured vehicle, or they purchase a voluntary market policy for the insured vehicle.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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279168

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/15/2015	.	
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	.	
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The Committee on Transportation (Simpson) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 120 - 124

and insert:

all insureds. The form may be provided electronically and may be signed electronically by the named insured. The heading of a form provided electronically must be in boldfaced type that is larger than the surrounding text and in black type on a white background or white type on a black background. An electronic signature by the named insured must be affixed using technology



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11 that stores and preserves the form, as viewed and signed by the  
12 named insured, as an exact image and that creates a record of  
13 any attempt to modify or tamper with the form after signature.

14 The

15

16 ===== T I T L E   A M E N D M E N T =====

17 And the title is amended as follows:

18       Delete line 14

19 and insert:

20       form electronically; specifying requirements for the  
21       storage and preservation of an electronically signed  
22       form; amending s. 627.736, F.S.;

By the Committee on Banking and Insurance; and Senator Montford

597-03197-15

20151250c1

1 A bill to be entitled  
 2 An act relating to motor vehicle insurance; amending  
 3 s. 627.311, F.S.; authorizing a joint underwriting  
 4 plan and the Florida Automobile Joint Underwriting  
 5 Association to cancel certain insurance policies  
 6 within a specified period under certain circumstances;  
 7 prohibiting an insured from canceling certain  
 8 insurance policies within a specified period;  
 9 providing exceptions; amending s. 627.727, F.S.;  
 10 authorizing insurers to electronically provide a form  
 11 to reject, or to select lower coverage amounts of,  
 12 uninsured motorist vehicle coverage to a named  
 13 insured; authorizing the named insured to sign the  
 14 form electronically; amending s. 627.736, F.S.;  
 15 revising the period during which the applicable fee  
 16 schedule or payment limitation under Medicare applies  
 17 with respect to certain personal injury protection  
 18 insurance coverage; defining the term "service year";  
 19 deleting an obsolete date; amending s. 627.744, F.S.;  
 20 revising the exemption from the preinsurance  
 21 inspection requirements for private passenger motor  
 22 vehicles to include certain leased vehicles; revising  
 23 the list of documents that an insurer may require for  
 24 purposes of the exemption; prohibiting the physical  
 25 damage coverage on a motor vehicle from being  
 26 suspended during the term of a policy due to the  
 27 insurer's option not to require certain documents;  
 28 authorizing a payment of a claim to be conditioned if  
 29 the insurer requires a document under certain

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30 circumstances; providing an effective date.

31

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

33

34 Section 1. Paragraph (m) is added to subsection (3) of  
 35 section 627.311, Florida Statutes, to read:

36 627.311 Joint underwriters and joint reinsurers; public  
 37 records and public meetings exemptions.—

38

39 (3) The office may, after consultation with insurers  
 40 licensed to write automobile insurance in this state, approve a  
 41 joint underwriting plan for purposes of equitable apportionment  
 42 or sharing among insurers of automobile liability insurance and  
 43 other motor vehicle insurance, as an alternate to the plan  
 44 required in s. 627.351(1). All insurers authorized to write  
 45 automobile insurance in this state shall subscribe to the plan  
 46 and participate therein. The plan shall be subject to continuous  
 47 review by the office which may at any time disapprove the entire  
 48 plan or any part thereof if it determines that conditions have  
 49 changed since prior approval and that in view of the purposes of  
 50 the plan changes are warranted. Any disapproval by the office  
 51 shall be subject to the provisions of chapter 120. The Florida  
 52 Automobile Joint Underwriting Association is created under the  
 53 plan. The plan and the association:

54 (m) May cancel personal lines or commercial policies issued  
 55 by the plan within the first 60 days after the effective date of  
 56 the policy or binder for nonpayment of premium if the reason for  
 57 cancellation is the issuance of a check for the premium which is  
 58 dishonored for any reason or any other type of premium payment  
which is rejected or deemed invalid. An insured may not cancel a

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59 policy or binder within the first 90 days, or within a lesser  
 60 period as required by the plan, after the effective date of the  
 61 policy or binder, except:

- 62 1. Upon total destruction of the insured motor vehicle;  
 63 2. Upon transfer of ownership of the insured motor vehicle;

64 or

- 65 3. After purchase of another policy or binder covering the  
 66 motor vehicle that was covered under the policy being canceled.

