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576-01923-15

Proposed Committee Substitute by the Committee on Appropriations  
(Appropriations Subcommittee on General Government)

A bill to be entitled

An act relating to property and casualty insurance;  
amending s. 627.0628, F.S.; increasing the length of  
time during which an insurer is not required to adhere  
to certain models found by the Commission on Hurricane  
Loss Projection Methodology to be accurate or reliable  
in determining probable maximum loss levels with  
respect to certain rate filings; amending s. 627.0651,  
F.S.; revising provisions for the making and use of  
rates for motor vehicle insurance; amending s.  
627.3518, F.S.; conforming a cross-reference; amending  
s. 627.4133, F.S.; increasing the amount of prior  
notice required with respect to the nonrenewal,  
cancellation, or termination of certain insurance  
policies; deleting certain provisions that require  
extended periods of prior notice with respect to the  
nonrenewal, cancellation, or termination of certain  
insurance policies; prohibiting the cancellation of  
certain policies that have been in effect for a  
specified amount of time except under certain  
circumstances; amending s. 627.4137, F.S.; adding  
licensed company adjusters to the list of persons who  
may respond to a claimant's written request for  
information relating to liability insurance coverage;  
amending s. 627.421, F.S.; authorizing a policyholder  
of personal lines insurance to affirmatively elect  
delivery of policy documents by electronic means;



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28           amending s. 627.7074, F.S.; revising notification  
29           requirements for participation in the neutral  
30           evaluation program; amending s. 627.736, F.S.;  
31           revising the applicability of certain Medicare fee  
32           schedules or payment limitations; defining the term  
33           "service year"; amending s. 627.744, F.S.; revising  
34           the preinsurance inspection requirements for private  
35           passenger motor vehicles; repealing s. 631.65, F.S.,  
36           relating to prohibited advertisement or solicitation;  
37           providing an effective date.

38

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

40

41

42           Section 1. Paragraph (d) of subsection (3) of section  
43           627.0628, Florida Statutes, is amended to read:

44           627.0628 Florida Commission on Hurricane Loss Projection  
45           Methodology; public records exemption; public meetings  
46           exemption.—

47           (3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.—

48           (d) With respect to a rate filing under s. 627.062, an  
49           insurer shall employ and may not modify or adjust actuarial  
50           methods, principles, standards, models, or output ranges found  
51           by the commission to be accurate or reliable in determining  
52           hurricane loss factors for use in a rate filing under s.

53           627.062. An insurer shall employ and may not modify or adjust  
54           models found by the commission to be accurate or reliable in  
55           determining probable maximum loss levels pursuant to paragraph

56           (b) with respect to a rate filing under s. 627.062 made more



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57 than 180 ~~60~~ days after the commission has made such findings.  
58 This paragraph does not prohibit an insurer from using a  
59 straight average of model results or output ranges for the  
60 purposes of a rate filing for personal lines residential flood  
61 insurance coverage under s. 627.062.

62 Section 2. Subsection (8) of section 627.0651, Florida  
63 Statutes, is amended to read:

64 627.0651 Making and use of rates for motor vehicle  
65 insurance.—

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

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

82 627.3518 Citizens Property Insurance Corporation  
83 policyholder eligibility clearinghouse program.—The purpose of  
84 this section is to provide a framework for the corporation to  
85 implement a clearinghouse program by January 1, 2014.



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

91 Section 4. Paragraph (b) of subsection (2) of section  
92 627.4133, Florida Statutes, is amended to read:

93 627.4133 Notice of cancellation, nonrenewal, or renewal  
94 premium.—

95 (2) With respect to any personal lines or commercial  
96 residential property insurance policy, including, but not  
97 limited to, any homeowner, mobile home owner, farmowner,  
98 condominium association, condominium unit owner, apartment  
99 building, or other policy covering a residential structure or  
100 its contents:

101 (b) The insurer shall give the first-named insured written  
102 notice of nonrenewal, cancellation, or termination at least 120  
103 ~~100~~ days before the effective date of the nonrenewal,  
104 cancellation, or termination. ~~However, the insurer shall give at~~  
105 ~~least 100 days' written notice, or written notice by June 1,~~  
106 ~~whichever is earlier, for any nonrenewal, cancellation, or~~  
107 ~~termination that would be effective between June 1 and November~~  
108 ~~30.~~ The notice must include the reason for the nonrenewal,  
109 cancellation, or termination, except that:

110 ~~1. The insurer shall give the first-named insured written~~  
111 ~~notice of nonrenewal, cancellation, or termination at least 120~~  
112 ~~days before the effective date of the nonrenewal, cancellation,~~  
113 ~~or termination for a first-named insured whose residential~~  
114 ~~structure has been insured by that insurer or an affiliated~~



