

1 A bill to be entitled
2 An act relating to motor vehicle insurance; amending
3 s. 316.646, F.S.; revising security requirements for a
4 motor vehicle owner or operator; amending ss. 320.27
5 and 320.771, F.S.; revising liability coverage for
6 motor vehicle and recreational vehicle dealers,
7 respectively; amending s. 324.011, F.S.; providing
8 legislative intent and purpose; creating s. 324.015,
9 F.S.; defining the term "minimum security
10 requirements"; excluding personal injury protection
11 from motor vehicle insurance policies issued or
12 renewed on or after a specified date; providing
13 conditions for policies entered into by a specified
14 date; requiring an insurer to permit an insured to
15 change coverages under specified circumstances;
16 providing notice requirements; providing that notice
17 is subject to approval by the Office of Insurance
18 Regulation; amending s. 324.021, F.S.; revising and
19 providing definitions; increasing the minimum amount
20 of motor vehicle liability coverage required; amending
21 s. 324.022, F.S.; revising financial responsibility
22 requirements for owners and operators of motor
23 vehicles; revising definitions; conforming a cross-
24 reference; amending s. 324.0221, F.S.; conforming
25 provisions to changes made by the act; conforming

26 cross-references; providing certain conditions for the
27 suspension and reinstatement of a motor vehicle
28 license; amending s. 324.031, F.S.; providing a manner
29 in which operators or owners of motor vehicles may
30 prove their financial responsibility; providing
31 requirements for self-insurers; amending s. 324.032,
32 F.S.; revising requirements for for-hire passenger
33 transportation vehicles; amending s. 324.071, F.S.;
34 revising conditions in which operators and owners of
35 motor vehicles may renew or reinstate their licenses;
36 amending s. 324.151, F.S.; revising provisions
37 relating to certain motor vehicle liability policies;
38 providing definitions; amending s. 324.161, F.S.;
39 revising deposit requirements for self-insurers;
40 amending s. 324.171, F.S.; revising conditions under
41 which a person is able to obtain a certificate of
42 self-insurance; conforming provisions to changes made
43 by the act; amending s. 324.251, F.S.; revising a
44 short title; creating s. 627.7265, F.S.; providing
45 definitions; creating s. 627.7266, F.S.; providing
46 optional medical payments coverage for motor vehicle
47 liability insurance policies; providing exceptions for
48 the medical payments coverage; providing conditions
49 for the exceptions; providing requirements and
50 exceptions for such coverage; prohibiting an insurer

51 from requiring the named insureds to pay a deductible
52 for medical payments coverage; authorizing certain
53 exclusions from medical payments coverage under
54 certain conditions; specifying required benefits for
55 medical payments coverage; providing timelines in
56 which insurers must make payments of benefits and
57 procedures for insurers to reject or reduce claim
58 amounts; providing interest rates for overdue
59 payments; providing a penalty; permitting an insurer
60 to recover benefit payments from another insurer under
61 certain circumstances; providing penalties for
62 insureds who commit insurance fraud; requiring
63 insurers to provide notice of suspected fraud to
64 claimants within a specified period; providing a
65 timeline for insurers to investigate suspected fraud
66 and to deny or pay related claims within a specified
67 period; requiring insurers to report all claims denied
68 for suspected fraud to the Division of Investigative
69 and Forensic Services; requiring insurers to maintain
70 logs of medical payments benefits paid by insureds and
71 to provide a copy of the logs to an insured upon
72 request; providing conditions and benefit limits for
73 medical care provided to an insured; requiring
74 insurance policies to include such benefit limits in
75 coverage; specifying certain claims or charges that

76 insurers or insureds are not required to pay;
77 requiring the Department of Health to adopt a rule to
78 list diagnostic tests that are not medically necessary
79 for certain injuries for which insurers and insureds
80 are not required to pay; requiring the department to
81 update such list periodically; providing requirements
82 for medical providers to submit claims to insurers
83 within certain periods and under certain conditions;
84 providing exceptions for the period to submit claims;
85 providing a penalty for a claimant's failure to submit
86 timely claims; requiring medical providers to execute
87 a disclosure and acknowledgment form with the injured
88 person at the initial time of treatment; specifying
89 provisions that must be included in the disclosure and
90 acknowledgement form; providing requirements for the
91 signing of such form; requiring the Financial Services
92 Commission to adopt a standard disclosure and
93 acknowledge form; defining a term; requiring insurers
94 to investigate improper billing; requiring insurers to
95 notify certain persons of the findings from such
96 investigation; providing for a reward to persons who
97 inform the insurer of the improper billing;
98 prohibiting certain acts by an insurer; providing
99 requirements for certain clinics to receive
100 reimbursements; requiring the commission to adopt a

101 form to notify insureds of their right to obtain
102 medical payments coverage; specifying provisions that
103 must be included in the adopted form; requiring
104 insurers to provide insureds with the adopted form
105 within a certain period; providing procedures for
106 disputes related to claims for medical payments
107 coverage; providing insurers the right to bring a
108 civil action for insurance fraud under certain
109 circumstances; requiring insurers to provide insureds
110 with a fraud advisory notice upon a claim request;
111 specifying provisions that must be included in the
112 advisory notice; identifying nonreimbursable claims;
113 permitting electronic communication under certain
114 conditions; permitting insurers to subrogate payments
115 made for medical payments coverage benefits under
116 certain conditions; amending s. 627.727, F.S.;
117 conforming provisions to changes made by the act;
118 revising legal liability of an uninsured motorist
119 coverage insurer; amending s. 627.7415, F.S.;
120 increasing the minimum coverage for commercial motor
121 vehicles; repealing ss. 627.730, 627.731, 627.7311,
122 627.732, 627.733, 627.734, 627.736, 627.737, 627.739,
123 627.7401, 627.7403, and 627.7405, F.S., relating to
124 Florida Motor Vehicle No-Fault Law; repealing s.
125 627.7407, F.S., relating to the application of the

126 Florida Motor Vehicle No-Fault Law; repealing s.
 127 627.745, F.S., relating to mediation of claims;
 128 amending ss. 318.18, 320.02, 320.0609, 322.251,
 129 322.34, 324.023, 324.051 324.091, 324.242, 400.9905,
 130 400.991, 400.9935, 409.901, 409.910, 456.057, 456.072,
 131 626.9541, 626.989, 627.06501, 627.0652, 627.0653,
 132 627.4132, 627.7015, 627.7263, 627.7275, 627.728,
 133 627.7295, 627.8405, 627.915, 628.909, 705.184, 713.78,
 134 and 817.234, F.S.; conforming provisions to changes
 135 made by the act; conforming cross-references;
 136 providing effective dates.

137
 138 Be It Enacted by the Legislature of the State of Florida:
 139

140 Section 1. Subsection (1) of section 316.646, Florida
 141 Statutes, is amended to read:

142 316.646 Security required; proof of security and display
 143 thereof.—

144 (1) A ~~Any~~ person required by s. 324.022 or s. 324.023 to
 145 maintain bodily injury and property damage liability coverage
 146 must security, ~~required by s. 324.023 to maintain liability~~
 147 ~~security for bodily injury or death, or required by s. 627.733~~
 148 ~~to maintain personal injury protection security on a motor~~
 149 ~~vehicle shall~~ have in his or her immediate possession at all
 150 times while operating such motor vehicle proper proof of

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

151 maintenance of the ~~required~~ security in the amount stated in s.
152 324.021(7).

153 (a) Such proof shall be in a uniform paper or electronic
154 format, as prescribed by the department, a valid insurance
155 policy, an insurance policy binder, a certificate of insurance,
156 or such other proof as may be prescribed by the department.

157 (b)1. The act of presenting to a law enforcement officer
158 an electronic device displaying proof of insurance in an
159 electronic format does not constitute consent for the officer to
160 access any information on the device other than the displayed
161 proof of insurance.

162 2. The person who presents the device to the officer
163 assumes the liability for any resulting damage to the device.

164 Section 2. Paragraph (b) of subsection (2) of section
165 318.18, Florida Statutes, is amended to read:

166 318.18 Amount of penalties.—The penalties required for a
167 noncriminal disposition pursuant to s. 318.14 or a criminal
168 offense listed in s. 318.17 are as follows:

169 (2) Thirty dollars for all nonmoving traffic violations
170 and:

171 (b) For all violations of ss. 320.0605, 320.07(1),
172 322.065, and 322.15(1). Any person who is cited for a violation
173 of s. 320.07(1) shall be charged a delinquent fee pursuant to s.
174 320.07(4).

175 1. If a person who is cited for a violation of s. 320.0605

176 or s. 320.07 can show proof of having a valid registration at
177 the time of arrest, the clerk of the court may dismiss the case
178 and may assess a dismissal fee of up to \$10. A person who finds
179 it impossible or impractical to obtain a valid registration
180 certificate must submit an affidavit detailing the reasons for
181 the impossibility or impracticality. The reasons may include,
182 but are not limited to, the fact that the vehicle was sold,
183 stolen, or destroyed; that the state in which the vehicle is
184 registered does not issue a certificate of registration; or that
185 the vehicle is owned by another person.

186 2. If a person who is cited for a violation of s. 322.03,
187 s. 322.065, or s. 322.15 can show a driver license issued to him
188 or her and valid at the time of arrest, the clerk of the court
189 may dismiss the case and may assess a dismissal fee of up to
190 \$10.