67 Section 2. Subsection (1) of section 627.727, Florida  
 68 Statutes, is amended to read:

69 627.727 Motor vehicle insurance; uninsured and underinsured  
 70 vehicle coverage; insolvent insurer protection.—

71 (1) A ~~No~~ motor vehicle liability insurance policy that  
 72 which provides bodily injury liability coverage may not ~~shall~~ be  
 73 delivered or issued for delivery in this state with respect to a  
 74 ~~any~~ specifically insured or identified motor vehicle registered  
 75 or principally garaged in this state unless uninsured motor  
 76 vehicle coverage is provided therein or supplemental thereto for  
 77 the protection of persons insured by the policy thereunder who  
 78 are legally entitled to recover damages from owners or operators  
 79 of uninsured motor vehicles because of bodily injury, sickness,  
 80 or disease, including death, resulting therefrom. However, the  
 81 coverage required under this section is not applicable if when,  
 82 ~~or to the extent that,~~ an insured named in the policy makes a  
 83 written rejection of the coverage on behalf of all insureds  
 84 under the policy. If when a motor vehicle is leased for a period  
 85 of 1 year or longer and the lessor of the such vehicle, by the  
 86 terms of the lease contract, provides liability coverage on the  
 87 leased vehicle, the lessee of the such vehicle has ~~shall have~~

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88 the sole privilege to reject uninsured motorist coverage or to  
 89 select lower limits than the bodily injury liability limits,  
 90 regardless of whether the lessor is qualified as a self-insurer  
 91 pursuant to s. 324.171. Unless an insured, or lessee having the  
 92 privilege of rejecting uninsured motorist coverage, requests  
 93 such coverage or requests higher uninsured motorist limits in  
 94 writing, the coverage or the such higher uninsured motorist  
 95 limits are need not required to be provided in or supplemental  
 96 to any other policy that which renews, extends, changes,  
 97 supersedes, or replaces an existing policy with the same bodily  
 98 injury liability limits when an insured or lessee had rejected  
 99 the coverage. If when an insured or lessee has initially  
 100 selected limits of uninsured motorist coverage lower than her or  
 101 his bodily injury liability limits, higher limits of uninsured  
 102 motorist coverage are need not required to be provided in or  
 103 supplemental to any other policy that which renews, extends,  
 104 changes, supersedes, or replaces an existing policy with the  
 105 same bodily injury liability limits unless an insured requests  
 106 higher uninsured motorist coverage in writing. The rejection or  
 107 selection of lower limits must shall be made on a form approved  
 108 by the office. The form must shall fully advise the named  
 109 insured applicant of the nature of the coverage and must shall  
 110 state that the coverage is equal to bodily injury liability  
 111 limits unless lower limits are requested or the coverage is  
 112 rejected. The heading of the form shall be in 12-point bold type  
 113 and shall state: "You are electing not to purchase certain  
 114 valuable coverage which protects you and your family or you are  
 115 purchasing uninsured motorist limits less than your bodily  
 116 injury liability limits when you sign this form. Please read