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115 ~~insurer for at least 5 years before the date of the written~~  
116 ~~notice.~~

117 ~~1.2.~~ If cancellation is for nonpayment of premium, at least  
118 10 days' written notice of cancellation accompanied by the  
119 reason therefor must be given. As used in this subparagraph, the  
120 term "nonpayment of premium" means failure of the named insured  
121 to discharge when due her or his obligations for paying the  
122 premium on a policy or an installment of such premium, whether  
123 the premium is payable directly to the insurer or its agent or  
124 indirectly under a premium finance plan or extension of credit,  
125 or failure to maintain membership in an organization if such  
126 membership is a condition precedent to insurance coverage. The  
127 term also means the failure of a financial institution to honor  
128 an insurance applicant's check after delivery to a licensed  
129 agent for payment of a premium even if the agent has previously  
130 delivered or transferred the premium to the insurer. If a  
131 dishonored check represents the initial premium payment, the  
132 contract and all contractual obligations are void ab initio  
133 unless the nonpayment is cured within the earlier of 5 days  
134 after actual notice by certified mail is received by the  
135 applicant or 15 days after notice is sent to the applicant by  
136 certified mail or registered mail. If the contract is void, any  
137 premium received by the insurer from a third party must be  
138 refunded to that party in full.

139 ~~2.3.~~ If cancellation or termination occurs during the first  
140 90 days the insurance is in force and the insurance is canceled  
141 or terminated for reasons other than nonpayment of premium, at  
142 least 20 days' written notice of cancellation or termination  
143 accompanied by the reason therefor must be given unless there



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144 has been a material misstatement or misrepresentation or a  
145 failure to comply with the underwriting requirements established  
146 by the insurer.

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

158 4. After a policy or contract has been in effect for more  
159 than 90 days, the insurer may not cancel or terminate the policy  
160 or contract based on credit information available in public  
161 records.

162 ~~5. The requirement for providing written notice by June 1~~  
163 ~~of any nonrenewal that would be effective between June 1 and~~  
164 ~~November 30 does not apply to the following situations, but the~~  
165 ~~insurer remains subject to the requirement to provide such~~  
166 ~~notice at least 100 days before the effective date of~~  
167 ~~nonrenewal:~~

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

171 ~~5.b.~~ A policy that is nonrenewed by Citizens Property  
172 Insurance Corporation, pursuant to s. 627.351(6), for a policy



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173 that has been assumed by an authorized insurer offering  
174 replacement coverage to the policyholder is exempt from the  
175 notice requirements of paragraph (a) and this paragraph. In such  
176 cases, the corporation must give the named insured written  
177 notice of nonrenewal at least 45 days before the effective date  
178 of the nonrenewal.

179  
180 ~~After the policy has been in effect for 90 days, the policy may~~  
181 ~~not be canceled by the insurer unless there has been a material~~  
182 ~~misstatement, a nonpayment of premium, a failure to comply with~~  
183 ~~underwriting requirements established by the insurer within 90~~  
184 ~~days after the date of effectuation of coverage, a substantial~~  
185 ~~change in the risk covered by the policy, or the cancellation is~~  
186 ~~for all insureds under such policies for a given class of~~  
187 ~~insureds. This paragraph does not apply to individually rated~~  
188 ~~risks that have a policy term of less than 90 days.~~

189         6. Notwithstanding any other provision of law, an insurer  
190 may cancel or nonrenew a property insurance policy after at  
191 least 45 days' notice if the office finds that the early  
192 cancellation of some or all of the insurer's policies is  
193 necessary to protect the best interests of the public or  
194 policyholders and the office approves the insurer's plan for  
195 early cancellation or nonrenewal of some or all of its policies.  
196 The office may base such finding upon the financial condition of  
197 the insurer, lack of adequate reinsurance coverage for hurricane  
198 risk, or other relevant factors. The office may condition its  
199 finding on the consent of the insurer to be placed under  
200 administrative supervision pursuant to s. 624.81 or to the  
201 appointment of a receiver under chapter 631.



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

205           Section 5. Subsection (1) of section 627.4137, Florida  
206 Statutes, is amended to read:

207           627.4137 Disclosure of certain information required.-

208           (1) Each insurer that provides ~~which does~~ or may provide  
209 liability insurance coverage to pay all or a portion of a ~~any~~  
210 claim that ~~which~~ might be made shall provide, within 30 days  
211 after ~~of~~ the written request of the claimant, a statement, under  
212 oath, of a corporate officer or the insurer's claims manager, ~~or~~  
213 superintendent, or licensed company adjuster setting forth the  
214 following information with regard to each known policy of  
215 insurance, including excess or umbrella insurance:

216           (a) The name of the insurer.

217           (b) The name of each insured.