191 3. If a person who is cited for a violation of s. 316.646
192 can show proof of security as required by s. 324.021(7) ~~627.733~~,
193 issued to the person and valid at the time of arrest, the clerk
194 of the court may dismiss the case and may assess a dismissal fee
195 of up to \$10. A person who finds it impossible or impractical to
196 obtain proof of security must submit an affidavit detailing the
197 reasons for the impracticality. The reasons may include, but are
198 not limited to, the fact that the vehicle has since been sold,
199 stolen, or destroyed; ~~that the owner or registrant of the~~
200 ~~vehicle is not required by s. 627.733 to maintain personal~~

201 ~~injury protection insurance;~~ or that the vehicle is owned by
202 another person.

203 Section 3. Paragraphs (a) and (d) of subsection (5) of
204 section 320.02, Florida Statutes, are amended to read:

205 320.02 Registration required; application for
206 registration; forms.—

207 (5) (a) Proof that liability coverage has ~~personal injury~~
208 ~~protection benefits have~~ been purchased if required under s.
209 324.022, s. 324.023, s. 324.032, s. 627.7415, or s. 627.742
210 ~~627.733, that property damage liability coverage has been~~
211 ~~purchased as required under s. 324.022, that bodily injury or~~
212 ~~death coverage has been purchased if required under s. 324.023,~~
213 ~~and that combined bodily liability insurance and property damage~~
214 ~~liability insurance have been purchased if required under s.~~
215 627.7415. Proof of coverage shall be provided in the manner
216 prescribed by law by the applicant at the time of application
217 for registration of any motor vehicle that is subject to such
218 requirements. The issuing agent may not ~~shall refuse to~~ issue
219 registration if such proof of purchase is not provided. Insurers
220 shall furnish uniform proof-of-purchase cards in a paper or
221 electronic format in a form prescribed by the department and
222 include the name of the insured's insurance company, the
223 coverage identification number, and the make, year, and vehicle
224 identification number of the vehicle insured. The card must
225 contain a statement notifying the applicant of the penalty

226 | specified under s. 316.646(4). The card or insurance policy,
 227 | insurance policy binder, or certificate of insurance or a
 228 | photocopy of any of these; an affidavit containing the name of
 229 | the insured's insurance company, the insured's policy number,
 230 | and the make and year of the vehicle insured; or such other
 231 | proof as may be prescribed by the department shall constitute
 232 | sufficient proof of purchase. If an affidavit is provided as
 233 | proof, it must be in substantially the following form:

234 | Under penalty of perjury, I ...(Name of insured)... do hereby
 235 | certify that I have Bodily Injury Liability and...~~(Personal~~
 236 | ~~Injury Protection,~~ Property Damage Liability coverage, and, ~~if~~
 237 | ~~required, Bodily Injury Liability)~~... Insurance currently in
 238 | effect with ...(Name of insurance company)... under ...(policy
 239 | number)... covering ...(make, year, and vehicle identification
 240 | number of vehicle).... ...(Signature of Insured)...

241 | Such affidavit must include the following warning:

242 | WARNING: GIVING FALSE INFORMATION IN ORDER TO OBTAIN A VEHICLE
 243 | REGISTRATION CERTIFICATE IS A CRIMINAL OFFENSE UNDER FLORIDA
 244 | LAW. ANYONE GIVING FALSE INFORMATION ON THIS AFFIDAVIT IS
 245 | SUBJECT TO PROSECUTION.

246 | If an application is made through a licensed motor vehicle
 247 | dealer as required under s. 319.23, the original or a
 248 | photostatic copy of such card, insurance policy, insurance
 249 | policy binder, or certificate of insurance or the original
 250 | affidavit from the insured shall be forwarded by the dealer to

251 the tax collector of the county or the Department of Highway
252 Safety and Motor Vehicles for processing. By executing the
253 ~~aforsaid~~ affidavit, a ~~ne~~ licensed motor vehicle dealer will not
254 be liable in damages for any inadequacy, insufficiency, or
255 falsification of any statement contained therein. ~~A card must~~
256 ~~also indicate the existence of any bodily injury liability~~
257 ~~insurance voluntarily purchased.~~

258 (d) The verifying of proof of ~~personal injury protection~~
259 ~~insurance, proof of property damage liability insurance, proof~~
260 ~~of combined bodily liability insurance and property damage~~
261 ~~liability insurance, or proof of financial responsibility~~
262 ~~insurance~~ and the issuance or failure to issue the motor vehicle
263 registration under the provisions of this chapter may not be
264 construed in any court as a warranty of the reliability, ~~or~~
265 accuracy of the evidence of such proof, or that the provisions
266 of any insurance policy furnished as proof of financial
267 responsibility comply with the laws of this state. Neither the
268 department nor any tax collector is liable in damages for any
269 inadequacy, insufficiency, falsification, or unauthorized
270 modification of any item of ~~the proof of personal injury~~
271 ~~protection insurance, proof of property damage liability~~
272 ~~insurance, proof of combined bodily liability insurance and~~
273 ~~property damage liability insurance, or proof of financial~~
274 responsibility insurance prior to, during, or subsequent to the
275 verification of the proof. The issuance of a motor vehicle

276 registration does not constitute prima facie evidence or a
 277 presumption of insurance coverage.

278 Section 4. Paragraph (b) of subsection (1) of section
 279 320.0609, Florida Statutes, is amended to read:

280 320.0609 Transfer and exchange of registration license
 281 plates; transfer fee.—

282 (1)

283 (b) The transfer of a license plate from a vehicle
 284 disposed of to a newly acquired vehicle does not constitute a
 285 new registration. The application for transfer shall be accepted
 286 without requiring proof of ~~personal injury protection or~~
 287 liability insurance.

288 Section 5. Subsection (3) of section 320.27, Florida
 289 Statutes, is amended to read:

290 320.27 Motor vehicle dealers.—

291 (3) APPLICATION AND FEE.—The ~~application for the~~ license
 292 application shall be in such form as may be prescribed by the
 293 department and is ~~shall be~~ subject to such rules ~~with respect~~
 294 ~~thereto~~ as may be so prescribed by the department ~~it~~. Such
 295 application shall be verified by oath or affirmation and must
 296 ~~shall~~ contain a full statement of the name and birth date of the
 297 person or persons applying for the license ~~therefor~~; the name of
 298 the firm or copartnership, with the names and places of
 299 residence of all members ~~thereof~~, if such applicant is a firm or
 300 copartnership; the names and places of residence of the

301 principal officers, if the applicant is a body corporate or
 302 other artificial body; the name of the state under whose laws
 303 the corporation is organized; the present and former place or
 304 places of residence of the applicant; and the prior business in
 305 which the applicant has been engaged and its ~~the~~ location
 306 ~~thereof~~. The ~~Such~~ application must ~~shall~~ describe the exact
 307 location of the place of business and must ~~shall~~ state whether
 308 the place of business is owned by the applicant and when
 309 acquired, or, if leased, a true copy of the lease shall be
 310 attached to the application. The applicant shall certify that
 311 the location provides an adequately equipped office and is not a
 312 residence; that the location affords sufficient unoccupied space
 313 upon and within which adequately to store all motor vehicles
 314 offered and displayed for sale; and that the location is a
 315 suitable place where the applicant can in good faith carry on
 316 such business and keep and maintain books, records, and files
 317 necessary to conduct such business, which shall be available at
 318 all reasonable hours to inspection by the department or any of
 319 its inspectors or other employees. The applicant shall certify
 320 that the business of a motor vehicle dealer is the principal
 321 business that will ~~which shall~~ be conducted at that location.
 322 The application must ~~shall~~ contain a statement that the
 323 applicant is either franchised by a manufacturer of motor
 324 vehicles, in which case the name of each motor vehicle that the
 325 applicant is franchised to sell shall be included, or an

326 independent (nonfranchised) motor vehicle dealer. The
327 application must ~~shall~~ contain other relevant information as may
328 be required by the department. ~~, including~~ The applicant must
329 furnish evidence, in a form approved by the department, that the
330 applicant is insured under a garage liability insurance policy
331 or a general liability insurance policy coupled with a business
332 automobile policy with the liability coverage required by this
333 subsection, ~~which shall include, at a minimum, \$25,000 combined~~
334 ~~single-limit liability coverage including bodily injury and~~
335 ~~property damage protection and \$10,000 personal injury~~
336 ~~protection.~~ However, a salvage motor vehicle dealer as defined
337 in subparagraph (1)(c)5. is exempt from the requirements for
338 garage liability insurance ~~and personal injury protection~~
339 ~~insurance~~ on those vehicles that cannot be legally operated on
340 roads, highways, or streets in this state. Franchise dealers
341 must submit a garage liability insurance policy, and all other
342 dealers must submit a garage liability insurance policy or a
343 general liability insurance policy coupled with a business
344 automobile policy. Such policy shall be for the license period
345 and must include at least \$60,000 combined single-limit bodily
346 injury and property damage liability coverage which complies
347 with s. 324.151. ~~and~~ Evidence of a new or continued policy
348 shall be delivered to the department at the beginning of each
349 license period. Upon making initial application, the applicant
350 shall pay to the department a fee of \$300 in addition to any

351 other fees required by law. Applicants may choose to extend the
352 licensure period for 1 additional year for a total of 2 years.
353 An initial applicant shall pay to the department a fee of \$300
354 for the first year and \$75 for the second year, in addition to
355 any other fees required by law. An applicant for renewal shall
356 pay to the department \$75 for a 1-year renewal or \$150 for a 2-
357 year renewal, in addition to any other fees required by law.
358 Upon making an application for a change of location, the
359 applicant must ~~person shall~~ pay a fee of \$50 in addition to any
360 other fees now required by law. The department shall, in the
361 case of every application for initial licensure, verify whether
362 certain facts set forth in the application are true. Each
363 applicant, general partner in the case of a partnership, or
364 corporate officer and director in the case of a corporate
365 applicant, must file a set of fingerprints with the department
366 for the purpose of determining any prior criminal record or any
367 outstanding warrants. The department shall submit the
368 fingerprints to the Department of Law Enforcement for state
369 processing and forwarding to the Federal Bureau of Investigation
370 for federal processing. The actual cost of state and federal
371 processing shall be borne by the applicant and is in addition to
372 the fee for licensure. The department may issue a license to an
373 applicant pending the results of the fingerprint investigation,
374 which license is fully revocable if the department subsequently
375 determines that any facts set forth in the application are not

376 true or correctly represented.