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117 carefully." If this form is signed by a named insured, it will  
 118 be conclusively presumed that there was an informed, knowing  
 119 rejection of coverage or election of lower limits on behalf of  
 120 all insureds. The form may be provided electronically to and may  
 121 be signed electronically by the named insured. The requirement  
 122 for 12-point bold type does not apply to a form that is provided  
 123 electronically; however, the type for the heading of the form  
 124 must be larger than the type used for the surrounding text. The  
 125 insurer must ~~shall~~ notify the named insured at least annually of  
 126 her or his options as to the coverage required by this section.  
 127 Such notice must ~~shall~~ be part of, and attached to, the notice  
 128 of premium, must ~~shall~~ provide for a means to allow the insured  
 129 to request such coverage, and must ~~shall~~ be given in a manner  
 130 approved by the office. Receipt of this notice does not  
 131 constitute an affirmative waiver of the insured's right to  
 132 uninsured motorist coverage where the insured has not signed a  
 133 selection or rejection form. The coverage described under this  
 134 section must ~~shall~~ be over and above, but may ~~shall~~ not  
 135 duplicate, the benefits available to an insured under any  
 136 workers' compensation law, personal injury protection benefits,  
 137 disability benefits law, or similar law; under any automobile  
 138 medical expense coverage; under any motor vehicle liability  
 139 insurance coverage; or from the owner or operator of the  
 140 uninsured motor vehicle or any other person or organization  
 141 jointly or severally liable together with such owner or operator  
 142 for the accident; and such coverage must ~~shall~~ cover the  
 143 difference, if any, between the sum of such benefits and the  
 144 damages sustained, up to the maximum amount of such coverage  
 145 provided under this section. The amount of coverage available

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146 under this section may ~~shall~~ not be reduced by a setoff against  
 147 any coverage, including liability insurance. Such coverage may  
 148 ~~shall~~ not inure directly or indirectly to the benefit of a ~~any~~  
 149 workers' compensation or disability benefits carrier or a ~~any~~  
 150 person or organization qualifying as a self-insurer under a ~~any~~  
 151 workers' compensation or disability benefits law or similar law.

152 Section 3. Paragraph (a) of subsection (5) of section  
 153 627.736, Florida Statutes, is amended to read:

154 627.736 Required personal injury protection benefits;  
 155 exclusions; priority; claims.-

156 (5) CHARGES FOR TREATMENT OF INJURED PERSONS.-

157 (a) A physician, hospital, clinic, or other person or  
 158 institution lawfully rendering treatment to an injured person  
 159 for a bodily injury covered by personal injury protection  
 160 insurance may charge the insurer and injured party only a  
 161 reasonable amount pursuant to this section for the services and  
 162 supplies rendered, and the insurer providing such coverage may  
 163 pay for such charges directly to such person or institution  
 164 lawfully rendering such treatment if the insured receiving such  
 165 treatment or his or her guardian has countersigned the properly  
 166 completed invoice, bill, or claim form approved by the office  
 167 upon which such charges are to be paid for as having actually  
 168 been rendered, to the best knowledge of the insured or his or  
 169 her guardian. However, such a charge may not exceed the amount  
 170 the person or institution customarily charges for like services  
 171 or supplies. In determining whether a charge for a particular  
 172 service, treatment, or otherwise is reasonable, consideration  
 173 may be given to evidence of usual and customary charges and  
 174 payments accepted by the provider involved in the dispute,

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175 reimbursement levels in the community and various federal and  
176 state medical fee schedules applicable to motor vehicle and  
177 other insurance coverages, and other information relevant to the  
178 reasonableness of the reimbursement for the service, treatment,  
179 or supply.

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

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

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

187 c. For emergency services and care as defined by s. 395.002  
188 provided in a facility licensed under chapter 395 rendered by a  
189 physician or dentist, and related hospital inpatient services  
190 rendered by a physician or dentist, the usual and customary  
191 charges in the community.

192 d. For hospital inpatient services, other than emergency  
193 services and care, 200 percent of the Medicare Part A  
194 prospective payment applicable to the specific hospital  
195 providing the inpatient services.

196 e. For hospital outpatient services, other than emergency  
197 services and care, 200 percent of the Medicare Part A Ambulatory  
198 Payment Classification for the specific hospital providing the  
199 outpatient services.

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

202 (I) The participating physicians fee schedule of Medicare  
203 Part B, except as provided in sub-sub-subparagraphs (II) and

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204 (III).

205 (II) Medicare Part B, in the case of services, supplies,  
206 and care provided by ambulatory surgical centers and clinical  
207 laboratories.