218           (c) The limits of the liability coverage.

219           (d) A statement of any policy or coverage defense that the  
220 ~~which such~~ insurer reasonably believes is available to the ~~such~~  
221 insurer at the time of filing such statement.

222           (e) A copy of the policy.

223

224           In addition, the insured, or her or his insurance agent,  
225 upon written request of the claimant or the claimant's attorney,  
226 shall disclose the name and coverage of each known insurer to  
227 the claimant and shall forward such request for information as  
228 required by this subsection to all affected insurers. The  
229 insurer shall then supply the information required in this  
230 subsection to the claimant within 30 days after ~~of~~ receipt of





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231 such request.

232 Section 6. Subsection (1) of section 627.421, Florida  
233 Statutes, is amended to read:

234 627.421 Delivery of policy.—

235 (1) Subject to the insurer's requirement as to payment of  
236 premium, every policy shall be mailed, delivered, or  
237 electronically transmitted to the insured or to the person  
238 entitled thereto not later than 60 days after the effectuation  
239 of coverage. Notwithstanding any other provision of law, an  
240 insurer may allow a policyholder of personal lines insurance to  
241 affirmatively elect delivery of the policy documents, including,  
242 but not limited to, policies, endorsements, notices, or  
243 documents, by electronic means in lieu of delivery by mail.

244 Electronic transmission of a policy for commercial risks,  
245 including, but not limited to, workers' compensation and  
246 employers' liability, commercial automobile liability,  
247 commercial automobile physical damage, commercial lines  
248 residential property, commercial nonresidential property,  
249 farmowners insurance, and the types of commercial lines risks  
250 set forth in s. 627.062(3)(d), constitutes ~~shall constitute~~  
251 delivery to the insured or to the person entitled to delivery,  
252 unless the insured or the person entitled to delivery  
253 communicates to the insurer in writing or electronically that he  
254 or she does not agree to delivery by electronic means.

255 Electronic transmission shall include a notice to the insured or  
256 to the person entitled to delivery of a policy of his or her  
257 right to receive the policy via United States mail rather than  
258 via electronic transmission. A paper copy of the policy shall be  
259 provided to the insured or to the person entitled to delivery at



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260 his or her request.

261 Section 7. Subsection (3) of section 627.7074, Florida  
262 Statutes, is amended to read:

263 627.7074 Alternative procedure for resolution of disputed  
264 sinkhole insurance claims.—

265 (3) Following the receipt of the report provided under s.  
266 627.7073 or the denial of a claim for a sinkhole loss, the  
267 insurer shall notify the policyholder of his or her right to  
268 participate in the neutral evaluation program under this section  
269 if there is coverage available under the policy and the claim  
270 was submitted within the timeframe provided in s. 627.706(5).

271 Neutral evaluation supersedes the alternative dispute resolution  
272 process under s. 627.7015 but does not invalidate the appraisal  
273 clause of the insurance policy. The insurer shall provide to the  
274 policyholder the consumer information pamphlet prepared by the  
275 department pursuant to subsection (1) electronically or by  
276 United States mail.

277 Section 8. Paragraph (a) of subsection (5) of section  
278 627.736, Florida Statutes, is amended to read:

279 627.736 Required personal injury protection benefits;  
280 exclusions; priority; claims.—

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

282 (a) A physician, hospital, clinic, or other person or  
283 institution lawfully rendering treatment to an injured person  
284 for a bodily injury covered by personal injury protection  
285 insurance may charge the insurer and injured party only a  
286 reasonable amount pursuant to this section for the services and  
287 supplies rendered, and the insurer providing such coverage may  
288 pay for such charges directly to such person or institution



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289 lawfully rendering such treatment if the insured receiving such  
290 treatment or his or her guardian has countersigned the properly  
291 completed invoice, bill, or claim form approved by the office  
292 upon which such charges are to be paid for as having actually  
293 been rendered, to the best knowledge of the insured or his or  
294 her guardian. However, such a charge may not exceed the amount  
295 the person or institution customarily charges for like services  
296 or supplies. In determining whether a charge for a particular  
297 service, treatment, or otherwise is reasonable, consideration  
298 may be given to evidence of usual and customary charges and  
299 payments accepted by the provider involved in the dispute,  
300 reimbursement levels in the community and various federal and  
301 state medical fee schedules applicable to motor vehicle and  
302 other insurance coverages, and other information relevant to the  
303 reasonableness of the reimbursement for the service, treatment,  
304 or supply.

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

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

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

312 c. For emergency services and care as defined by s. 395.002  
313 provided in a facility licensed under chapter 395 rendered by a  
314 physician or dentist, and related hospital inpatient services  
315 rendered by a physician or dentist, the usual and customary  
316 charges in the community.