377 Section 6. Paragraph (j) of subsection (3) of section
 378 320.771, Florida Statutes, is amended to read:

379 320.771 License required of recreational vehicle dealers.—

380 (3) APPLICATION.—The application for such license shall be
 381 in the form prescribed by the department and subject to such
 382 rules as may be prescribed by it. The application shall be
 383 verified by oath or affirmation and shall contain:

384 (j) A statement that the applicant is insured under a
 385 garage liability insurance policy, which shall include, at a
 386 minimum, \$60,000 ~~\$25,000~~ combined single-limit bodily injury and
 387 property damage liability coverage, ~~including bodily injury and~~
 388 ~~property damage protection,~~ and ~~\$10,000 personal injury~~
 389 ~~protection,~~ if the applicant is to be licensed as a dealer in,
 390 or intends to sell, recreational vehicles.

391
 392 The department shall, if it deems necessary, cause an
 393 investigation to be made to ascertain if the facts set forth in
 394 the application are true and shall not issue a license to the
 395 applicant until it is satisfied that the facts set forth in the
 396 application are true.

397 Section 7. Subsections (1) and (2) of section 322.251,
 398 Florida Statutes, are amended to read:

399 322.251 Notice of cancellation, suspension, revocation, or
 400 disqualification of license.—

401 (1) All orders of cancellation, suspension, revocation, or
402 disqualification issued under the provisions of this chapter,
403 chapter 318, or, chapter 324, ~~or ss. 627.732-627.734~~ shall be
404 given either by personal delivery ~~thereof~~ to the licensee whose
405 license is being canceled, suspended, revoked, or disqualified
406 or by deposit in the United States mail in an envelope, first
407 class, postage prepaid, addressed to the licensee at his or her
408 last known mailing address furnished to the department. Such
409 mailing by the department constitutes notification, and any
410 failure by the person to receive the mailed order will not
411 affect or stay the effective date or term of the cancellation,
412 suspension, revocation, or disqualification of the licensee's
413 driving privilege.

414 (2) The giving of notice and an order of cancellation,
415 suspension, revocation, or disqualification by mail is complete
416 upon expiration of 20 days after deposit in the United States
417 mail for all notices except those issued under chapter 324 ~~or~~
418 ~~ss. 627.732-627.734~~, which are complete 15 days after deposit in
419 the United States mail. Proof of the giving of notice and an
420 order of cancellation, suspension, revocation, or
421 disqualification in either manner shall be made by entry in the
422 records of the department that such notice was given. The entry
423 is admissible in the courts of this state and constitutes
424 sufficient proof that such notice was given.

425 Section 8. Paragraph (a) of subsection (8) of section

426 | 322.34, Florida Statutes, is amended to read:

427 | 322.34 Driving while license suspended, revoked, canceled,
428 | or disqualified.—

429 | (8) (a) Upon the arrest of a person for the offense of
430 | driving while the person's driver license or driving privilege
431 | is suspended or revoked, the arresting officer shall determine:

432 | 1. Whether the person's driver license is suspended or
433 | revoked.

434 | 2. Whether the person's driver license has remained
435 | suspended or revoked since a conviction for the offense of
436 | driving with a suspended or revoked license.

437 | 3. Whether the suspension or revocation was made under s.
438 | 316.646 ~~or s. 627.733~~, relating to failure to maintain required
439 | security, or under s. 322.264, relating to habitual traffic
440 | offenders.

441 | 4. Whether the driver is the registered owner or coowner
442 | of the vehicle.

443 | Section 9. Section 324.011, Florida Statutes, is amended
444 | to read:

445 | 324.011 Legislative intent and purpose ~~Purpose of~~
446 | ~~chapter.~~—It is the intent of the Legislature ~~this chapter~~ to
447 | ensure that the privilege of owning or operating a motor vehicle
448 | in this state be exercised ~~recognize the existing privilege to~~
449 | ~~own or operate a motor vehicle on the public streets and~~
450 | ~~highways of this state when such vehicles are used with due~~

451 consideration for others and their property in order,~~and~~ to
452 promote safety and provide financial security requirements for
453 ~~such~~ owners and ~~or~~ operators whose responsibility it is to
454 recompense others for injury to person or property caused by the
455 operation of a motor vehicle. Therefore, this chapter requires
456 ~~it is required herein~~ that owners and operators of motor
457 vehicles establish, maintain, ~~the operator of a motor vehicle~~
458 ~~involved in a crash or convicted of certain traffic offenses~~
459 ~~meeting the operative provisions of s. 324.051(2) shall respond~~
460 ~~for such damages~~ and show proof of financial ability to respond
461 for damages arising out of the ownership, maintenance, or use of
462 a motor vehicle in future accidents as a requisite to his or her
463 ownership or operation of a motor vehicle in this state ~~future~~
464 ~~exercise of such privileges.~~

465 Section 10. Section 324.015, Florida Statutes, is created
466 to read:

467 324.015 Applicability; notice to policyholders.-

468 (1) As used in this section, the term "minimum security
469 requirements" means security that enables a person to respond in
470 damages for liability on account of accidents arising out of the
471 ownership, maintenance, or use of a motor vehicle in the amounts
472 required by s. 324.021(7).

473 (2) Effective January 1, 2018:

474 (a) Motor vehicle insurance policies issued or renewed on
475 or after January 1, 2018, may not include personal injury

476 protection.

477 (b) All persons subject to s. 324.022, s. 324.032, s.
478 627.7415, or s. 627.742, must maintain at least minimum security
479 requirements.

480 (c) A new or renewal motor vehicle insurance policy
481 delivered or issued for delivery in this state must provide
482 coverage that complies with minimum security requirements.

483 (d) An existing motor vehicle insurance policy issued
484 before January 1, 2018, that provides personal injury protection
485 and property damage liability coverage and meets the
486 requirements of s. 324.022, on December 31, 2017, but that does
487 not meet minimum security requirements on or after January 1,
488 2018, is deemed to meet the security requirements of s. 324.022
489 until such policy is renewed, nonrenewed, or canceled.

490 (3) An insurer must allow an insured who has a new or
491 renewal policy providing personal injury protection, which
492 becomes effective before January 1, 2018, and whose policy does
493 not meet minimum security requirements on or after January 1,
494 2018, to change coverages to obtain coverage providing minimum
495 security requirements that becomes effective on or after January
496 1, 2018. The insurer is not required to provide coverage
497 complying with minimum security requirements in such policies if
498 the insured does not pay the required premium by January 1,
499 2018, or such later date as the insurer may allow. The insurer
500 must refund any reduction in the premium. The insurer may not

501 impose an additional fee or charge on the insured for such
502 changes in coverage; however, the insurer may charge an
503 additional premium that is actuarially indicated.

504 (4) By September 1, 2017, a motor vehicle insurer must
505 provide notice of the provisions of this section to each motor
506 vehicle policyholder who is subject to this section. The notice
507 is subject to approval by the Office of Insurance Regulation and
508 must clearly inform the policyholder that:

509 (a) The Florida Motor Vehicle No-Fault Law is repealed,
510 effective January 1, 2018, and that on or after that date, the
511 insured is no longer required to maintain personal injury
512 protection insurance coverage, that personal injury protection
513 coverage is no longer available for purchase in this state, and
514 that all new or renewal policies issued on or after that date do
515 not contain such coverage.

516 (b) Effective January 1, 2018, a person subject to the
517 financial responsibility requirements of s. 324.022 must
518 maintain minimum security requirements that enable the person to
519 respond in damages for liability on account of accidents arising
520 out of the ownership, maintenance, or use of a motor vehicle in
521 the following amounts:

522 1. Twenty-five thousand dollars for bodily injury to, or
523 the death of, one person in any one accident and, subject to
524 such limits for one person, in the amount of \$50,000 for bodily
525 injury to, or the death of, two or more persons in any one

526 accident; and

527 2. Ten thousand dollars for damage to, or destruction of,
528 property of others in any one accident.

529 (c) Personal injury protection coverage pays covered
530 medical expenses for injuries sustained in a motor vehicle
531 accident by the policyholder, passengers, and relatives residing
532 in the policyholder's household.

533 (d) Bodily injury liability coverage protects the insured,
534 up to the coverage limits, against loss if the insured is
535 legally responsible for the death of or bodily injury to others
536 in a motor vehicle accident.

537 (e) The policyholder may obtain medical payments coverage,
538 which pays covered medical expenses, up to the limits of such
539 coverage, for injuries sustained in a motor vehicle crash by the
540 policyholder, passengers and relatives residing in the
541 policyholder's household, as provided in s. 627.7266.

542 (f) The policyholder may obtain underinsured motorist
543 coverage, which provides benefits, up to the limits of such
544 coverage, to a policyholder or other insured entitled to recover
545 damages for bodily injury, sickness, disease, or death resulting
546 from a motor vehicle accident with an uninsured or underinsured
547 owner or operator of a motor vehicle.