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

211  
212 However, if such services, supplies, or care is not reimbursable  
213 under Medicare Part B, as provided in this sub-subparagraph, the  
214 insurer may limit reimbursement to 80 percent of the maximum  
215 reimbursable allowance under workers' compensation, as  
216 determined under s. 440.13 and rules adopted thereunder which  
217 are in effect at the time such services, supplies, or care is  
218 provided. Services, supplies, or care that is not reimbursable  
219 under Medicare or workers' compensation is not required to be  
220 reimbursed by the insurer.

221 2. For purposes of subparagraph 1., the applicable fee  
222 schedule or payment limitation under Medicare is the fee  
223 schedule or payment limitation in effect on March 1 of the  
224 service year in which the services, supplies, or care is  
225 rendered and for the area in which such services, supplies, or  
226 care is rendered, and the applicable fee schedule or payment  
227 limitation applies to services, supplies, or care rendered  
228 during ~~throughout the remainder of~~ that service year,  
229 notwithstanding any subsequent change made to the fee schedule  
230 or payment limitation, except that it may not be less than the  
231 allowable amount under the applicable schedule of Medicare Part  
232 B for 2007 for medical services, supplies, and care subject to



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233 Medicare Part B. For purposes of this subparagraph, the term  
 234 "service year" means the period from March 1 through the end of  
 235 February of the following year.

236 3. Subparagraph 1. does not allow the insurer to apply any  
 237 limitation on the number of treatments or other utilization  
 238 limits that apply under Medicare or workers' compensation. An  
 239 insurer that applies the allowable payment limitations of  
 240 subparagraph 1. must reimburse a provider who lawfully provided  
 241 care or treatment under the scope of his or her license,  
 242 regardless of whether such provider is entitled to reimbursement  
 243 under Medicare due to restrictions or limitations on the types  
 244 or discipline of health care providers who may be reimbursed for  
 245 particular procedures or procedure codes. However, subparagraph  
 246 1. does not prohibit an insurer from using the Medicare coding  
 247 policies and payment methodologies of the federal Centers for  
 248 Medicare and Medicaid Services, including applicable modifiers,  
 249 to determine the appropriate amount of reimbursement for medical  
 250 services, supplies, or care if the coding policy or payment  
 251 methodology does not constitute a utilization limit.

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

258 5. ~~Effective July 1, 2012,~~ An insurer may limit payment as  
 259 authorized by this paragraph only if the insurance policy  
 260 includes a notice at the time of issuance or renewal that the  
 261 insurer may limit payment pursuant to the schedule of charges

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262 specified in this paragraph. A policy form approved by the  
 263 office satisfies this requirement. If a provider submits a  
 264 charge for an amount less than the amount allowed under  
 265 subparagraph 1., the insurer may pay the amount of the charge  
 266 submitted.

267 Section 4. Paragraphs (a) and (b) of subsection (2) of  
 268 section 627.744, Florida Statutes, are amended to read:

269 627.744 Required preinsurance inspection of private  
 270 passenger motor vehicles.—

271 (2) This section does not apply:

272 (a) To a policy for a policyholder who has been insured for  
 273 2 years or longer, without interruption, under a private  
 274 passenger motor vehicle policy that ~~which~~ provides physical  
 275 damage coverage for any vehicle, if the agent of the insurer  
 276 verifies the previous coverage.

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

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

283 2. A copy of the title or registration that ~~which~~  
 284 establishes transfer of ownership from the dealer or leasing  
 285 company to the customer and a copy of the window sticker ~~or the~~  
 286 ~~dealer invoice showing the itemized options and equipment and~~  
 287 ~~the total retail price of the vehicle.~~

288  
 289 For the purposes of this paragraph, the physical damage coverage  
 290 on the motor vehicle may not be suspended during the term of the

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291 policy due to the applicant's failure to provide or the  
292 insurer's option not to require the required documents. However,  
293 if the insurer requires a document under this paragraph at the  
294 time the policy is issued, payment of a claim may be ~~is~~  
295 conditioned upon the receipt by the insurer of the required  
296 documents, and no physical damage loss occurring after the  
297 effective date of the coverage is payable until the documents  
298 are provided to the insurer.