317 d. For hospital inpatient services, other than emergency



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318 services and care, 200 percent of the Medicare Part A  
319 prospective payment applicable to the specific hospital  
320 providing the inpatient services.

321 e. For hospital outpatient services, other than emergency  
322 services and care, 200 percent of the Medicare Part A Ambulatory  
323 Payment Classification for the specific hospital providing the  
324 outpatient services.

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

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

330 (II) Medicare Part B, in the case of services, supplies,  
331 and care provided by ambulatory surgical centers and clinical  
332 laboratories.

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

336

337 However, if such services, supplies, or care is not reimbursable  
338 under Medicare Part B, as provided in this sub-subparagraph, the  
339 insurer may limit reimbursement to 80 percent of the maximum  
340 reimbursable allowance under workers' compensation, as  
341 determined under s. 440.13 and rules adopted thereunder which  
342 are in effect at the time such services, supplies, or care is  
343 provided. Services, supplies, or care that is not reimbursable  
344 under Medicare or workers' compensation is not required to be  
345 reimbursed by the insurer.

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



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347 schedule or payment limitation under Medicare is the fee  
348 schedule or payment limitation in effect on March 1 of the  
349 service year in which the services, supplies, or care is  
350 rendered and for the area in which such services, supplies, or  
351 care is rendered, and the applicable fee schedule or payment  
352 limitation applies to services, supplies, or care rendered  
353 during ~~throughout the remainder of~~ that service year,  
354 notwithstanding any subsequent change made to the fee schedule  
355 or payment limitation, except that it may not be less than the  
356 allowable amount under the applicable schedule of Medicare Part  
357 B for 2007 for medical services, supplies, and care subject to  
358 Medicare Part B. As used in this subparagraph, the term "service  
359 year" means the period from March 1 through the last day of  
360 February of the following year.

361 3. Subparagraph 1. does not allow the insurer to apply any  
362 limitation on the number of treatments or other utilization  
363 limits that apply under Medicare or workers' compensation. An  
364 insurer that applies the allowable payment limitations of  
365 subparagraph 1. must reimburse a provider who lawfully provided  
366 care or treatment under the scope of his or her license,  
367 regardless of whether such provider is entitled to reimbursement  
368 under Medicare due to restrictions or limitations on the types  
369 or discipline of health care providers who may be reimbursed for  
370 particular procedures or procedure codes. However, subparagraph  
371 1. does not prohibit an insurer from using the Medicare coding  
372 policies and payment methodologies of the federal Centers for  
373 Medicare and Medicaid Services, including applicable modifiers,  
374 to determine the appropriate amount of reimbursement for medical  
375 services, supplies, or care if the coding policy or payment



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376 methodology does not constitute a utilization limit.

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

383 5. ~~Effective July 1, 2012,~~ An insurer may limit payment as  
384 authorized by this paragraph only if the insurance policy  
385 includes a notice at the time of issuance or renewal that the  
386 insurer may limit payment pursuant to the schedule of charges  
387 specified in this paragraph. A policy form approved by the  
388 office satisfies this requirement. If a provider submits a  
389 charge for an amount less than the amount allowed under  
390 subparagraph 1., the insurer may pay the amount of the charge  
391 submitted.

392 Section 9. Paragraphs (a) and (b) of subsection (2) of  
393 section 627.744, Florida Statutes, are amended to read:

394 627.744 Required preinsurance inspection of private  
395 passenger motor vehicles.—

396 (2) This section does not apply:

397 (a) To a policy for a policyholder who has been insured for  
398 2 years or longer, without interruption, under a private  
399 passenger motor vehicle policy that ~~which~~ provides physical  
400 damage coverage for any vehicle,~~7~~ if the agent of the insurer  
401 verifies the previous coverage.

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



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

408           2. A copy of the title or registration that ~~which~~  
409 establishes transfer of ownership from the dealer or leasing  
410 company to the customer and a copy of the window sticker ~~or the~~  
411 ~~dealer invoice showing the itemized options and equipment and~~  
412 ~~the total retail price of the vehicle.~~

413  
414 For the purposes of this paragraph, the physical damage coverage  
415 on the motor vehicle may not be suspended during the term of the  
416 policy due to the applicant's failure to provide or the  
417 insurer's option not to require the ~~required~~ documents. However,  
418 if the insurer requires a document under this paragraph at the  
419 time the policy is issued, payment of a claim may be ~~is~~  
420 conditioned upon the receipt by the insurer of the required  
421 documents, and no physical damage loss occurring after the  
422 effective date of the coverage may be ~~is~~ payable until the  
423 documents are provided to the insurer.

424           Section 10. Section 631.65, Florida Statutes, is repealed.

425           Section 11. This act shall take effect July 1, 2015.