548 (g) If the policyholder's new or renewal motor vehicle
549 insurance policy is effective before January 1, 2018, and
550 contains personal injury protection and property damage

551 liability coverage as required by state law before January 1,
552 2018, but does not meet minimum security requirements on or
553 after January 1, 2018, the policy is deemed to meet minimum
554 security requirements until it is renewed, nonrenewed, or
555 canceled.

556 (h) A policyholder whose new or renewal policy becomes
557 effective before January 1, 2018, but does not meet minimum
558 security requirements on or after January 1, 2018, may change
559 coverages under the policy so as to eliminate personal injury
560 protection and to obtain coverage providing minimum security
561 requirements, including bodily injury liability coverage, which
562 are effective on or after January 1, 2018.

563 (i) If the policyholder has any questions, he or she
564 should contact the name and phone number provided in the notice.

565 (5) This section shall take effect upon this act becoming
566 law.

567 Section 11. Subsections (1) and (7) of section 324.021,
568 Florida Statutes, are amended and subsection (12) is added to
569 that section, to read:

570 324.021 Definitions; minimum insurance required.—The
571 following words and phrases when used in this chapter shall, for
572 the purpose of this chapter, have the meanings respectively
573 ascribed to them in this section, except in those instances
574 where the context clearly indicates a different meaning:

575 (1) MOTOR VEHICLE.—"Motor vehicle" has the same meaning as

576 provided in s. 320.01(1). ~~Every self-propelled vehicle which is~~
577 ~~designed and required to be licensed for use upon a highway,~~
578 ~~including trailers and semitrailers designed for use with such~~
579 ~~vehicles, except traction engines, road rollers, farm tractors,~~
580 ~~power shovels, and well drillers, and every vehicle which is~~
581 ~~propelled by electric power obtained from overhead wires but not~~
582 ~~operated upon rails, but not including any bicycle or moped.~~
583 ~~However, the term "motor vehicle" shall not include any motor~~
584 ~~vehicle as defined in s. 627.732(3) when the owner of such~~
585 ~~vehicle has complied with the requirements of ss. 627.730-~~
586 ~~627.7405, inclusive, unless the provisions of s. 324.051 apply;~~
587 ~~and, in such case, the applicable proof of insurance provisions~~
588 ~~of s. 320.02 apply.~~

589 (7) PROOF OF FINANCIAL RESPONSIBILITY. ~~Proof~~ That proof of
590 ability to respond in damages for liability on account of
591 accidents ~~crashes~~ arising out of the ownership, maintenance, or
592 use of a motor vehicle:

593 (a) For a motor vehicle with at least four wheels that is
594 not a commercial motor vehicle, nonpublic sector bus, or for-
595 hire passenger transportation vehicle:

596 1. In the amount of \$25,000 ~~for \$10,000 because of~~ bodily
597 injury to, or the death of, one person in any one accident
598 ~~crash;~~

599 2. ~~(b)~~ Subject to such limits for one person, in the amount
600 of \$50,000 ~~for \$20,000 because of~~ bodily injury to, or the death

601 of, two or more persons in any one accident ~~crash~~; and
 602 3.(e) In the amount of \$10,000 for damage ~~because of~~
 603 ~~injury~~ to, or destruction of, the property of others in any one
 604 accident. ~~crash; and~~

605 (b)(d) ~~For a With respect to~~ commercial motor vehicle
 606 ~~vehicles and nonpublic sector buses~~, in the amounts specified in
 607 s. 627.7415 ~~ss. 627.7415 and 627.742~~, respectively.

608 (c) For a nonpublic sector bus, in the amounts specified
 609 in s. 627.742.

610 (d) For a for-hire passenger transportation vehicle, in
 611 the amounts specified in s. 324.032.

612 (12) FOR-HIRE PASSENGER TRANSPORTATION VEHICLE.—"For-hire
 613 passenger transportation vehicle" means a "for-hire vehicle" as
 614 defined in s. 320.01(15) that is offered or used to provide
 615 transportation for persons, including taxicabs, limousines, and
 616 jitneys.

617 Section 12. Section 324.022, Florida Statutes, is amended
 618 to read:

619 324.022 Financial responsibility requirements ~~for property~~
 620 ~~damage.~~—

621 (1)(a) Every owner ~~or operator~~ of a motor vehicle required
 622 to be registered in this state and every operator of a motor
 623 vehicle licensed in this state must ~~shall~~ establish and
 624 continuously maintain the ability to respond in damages for
 625 liability on account of accidents arising out of the ownership,

626 maintenance, or use of the motor vehicle in the amount of:

627 1. Twenty-five thousand dollars for bodily injury to, or
628 the death of, one person in any one accident;

629 2. Subject to the limits for one person, \$50,000 for
630 bodily injury to, or the death of, two or more persons in any
631 one accident; and ~~\$10,000 because of~~

632 3. Ten thousand dollars for damage to, or destruction of,
633 property of others in any one accident ~~crash~~.

634 (b) The requirements of paragraph (a) ~~this section~~ may be
635 met by one of the methods established in s. 324.031; by self-
636 insuring as authorized by s. 768.28(16); or by maintaining a
637 motor vehicle liability insurance ~~an insurance policy providing~~
638 ~~coverage for property damage liability in the amount of at least~~
639 ~~\$10,000 because of damage to, or destruction of, property of~~
640 ~~others in any one accident arising out of the use of the motor~~
641 ~~vehicle. The requirements of this section may also be met by~~
642 ~~having a policy which provides coverage in the amount of at~~
643 ~~least \$60,000 ~~\$30,000~~ for combined property damage liability and~~
644 ~~bodily injury liability for any one accident ~~crash~~ arising out~~
645 ~~of the ownership, maintenance, or use of the motor vehicle and~~
646 ~~which conforms to the requirements of s. 324.151. The policy,~~
647 ~~with respect to coverage for property damage liability, must~~
648 ~~meet the applicable requirements of s. 324.151, subject to the~~
649 ~~usual policy exclusions that have been approved in policy forms~~
650 ~~by the Office of Insurance Regulation. No insurer shall have any~~

651 ~~duty to defend uncovered claims irrespective of their joinder~~
 652 ~~with covered claims.~~

653 (2) As used in this section, the term:

654 ~~(a)~~ "motor vehicle" means any self-propelled vehicle that
 655 has four or more wheels and that is of a type designed and
 656 required to be licensed for use on the highways of this state,
 657 and any trailer or semitrailer designed for use with such
 658 vehicle. The term does not include:

659 (a)1. A mobile home as defined in s. 320.01.

660 (b)2. A motor vehicle that is used in mass transit and
 661 designed to transport more than five passengers, exclusive of
 662 the operator of the motor vehicle, and that is owned by a
 663 municipality, transit authority, or political subdivision of the
 664 state.

665 (c)3. A school bus as defined in s. 1006.25, which must
 666 maintain security as required under s. 316.615.

667 (d) A commercial motor vehicle as defined in s. 207.002 or
 668 s. 320.01(25), which must maintain security as required under
 669 ss. 324.031 and 627.7415.

670 (e) A nonpublic sector bus, which must maintain security
 671 as required under ss. 324.031 and 627.742.

672 (f)4. A ~~vehicle providing for-hire passenger~~
 673 ~~transportation vehicle, which must that is subject to the~~
 674 ~~provisions of s. 324.031. A taxicab shall maintain security as~~
 675 ~~required under s. 324.032 324.032(1).~~

676 ~~(b) "Owner" means the person who holds legal title to a~~
677 ~~motor vehicle or the debtor or lessee who has the right to~~
678 ~~possession of a motor vehicle that is the subject of a security~~
679 ~~agreement or lease with an option to purchase.~~

680 (3) Each nonresident owner or registrant of a motor
681 vehicle that, whether operated or not, has been physically
682 present within this state for more than 90 days during the
683 preceding 365 days shall maintain security as required by
684 subsection (1), which must be ~~that is~~ in effect continuously
685 throughout the period the motor vehicle remains within this
686 state.

687 (4) An ~~The~~ owner or registrant of a motor vehicle who is
688 ~~exempt from the requirements of this section if she or he is a~~
689 ~~member of the United States Armed Forces and is called to or on~~
690 ~~active duty outside the United States in an emergency situation~~
691 is exempt from this section while he or she. ~~The exemption~~
692 ~~provided by this subsection applies only as long as the member~~
693 ~~of the Armed Forces is on such active duty, outside the United~~
694 ~~States and~~ This exemption applies only while the vehicle covered
695 by the security is not operated by any person. Upon receipt of a
696 written request by the insured to whom the exemption provided in
697 this subsection applies, the insurer shall cancel the coverages
698 and return any unearned premium or suspend the security required
699 by this section. Notwithstanding s. 324.0221(2) ~~s. 324.0221(3)~~,
700 the department may not suspend the registration or operator's

701 license of an ~~any~~ owner or registrant of a motor vehicle during
702 the time she or he qualifies for an exemption under this
703 subsection. An ~~Any~~ owner or registrant of a motor vehicle who
704 qualifies for the ~~an~~ exemption under this subsection shall
705 immediately notify the department before ~~prior to~~ and at the end
706 of the expiration of the exemption.