299 Section 5. This act shall take effect July 1, 2015.

THE FLORIDA SENATE  
**APPEARANCE RECORD**

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

1250  
Bill Number (if applicable)

Meeting Date \_\_\_\_\_

Topic SB 1250

Amendment Barcode (if applicable) \_\_\_\_\_

Name Robert Reyes

Job Title \_\_\_\_\_

Address 325 W College Ave  
Street

Phone 850 509 1802

TAM FL 32301  
City State Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

Waive Speaking:  In Support  Against  
(The Chair will read this information into the record.)

Representing Florida Auto Joint Underwriting Assoc

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

4/15/15

Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

SB 1250

Bill Number (if applicable)

Topic Motor Vehicle Insurance

Amendment Barcode (if applicable)

Name Douglas McAlarney

Job Title Attorney

Address 215 S. Monroe St, Ste 835

Phone 559-1986

Tallahassee, FL 32301

Email doug.mcalarney@piff.net

Speaking: [X] For [ ] Against [ ] Information

Waive Speaking: [X] In Support [ ] Against (The Chair will read this information into the record.)

Representing Personal Insurance Federation of Florida

Appearing at request of Chair: [ ] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.



## THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

### COMMITTEES:

Community Affairs, *Chair*  
Environmental Preservation and Conservation,  
*Vice Chair*  
Appropriations Subcommittee on General Government  
Finance and Tax  
Judiciary  
Transportation

### JOINT COMMITTEES:

Joint Legislative Auditing Committee  
Joint Subcommittee on Auditor General Selection

### SENATOR WILTON SIMPSON

18th District

April 15, 2015

Honorable Jeff Brandes  
410 Knott Building  
404 S. Monroe Street  
Tallahassee, FL 32399

Dear Chairman Brandes,

Please excuse my absence from the Committee on Transportation on Thursday, April 2, 2015. I could not make it to Committee.

Please contact my staff with any questions.

Thank you,

A handwritten signature in black ink, appearing to read "Wilton Simpson".

Wilton Simpson  
Senator, 18<sup>th</sup> District

CC: Kurt Eichin, Staff Director

#### REPLY TO:

- 322 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5018
- Post Office Box 938, Brooksville, Florida 34605
- Post Office Box 787, New Port Richey, Florida 34656-0787 (727) 816-1120 FAX: (888) 263-4821

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**ANDY GARDINER**  
President of the Senate

**GARRETT RICHTER**  
President Pro Tempore

# CourtSmart Tag Report

**Room:** LL 37

**Case:**

**Type:**

**Caption:** Senate Transportation Committee

**Judge:**

**Started:** 4/15/2015 9:01:17 AM

**Ends:** 4/15/2015 9:04:42 AM

**Length:** 00:03:26

**9:01:20 AM** Meeting called to order by Chair Brandes  
**9:01:28 AM** Roll call by Administrative Assistant, Marilyn Hudson  
**9:01:39 AM** Quorum present  
**9:01:48 AM** Comments by Chair Brandes  
**9:01:53 AM** Introduction of Tab 1, CS/SB 1250 by Chair Brandes  
**9:01:59 AM** Explanation of Tab 1, CS/SB 1250, Motor Vehicle Insurance by Senator Montford  
**9:02:40 AM** Amendment #279168 introduced by Chair Brandes  
**9:02:43 AM** Explanation of Amendment #279168 by Senator Montford  
**9:03:13 AM** Robert Reyes, Florida Auto Joint Underwriting Association waives in support  
**9:03:19 AM** Douglas McAlarney, Attorney, Personal Insurance Federation of Florida waives in support  
**9:03:26 AM** Comments from Chair Brandes - Amendment #279168 adopted  
**9:03:40 AM** Senator Montford waives closing  
**9:03:43 AM** Roll call by Administrative Assistant, Marilyn Hudson  
**9:03:54 AM** CS/CS/SB 1250 reported favorably  
**9:04:01 AM** Comments and thanks to the committee and staff from Chair Brandes  
**9:04:22 AM** Comments and thanks to Chair Brandes from Senator Braynon  
**9:04:30 AM** Senator Braynon moves to rise, without objection