707 Section 13. Subsections (1) and (2) of section 324.0221,
708 Florida Statutes, are amended, and subsection (4) is added to
709 that section, to read:

710 324.0221 Reports by insurers to the department; suspension
711 of driver license and vehicle registrations; reinstatement.—

712 (1)(a) Each insurer that has issued a policy providing
713 ~~personal injury protection coverage or property damage~~ liability
714 coverage shall report the cancellation or nonrenewal thereof to
715 the department within 10 days after the processing date or
716 effective date of each cancellation or nonrenewal. Upon the
717 issuance of a policy providing ~~personal injury protection~~
718 ~~coverage or property damage~~ liability coverage to a named
719 insured not previously insured by the insurer during that
720 calendar year, the insurer shall report the issuance of the new
721 policy to the department within 10 days. The report must ~~shall~~
722 be in a ~~the~~ form prescribed by the department ~~and format~~ and
723 contain any information required by the department and must be
724 provided in a format that is compatible with the data processing
725 capabilities of the department. Failure by an insurer to file

726 | proper reports with the department as required by this
727 | subsection constitutes a violation of the Florida Insurance
728 | Code. These records shall be used by the department only for
729 | enforcement and regulatory purposes, including the generation by
730 | the department of data regarding compliance by owners of motor
731 | vehicles with the requirements for financial responsibility
732 | coverage.

733 | (b) With respect to an insurance policy providing ~~personal~~
734 | ~~injury protection coverage or property damage~~ liability
735 | coverage, each insurer shall notify the named insured, or the
736 | first-named insured in the case of a commercial fleet policy, in
737 | writing that any cancellation or nonrenewal of the policy will
738 | be reported by the insurer to the department. The notice must
739 | also inform the named insured that failure to maintain bodily
740 | injury liability ~~personal injury protection~~ coverage and
741 | property damage liability coverage on a motor vehicle when
742 | required by law may result in the loss of registration and
743 | driving privileges in this state and inform the named insured of
744 | the amount of the reinstatement fees required by this section.
745 | This notice is for informational purposes only, and an insurer
746 | is not civilly liable for failing to provide this notice.

747 | (2) The department shall suspend, after due notice and an
748 | opportunity to be heard, the registration and driver license of
749 | any owner or registrant of a motor vehicle with respect to which
750 | security is required under s. ~~ss.~~ 324.022, s. 324.032, s.

751 627.7415, or s. 627.742 and 627.733 upon:

752 (a) The department's records showing that the owner or
753 registrant of such motor vehicle did not have the in full force
754 and effect when required security in full force and effect that
755 complies with the requirements of ss. 324.022 and 627.733; or

756 (b) Notification by the insurer to the department, in a
757 form approved by the department, of cancellation or termination
758 of the required security.

759 (4) All suspensions of license or registration under this
760 section for failure to maintain required security that occurred
761 before January 1, 2018, remain in full force and effect after
762 the effective date of this act. A driver may reinstate a
763 suspended driver license or registration as provided under
764 subsection (3).

765 Section 14. Section 324.023, Florida Statutes, is amended
766 to read:

767 324.023 Financial responsibility for bodily injury or
768 death.—In addition to any other financial responsibility
769 required by law, every owner or operator of a motor vehicle that
770 is required to be registered in this state, or that is located
771 within this state, and who, regardless of adjudication of guilt,
772 has been found guilty of or entered a plea of guilty or nolo
773 contendere to a charge of driving under the influence under s.
774 316.193 after October 1, 2007, shall, by one of the methods
775 established in s. 324.031(1)(a) or (b) ~~324.031(1) or (2),~~

776 establish and maintain the ability to respond in damages for
777 liability on account of accidents arising out of the use of a
778 motor vehicle in the amount of \$100,000 because of bodily injury
779 to, or death of, one person in any one crash and, subject to
780 such limits for one person, in the amount of \$300,000 because of
781 bodily injury to, or death of, two or more persons in any one
782 crash and in the amount of \$50,000 because of property damage in
783 any one crash. If the owner or operator chooses to establish and
784 maintain such ability by furnishing a certificate of deposit
785 pursuant to s. 324.031(1)(b) ~~324.031(2)~~, such certificate of
786 deposit must be at least \$350,000. Such higher limits must be
787 carried for a minimum period of 3 years. If the owner or
788 operator has not been convicted of driving under the influence
789 or a felony traffic offense for a period of 3 years from the
790 date of reinstatement of driving privileges for a violation of
791 s. 316.193, the owner or operator shall be exempt from this
792 section.

793 Section 15. Section 324.031, Florida Statutes, is amended
794 to read:

795 324.031 Manner of proving financial responsibility. ~~The~~
796 ~~owner or operator of a taxicab, limousine, jitney, or any other~~
797 ~~for-hire passenger transportation vehicle may prove financial~~
798 ~~responsibility by providing satisfactory evidence of holding a~~
799 ~~motor vehicle liability policy as defined in s. 324.021(8) or s.~~
800 ~~324.151, which policy is issued by an insurance carrier which is~~

801 ~~a member of the Florida Insurance Guaranty Association.~~

802 (1) The operator or owner of a motor ~~any other~~ vehicle,
 803 other than a for-hire passenger transportation vehicle as
 804 defined in s. 324.021(12), may prove his or her financial
 805 responsibility by:

806 (a) ~~(1)~~ Furnishing satisfactory evidence of holding a motor
 807 vehicle liability policy as defined in ss. 324.021(8) ~~and~~
 808 ~~324.151;~~

809 (b) ~~(2)~~ Furnishing a certificate of self-insurance showing
 810 a deposit of cash in accordance with s. 324.161; or

811 (c) ~~(3)~~ Furnishing a certificate of self-insurance issued
 812 by the department in accordance with s. 324.171.

813 (2) ~~A Any person, including any firm, partnership,~~
 814 ~~association, corporation, or other person, other than a natural~~
 815 ~~person,~~ electing to use the method of proof specified in
 816 paragraph (1)(b) must ~~subsection (2) shall~~ furnish a certificate
 817 of deposit equal to the number of vehicles owned times \$60,000
 818 ~~\$30,000,~~ to a maximum of \$240,000. ~~\$120,000;~~ In addition, ~~any~~
 819 ~~such person, other than a natural person,~~ shall maintain
 820 insurance providing coverage in accordance with s. 324.151, in
 821 excess of the amount of the certificate of deposit with limits
 822 of at least:

823 (a) One hundred twenty-five thousand dollars for bodily
 824 injury to, or the death of, one person in any one crash and,
 825 subject to such limits for one person, in the amount of \$250,000

826 for bodily injury to, or the death of, two or more persons in
827 any one crash, and \$50,000 for damage to, or destruction of,
828 property of others in any one crash; or

829 (b) Three hundred thousand dollars for combined bodily
830 injury liability and property damage liability for any one crash
831 ~~\$10,000/20,000/10,000 or \$30,000 combined single limits, and~~
832 ~~such excess insurance shall provide minimum limits of~~
833 ~~\$125,000/250,000/50,000 or \$300,000 combined single limits.~~
834 ~~These increased limits shall not affect the requirements for~~
835 ~~proving financial responsibility under s. 324.032(1).~~

836 Section 16. Section 324.032, Florida Statutes, is amended
837 to read:

838 324.032 Financial ~~Manner of proving financial~~
839 ~~responsibility for~~ for-hire passenger transportation vehicles.-
840 ~~Notwithstanding the provisions of s. 324.031:~~

841 (1) Every owner, lessee, or operator of a for-hire
842 passenger transportation vehicle that is required to be
843 registered in this state must establish and continuously
844 maintain the ability to respond in damages for liability on
845 account of accidents arising out of the ownership, maintenance,
846 or use of the for-hire passenger transportation vehicle in the
847 amount of:

848 (a) One hundred twenty-five thousand dollars for bodily
849 injury to, or the death of, one person in any one crash and,
850 subject to such limits for one person, in the amount of \$250,000

851 for bodily injury to, or the death of, two or more persons in
852 any one crash; and ~~A person who is either the owner or a lessee~~
853 ~~required to maintain insurance under s. 627.733(1)(b) and who~~
854 ~~operates one or more taxicabs, limousines, jitneys, or any other~~
855 ~~for-hire passenger transportation vehicles may prove financial~~
856 ~~responsibility by furnishing satisfactory evidence of holding a~~
857 ~~motor vehicle liability policy, but with minimum limits of~~
858 ~~\$125,000/250,000/50,000.~~

859 (b) Fifty thousand dollars for damage to, or destruction
860 of, property of others in any one crash ~~A person who is either~~
861 ~~the owner or a lessee required to maintain insurance under s.~~
862 ~~324.021(9)(b) and who operates limousines, jitneys, or any other~~
863 ~~for-hire passenger vehicles, other than taxicabs, may prove~~
864 ~~financial responsibility by furnishing satisfactory evidence of~~
865 ~~holding a motor vehicle liability policy as defined in s.~~
866 ~~324.031.~~

867 (2) Except as provided in subsection (3), the requirements
868 of this section must be met by providing satisfactory evidence
869 of a motor vehicle liability policy conforming to the
870 requirements of s. 325.151 that is issued by an insurance
871 carrier that is a member of the Florida Insurance Guaranty
872 Association.

873 (3)(2) ~~An owner or a lessee who is required to maintain~~
874 ~~insurance under s. 324.021(9)(b) and who operates at least 300~~
875 ~~taxicabs, limousines, jitneys, or any other for-hire passenger~~

876 transportation vehicles may provide financial responsibility by
877 complying with the provisions of s. 324.171, such compliance to
878 be demonstrated by maintaining at its principal place of
879 business an audited financial statement, prepared in accordance
880 with generally accepted accounting principles, and providing to
881 the department a certification issued by a certified public
882 accountant that the applicant's net worth is at least equal to
883 the requirements of s. 324.171 as determined by the Office of
884 Insurance Regulation of the Financial Services Commission,
885 including claims liabilities in an amount certified as adequate
886 by a Fellow of the Casualty Actuarial Society.

887
888 Upon request by the department, the applicant must provide the
889 department at the applicant's principal place of business in
890 this state access to the applicant's underlying financial
891 information and financial statements that provide the basis of
892 the certified public accountant's certification. The applicant
893 shall reimburse the requesting department for all reasonable
894 costs incurred by it in reviewing the supporting information.
895 The maximum amount of self-insurance permissible under this
896 subsection is \$300,000 and must be stated on a per-occurrence
897 basis, and the applicant shall maintain adequate excess
898 insurance issued by an authorized or eligible insurer licensed
899 or approved by the Office of Insurance Regulation. All risks
900 self-insured shall remain with the owner or lessee providing it,

901 and the risks are not transferable to any other person, unless a
902 policy complying with subsections (1) and (2) ~~subsection (1)~~ is
903 obtained.

904 Section 17. Subsection (2) of section 324.051, Florida
905 Statutes, is amended to read:

906 324.051 Reports of crashes; suspensions of licenses and
907 registrations.—

908 (2) (a) Thirty days after receipt of notice of any accident
909 described in paragraph (1) (a) involving a motor vehicle within
910 this state, the department shall suspend, after due notice and
911 opportunity to be heard, the license of each operator and all
912 registrations of the owner of the vehicles operated by such
913 operator whether or not involved in such crash and, in the case
914 of a nonresident owner or operator, shall suspend such
915 nonresident's operating privilege in this state, unless such
916 operator or owner shall, prior to the expiration of such 30
917 days, be found by the department to be exempt from the operation
918 of this chapter, based upon evidence satisfactory to the
919 department that:

920 1. The motor vehicle was legally parked at the time of
921 such crash.

922 2. The motor vehicle was owned by the United States
923 Government, this state, or any political subdivision of this
924 state or any municipality therein.

925 3. Such operator or owner has secured a duly acknowledged

926 written agreement providing for release from liability by all
 927 parties injured as the result of said crash and has complied
 928 with one of the provisions of s. 324.031.

929 4. Such operator or owner has deposited with the
 930 department security to conform with s. 324.061 when applicable
 931 and has complied with one of the provisions of s. 324.031.

932 5. One year has elapsed since such owner or operator was
 933 suspended pursuant to subsection (3), the owner or operator has
 934 complied with one of the provisions of s. 324.031, and no bill
 935 of complaint of which the department has notice has been filed
 936 in a court of competent jurisdiction.

937 (b) This subsection shall not apply:

938 1. To such operator or owner if such operator or owner had
 939 in effect at the time of such crash or traffic conviction a
 940 motor vehicle ~~an automobile~~ liability policy with respect to all
 941 of the registered motor vehicles owned by such operator or
 942 owner.

943 2. To such operator, if not the owner of such motor
 944 vehicle, if there was in effect at the time of such crash or
 945 traffic conviction a motor vehicle ~~an automobile~~ liability
 946 policy or bond with respect to his or her operation of motor
 947 vehicles not owned by him or her.

948 3. To such operator or owner if the liability of such
 949 operator or owner for damages resulting from such crash is, in
 950 the judgment of the department, covered by any other form of

HB 1063

2017

951 liability insurance or bond.

952 4. To a ~~any~~ person who has obtained from the department a
953 certificate of self-insurance, in accordance with s. 324.171, or
954 to a ~~any~~ person operating a motor vehicle for such self-insurer.

955

956 No such policy or bond shall be effective under this subsection
957 unless it contains limits of not less than those specified in s.
958 324.021(7).

959 Section 18. Section 324.071, Florida Statutes, is amended
960 to read:

961 324.071 Reinstatement; renewal of license; reinstatement
962 fee.—An ~~Any~~ operator or owner whose license or registration has
963 been suspended pursuant to s. 324.051(2), s. 324.072, s.
964 324.081, or s. 324.121 may reinstate the license or registration
965 by complying ~~effect its reinstatement upon compliance~~ with the
966 provisions of s. 324.051(2)(a)3. or 4., or s. 324.081(2) and
967 (3), as the case may be, and with one of the provisions of s.
968 324.031 and upon payment to the department of a nonrefundable
969 reinstatement fee pursuant to s. 324.0221 ~~of \$15~~. Only one such
970 fee shall be paid by any one person regardless ~~irrespective~~ of
971 the number of licenses and registrations to be then reinstated
972 or issued to such person. Such ~~All such~~ fees shall be deposited
973 to a department trust fund. If ~~When~~ the reinstatement of any
974 license or registration is effected by compliance with s.
975 324.051(2)(a)3. or 4., the department shall not renew the

HB 1063

2017

976 | license or registration within ~~a period of~~ 3 years after ~~from~~
977 | such reinstatement, nor shall any other license or registration
978 | be issued in the name of such person, unless the operator
979 | continues ~~is continuing~~ to comply with ~~one of the provisions of~~
980 | s. 324.031.

981 | Section 19. Subsection (1) of section 324.091, Florida
982 | Statutes, is amended to read:

983 | 324.091 Notice to department; notice to insurer.—

984 | (1) Each owner and operator involved in a crash or
985 | conviction case within the purview of this chapter shall furnish
986 | evidence of a ~~an automobile liability insurance~~ or motor vehicle
987 | liability insurance within 14 days after the date of the mailing
988 | of notice of crash by the department in the form and manner as
989 | it may designate. Upon receipt of evidence that a ~~an automobile~~
990 | ~~liability policy~~ or motor vehicle liability policy was in effect
991 | at the time of the crash or conviction case, the department
992 | shall forward to the insurer such information for verification
993 | in a method as determined by the department. The insurer shall
994 | respond to the department within 20 days after the notice
995 | whether or not such information is valid. If the department
996 | determines that a ~~an automobile liability policy~~ or motor
997 | vehicle liability policy was not in effect and did not provide
998 | coverage for both the owner and the operator, it shall take
999 | action as it is authorized to do under this chapter.

1000 | Section 20. Section 324.151, Florida Statutes, is amended

1001 to read:

1002 324.151 Motor vehicle liability policies; required
 1003 provisions.-

1004 (1) As used in this section, the term:

1005 (a) "Newly acquired vehicle" means a vehicle owned by a
 1006 named insured or resident relative of the named insured which
 1007 was acquired 30 days or less before an accident.

1008 (b) "Resident relative" means a person related to a named
 1009 insured by any degree by blood, marriage, or adoption, including
 1010 a ward or foster child, who usually makes her or his home in the
 1011 same family unit as the named insured, whether or not he or she
 1012 is temporarily living elsewhere.

1013 (c) "Temporary substitute vehicle" means a motor vehicle
 1014 as defined in s. 320.01(1) that is not owned by the named
 1015 insured which is temporarily used with the permission of the
 1016 owner as a substitute for the owned motor vehicle designated on
 1017 the policy when the owned vehicle is withdrawn from normal use
 1018 because of breakdown, repair, servicing, loss, or destruction.

1019 (2) ~~(1)~~ A motor vehicle liability policy ~~as to be~~ proof of
 1020 financial responsibility under s. 324.031(1), shall be issued to
 1021 owners and ~~or~~ operators of motor vehicles and must contain ~~under~~
 1022 the following provisions:

1023 (a) A motor vehicle liability insurance policy issued to
 1024 an owner of a motor vehicle registered in this state must ~~An~~
 1025 owner's liability insurance policy shall designate by explicit

1026 description or by appropriate reference all motor vehicles with
 1027 respect to which coverage is thereby granted. The policy must
 1028 ~~and shall~~ insure the person or persons ~~owner~~ named therein and
 1029 any resident relative of a named insured ~~other person as~~
 1030 ~~operator using such motor vehicle or motor vehicles with the~~
 1031 ~~express or implied permission of such owner against loss~~ from
 1032 the liability imposed by law for damage arising out of the
 1033 ownership, maintenance, or use of any such motor vehicle, except
 1034 as otherwise provided in this section. The policy shall also
 1035 insure any person operating an insured motor vehicle with the
 1036 express or implied permission of the named insured against loss
 1037 from liability imposed by law for damage arising out of the use
 1038 of such vehicle. However, the insurer may exclude in its policy
 1039 liability coverage for a motor vehicle not designated as an
 1040 insured vehicle on the policy if such motor vehicle does not
 1041 qualify as a newly acquired vehicle, does not qualify as a
 1042 temporary substitute vehicle, and was owned by an insured or was
 1043 furnished for an insured's regular use for more than 30
 1044 consecutive days before the event giving rise to a claim ~~or~~
 1045 ~~motor vehicles within the United States or the Dominion of~~
 1046 ~~Canada, subject to limits, exclusive of interest and costs with~~
 1047 ~~respect to each such motor vehicle as is provided for under s.~~
 1048 ~~324.021(7).~~ Insurers may make available, with respect to
 1049 property damage liability coverage, a deductible amount not to
 1050 exceed \$500. In the event of a property damage loss covered by a

1051 policy containing a property damage deductible provision, the
 1052 insurer shall pay to the third-party claimant the amount of any
 1053 property damage liability settlement or judgment, subject to
 1054 policy limits, as if no deductible existed.

1055 (b) A motor vehicle liability insurance policy issued to a
 1056 person who does not own a motor vehicle registered in this state
 1057 and is not already insured under a policy described in
 1058 subsection (a) must ~~An operator's motor vehicle liability policy~~
 1059 ~~of insurance shall~~ insure the person or persons named in the
 1060 policy ~~therein~~ against loss from ~~the~~ liability imposed ~~upon him~~
 1061 ~~or her~~ by law for damages arising out of the use ~~by the person~~
 1062 of any motor vehicle not owned by him or her, unless the vehicle
 1063 was furnished for the named insured's regular use and used by
 1064 the named insured for more than 30 consecutive days before the
 1065 event giving rise to the claim ~~with the same territorial limits~~
 1066 ~~and subject to the same limits of liability as referred to above~~
 1067 ~~with respect to an owner's policy of liability insurance.~~

1068 (c) All such motor vehicle liability policies shall state
 1069 the name and address of the named insured, the coverage afforded
 1070 by the policy, the premium charged therefor, the policy period,
 1071 the limits of liability, and shall contain an agreement or be
 1072 endorsed that insurance is provided in accordance with the
 1073 coverage defined in this chapter ~~as respects bodily injury and~~
 1074 ~~death or property damage or both~~ and is subject to all
 1075 provisions of this chapter. The policies must insure all persons

1076 covered under the liability coverage against loss from the
 1077 liability imposed by law for any litigation costs or attorneys'
 1078 fees in any civil action defended by the insurer that arises out
 1079 of the ownership, maintenance, or use of a motor vehicle for
 1080 which there is liability coverage under the policy. The ~~Said~~
 1081 policies must ~~shall~~ also contain a provision that the
 1082 satisfaction by an insured of a judgment for such injury or
 1083 damage shall not be a condition precedent to the right or duty
 1084 of the insurance carrier to make payment on account of such
 1085 injury or damage, and shall also contain a provision that
 1086 bankruptcy or insolvency of the insured or of the insured's
 1087 estate shall not relieve the insurance carrier of any of its
 1088 obligations under the said policy. However, the policies may
 1089 contain provisions excluding liability coverage for a vehicle
 1090 used outside of the United States or Canada at the time of an
 1091 accident.

1092 (3)(2) The provisions of this section shall not be
 1093 applicable to any automobile liability policy unless and until
 1094 it is furnished as proof of financial responsibility for the
 1095 future pursuant to s. 324.031, and then only from and after the
 1096 date said policy is so furnished.

1097 Section 21. Section 324.161, Florida Statutes, is amended
 1098 to read:

1099 324.161 Proof of financial responsibility; deposit.-A
 1100 person who elects to prove his or her financial responsibility

1101 by furnishing a certificate of self-insurance must obtain proof
 1102 of a certificate of a deposit annually, in the amount required
 1103 under s. 324.031(2), from a financial institution insured by the
 1104 Federal Deposit Insurance Corporation or the National Credit
 1105 Union Administration. Proof of such certificate of deposit
 1106 ~~Annually, before any certificate of insurance may be issued to a~~
 1107 ~~person, including any firm, partnership, association,~~
 1108 ~~corporation, or other person, other than a natural person, proof~~
 1109 ~~of a certificate of deposit of \$30,000 issued and held by a~~
 1110 ~~financial institution~~ must be submitted to the department
 1111 annually. A power of attorney will be issued to and held by the
 1112 department and may be executed upon a judgment issued against
 1113 such person making the deposit, for damages for ~~because of~~
 1114 bodily injury to or death of any person or for damages for
 1115 ~~because of~~ injury to or destruction of property resulting from
 1116 the use or operation of any motor vehicle occurring after such
 1117 deposit was made. Money so deposited is ~~shall~~ not be subject to
 1118 attachment or execution unless such attachment or execution
 1119 ~~shall~~ arise out of a lawsuit ~~suit~~ for such damages ~~as aforesaid~~.

1120 Section 22. Subsections (1) and (2) of section 324.171,
 1121 Florida Statutes, are amended to read:

1122 324.171 Self-insurer.—

1123 (1) A ~~Any~~ person may qualify as a self-insurer by
 1124 obtaining a certificate of self-insurance from the department.
 1125 Upon ~~which may, in its discretion and upon~~ application of such a

1126 person, the department may issue a ~~said~~ certificate of self-
1127 insurance if the applicant ~~when such person~~ has satisfied the
1128 requirements of this section ~~to qualify as a self-insurer under~~
1129 ~~this section:~~

1130 (a) A private individual with private passenger vehicles
1131 must ~~shall~~ possess a net unencumbered worth of at least \$100,000
1132 ~~\$40,000~~.

1133 (b) A person, including any firm, partnership,
1134 association, corporation, or other person, other than a natural
1135 person, must ~~shall~~:

1136 1. Possess a net unencumbered worth of at least \$100,000
1137 ~~\$40,000~~ for the first motor vehicle and \$50,000 ~~\$20,000~~ for each
1138 additional motor vehicle; or

1139 2. Maintain sufficient net worth, in an amount determined
1140 by the department to be financially responsible for potential
1141 losses. The department must annually determine the minimum net
1142 worth sufficient to satisfy this section ~~as determined annually~~
1143 ~~by the department,~~ pursuant to rules adopted ~~promulgated~~ by the
1144 department, with the assistance of the Office of Insurance
1145 Regulation of the Financial Services Commission, ~~to be~~
1146 ~~financially responsible for potential losses.~~ The rules must
1147 consider any ~~shall take into consideration~~ excess insurance
1148 carried by the applicant. The department's determination shall
1149 be based upon reasonable actuarial principles considering the
1150 frequency, severity, and loss development of claims incurred by

HB 1063

2017

1151 casualty insurers writing coverage on the type of motor vehicles
1152 for which a certificate of self-insurance is desired.

1153 (c) The owner of a commercial motor vehicle, as defined in
1154 s. 207.002 or s. 320.01, may qualify as a self-insurer subject
1155 to the standards provided ~~for~~ in subparagraph (b)2.

1156 (2) The self-insurance certificate shall provide limits of
1157 liability insurance in the amounts specified under s. 324.021(7)
1158 ~~or s. 627.7415 and shall provide personal injury protection~~
1159 ~~coverage under s. 627.733(3)(b).~~

1160 Section 23. Subsections (1) and (3) of section 324.242,
1161 Florida Statutes, are amended to read:

1162 324.242 Motor vehicle ~~Personal injury protection and~~
1163 ~~property damage~~ liability insurance policies; public records
1164 exemption.—

1165 (1) The following information regarding motor vehicle
1166 ~~personal injury protection and property damage~~ liability
1167 insurance policies held by the department is confidential and
1168 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
1169 Constitution:

1170 (a) Personal identifying information of an insured or
1171 former insured; and

1172 (b) An insurance policy number.

1173 (3) The department shall provide motor vehicle ~~personal~~
1174 ~~injury protection and property damage~~ liability insurance policy
1175 numbers to department-approved third parties that provide data

1176 collection services to an insurer of any person involved in such
 1177 accident.

1178 Section 24. Section 324.251, Florida Statutes, is amended
 1179 to read:

1180 324.251 Short title.—This chapter may be cited as the
 1181 "Financial Responsibility Law of 2017 ~~1955~~" and shall become
 1182 effective at 12:01 a.m., January 1, 2018 ~~October 1, 1955~~.

1183 Section 25. Paragraph (n) of subsection (4) of section
 1184 400.9905, Florida Statutes, is amended to read:

1185 400.9905 Definitions.—

1186 (4) "Clinic" means an entity where health care services
 1187 are provided to individuals and which tenders charges for
 1188 reimbursement for such services, including a mobile clinic and a
 1189 portable equipment provider. As used in this part, the term does
 1190 not include and the licensure requirements of this part do not
 1191 apply to:

1192 (n) Entities that employ 50 or more licensed health care
 1193 practitioners licensed under chapter 458 or chapter 459 where
 1194 the billing for medical services is under a single tax
 1195 identification number. The application for exemption under this
 1196 subsection must include ~~shall contain information that includes:~~
 1197 the name, residence, and business address and telephone ~~phone~~
 1198 number of the entity that owns the practice; a complete list of
 1199 the names and contact information of all the officers and
 1200 directors of the corporation; the name, residence address,

1201 business address, and medical license number of each licensed
 1202 Florida health care practitioner employed by the entity; the
 1203 corporate tax identification number of the entity seeking an
 1204 exemption; a listing of health care services to be provided by
 1205 the entity at the health care clinics owned or operated by the
 1206 entity and a certified statement prepared by an independent
 1207 certified public accountant which states that the entity and the
 1208 health care clinics owned or operated by the entity have not
 1209 received payment for health care services under medical payments
 1210 ~~personal injury protection insurance~~ coverage for the preceding
 1211 year. If the agency determines that an entity which is exempt
 1212 under this subsection has received payments for medical services
 1213 under medical payments ~~personal injury protection insurance~~
 1214 coverage, the agency may deny or revoke the exemption from
 1215 licensure under this subsection.

1216
 1217 ~~Notwithstanding this subsection, an entity shall be deemed a~~
 1218 ~~clinic and must be licensed under this part in order to receive~~
 1219 ~~reimbursement under the Florida Motor Vehicle No-Fault Law, ss.~~
 1220 ~~627.730-627.7405, unless exempted under s. 627.736(5)(h).~~

1221 Section 26. Subsection (6) of section 400.991, Florida
 1222 Statutes, is amended to read:

1223 400.991 License requirements; background screenings;
 1224 prohibitions.—

1225 (6) All agency forms for licensure application or

1226 exemption from licensure under this part must contain the
1227 following statement:
1228 INSURANCE FRAUD NOTICE.—A person commits a fraudulent insurance
1229 act, as defined in s. 626.989 or s. 817.234, if such person ~~who~~
1230 knowingly submits a false, misleading, or fraudulent application
1231 or other document when applying for licensure as a health care
1232 clinic, seeking an exemption from licensure as a health care
1233 clinic, or demonstrating compliance with part X of chapter 400,
1234 Florida Statutes, with the intent to use the license, exemption
1235 from licensure, or demonstration of compliance to provide
1236 services or seek reimbursement under a motor vehicle liability
1237 insurance policy's medical payments coverage ~~the Florida Motor~~
1238 ~~Vehicle No-Fault Law, commits a fraudulent insurance act, as~~
1239 ~~defined in s. 626.989, Florida Statutes.~~ A person who presents a
1240 claim for benefits under medical payments coverage ~~personal~~
1241 ~~injury protection benefits~~ knowing that the payee knowingly
1242 submitted such health care clinic application or document,
1243 commits insurance fraud, as defined in s. 817.234, Florida
1244 Statutes.

1245 Section 27. Paragraph (g) of subsection (1) of section
1246 400.9935, Florida Statutes, is amended to read:

1247 400.9935 Clinic responsibilities.—

1248 (1) Each clinic shall appoint a medical director or clinic
1249 director who shall agree in writing to accept legal
1250 responsibility for the following activities on behalf of the

1251 clinic. The medical director or the clinic director shall:
 1252 (g) Conduct systematic reviews of clinic billings to
 1253 ensure that the billings are not fraudulent or unlawful. Upon
 1254 discovery of an unlawful charge, the medical director or clinic
 1255 director shall take immediate corrective action. If the clinic
 1256 performs only the technical component of magnetic resonance
 1257 imaging, static radiographs, computed tomography, or positron
 1258 emission tomography, and provides the professional
 1259 interpretation of such services, in a fixed facility that is
 1260 accredited by a national accrediting organization that is
 1261 approved by the Centers for Medicare and Medicaid Services for
 1262 magnetic resonance imaging and advanced diagnostic imaging
 1263 services and if, in the preceding quarter, the percentage of
 1264 scans performed by that clinic which was billed to motor vehicle
 1265 ~~all personal injury protection~~ insurance carriers under medical
 1266 payments coverage was less than 15 percent, the chief financial
 1267 officer of the clinic may, in a written acknowledgment provided
 1268 to the agency, assume the responsibility for the conduct of the
 1269 systematic reviews of clinic billings to ensure that the
 1270 billings are not fraudulent or unlawful.

1271 Section 28. Subsection (28) of section 409.901, Florida
 1272 Statutes, is amended to read:

1273 409.901 Definitions; ss. 409.901-409.920.—As used in ss.
 1274 409.901-409.920, except as otherwise specifically provided, the
 1275 term:

1276 (28) "Third-party benefit" means any benefit that is or
 1277 may be available at any time through contract, court award,
 1278 judgment, settlement, agreement, or any arrangement between a
 1279 third party and any person or entity, including, without
 1280 limitation, a Medicaid recipient, a provider, another third
 1281 party, an insurer, or the agency, for any Medicaid-covered
 1282 injury, illness, goods, or services, including costs of medical
 1283 services related thereto, for bodily ~~personal~~ injury or for
 1284 death of the recipient, but specifically excluding ~~policies of~~
 1285 life insurance policies on the recipient, unless available under
 1286 terms of the policy to pay medical expenses prior to death. The
 1287 term includes, without limitation, collateral, as defined in
 1288 this section, health insurance, any benefit under a health
 1289 maintenance organization, a preferred provider arrangement, a
 1290 prepaid health clinic, liability insurance, uninsured motorist
 1291 insurance, medical payments coverage ~~or personal injury~~
 1292 ~~protection coverage~~, medical benefits under workers'
 1293 compensation, and any obligation under law or equity to provide
 1294 medical support.

1295 Section 29. Paragraph (f) of subsection (11) of section
 1296 409.910, Florida Statutes, is amended to read:

1297 409.910 Responsibility for payments on behalf of Medicaid-
 1298 eligible persons when other parties are liable.-

1299 (11) The agency may, as a matter of right, in order to
 1300 enforce its rights under this section, institute, intervene in,

1301 or join any legal or administrative proceeding in its own name
1302 in one or more of the following capacities: individually, as
1303 subrogee of the recipient, as assignee of the recipient, or as
1304 lienholder of the collateral.

1305 (f) Notwithstanding any provision in this section to the
1306 contrary, in the event of an action in tort against a third
1307 party in which the recipient or his or her legal representative
1308 is a party which results in a judgment, award, or settlement
1309 from a third party, the amount recovered shall be distributed as
1310 follows:

1311 1. After attorney's fees and taxable costs as defined by
1312 the Florida Rules of Civil Procedure, one-half of the remaining
1313 recovery shall be paid to the agency up to the total amount of
1314 medical assistance provided by Medicaid.

1315 2. The remaining amount of the recovery shall be paid to
1316 the recipient.

1317 3. For purposes of calculating the agency's recovery of
1318 medical assistance benefits paid, the fee for services of an
1319 attorney retained by the recipient or his or her legal
1320 representative shall be calculated at 25 percent of the
1321 judgment, award, or settlement.

1322 4. Notwithstanding any other provision of this section to
1323 the contrary, the agency shall be entitled to all medical
1324 coverage benefits up to the total amount of medical assistance
1325 provided by Medicaid. For purposes of this paragraph, the term

1326 "medical coverage" means any benefits under health insurance, a
 1327 health maintenance organization, a preferred provider
 1328 arrangement, or a prepaid health clinic, and the portion of
 1329 benefits designated for medical payments under ~~coverage for~~
 1330 workers' compensation insurance policy or a motor vehicle
 1331 liability insurance policy ~~, personal injury protection, and~~
 1332 ~~casualty.~~

1333 Section 30. Paragraph (k) of subsection (2) of section
 1334 456.057, Florida Statutes, is amended to read:

1335 456.057 Ownership and control of patient records; report
 1336 or copies of records to be furnished; disclosure of
 1337 information.—

1338 (2) As used in this section, the terms "records owner,"
 1339 "health care practitioner," and "health care practitioner's
 1340 employer" do not include any of the following persons or
 1341 entities; furthermore, the following persons or entities are not
 1342 authorized to acquire or own medical records, but are authorized
 1343 under the confidentiality and disclosure requirements of this
 1344 section to maintain those documents required by the part or
 1345 chapter under which they are licensed or regulated:

1346 ~~(k) Persons or entities practicing under s. 627.736(7).~~

1347 Section 31. Paragraphs (ee) and (ff) of subsection (1) of
 1348 section 456.072, Florida Statutes, are amended to read:

1349 456.072 Grounds for discipline; penalties; enforcement.—

1350 (1) The following acts shall constitute grounds for which

1351 the disciplinary actions specified in subsection (2) may be
 1352 taken:

1353 (ee) With respect to making a medical payments coverage
 1354 ~~personal injury protection~~ claim under s. 627.7266 ~~as required~~
 1355 ~~by s. 627.736~~, intentionally submitting a claim, statement, or
 1356 bill that has been "upcoded" as defined in s. 627.7265 ~~s.~~
 1357 ~~627.732~~.

1358 (ff) With respect to making a medical payments coverage
 1359 ~~personal injury protection~~ claim under s. 627.7266 ~~as required~~
 1360 ~~by s. 627.736~~, intentionally submitting a claim, statement, or
 1361 bill for payment of services that were not rendered.

1362 Section 32. Paragraphs (i) and (o) of subsection (1) of
 1363 section 626.9541, Florida Statutes, are amended to read:

1364 626.9541 Unfair methods of competition and unfair or
 1365 deceptive acts or practices defined.—

1366 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE
 1367 ACTS.—The following are defined as unfair methods of competition
 1368 and unfair or deceptive acts or practices:

1369 (i) Unfair claim settlement practices.—

1370 1. Attempting to settle claims on the basis of an
 1371 application, when serving as a binder or intended to become a
 1372 part of the policy, or any other material document which was
 1373 altered without notice to, or knowledge or consent of, the
 1374 insured;

1375 2. A material misrepresentation made to an insured or any

1376 other person having an interest in the proceeds payable under
1377 such contract or policy, for the purpose and with the intent of
1378 effecting settlement of such claims, loss, or damage under such
1379 contract or policy on less favorable terms than those provided
1380 in, and contemplated by, such contract or policy; or

1381 3. Committing or performing with such frequency as to
1382 indicate a general business practice any of the following:

1383 a. Failing to adopt and implement standards for the proper
1384 investigation of claims;

1385 b. Misrepresenting pertinent facts or insurance policy
1386 provisions relating to coverages at issue;

1387 c. Failing to acknowledge and act promptly upon
1388 communications with respect to claims;

1389 d. Denying claims without conducting reasonable
1390 investigations based upon available information;

1391 e. Failing to affirm or deny full or partial coverage of
1392 claims, and, as to partial coverage, the dollar amount or extent
1393 of coverage, or failing to provide a written statement that the
1394 claim is being investigated, upon the written request of the
1395 insured within 30 days after proof-of-loss statements have been
1396 completed;

1397 f. Failing to promptly provide a reasonable explanation in
1398 writing to the insured of the basis in the insurance policy, in
1399 relation to the facts or applicable law, for denial of a claim
1400 or for the offer of a compromise settlement;

1401 g. Failing to promptly notify the insured of any
 1402 additional information necessary for the processing of a claim;
 1403 or

1404 h. Failing to clearly explain the nature of the requested
 1405 information and the reasons why such information is necessary.

1406 i. Failing to pay claims for benefits under medical
 1407 payments coverage ~~personal injury protection insurance claims~~
 1408 within the time periods required by s. 627.7266(4)(b) ~~s.~~
 1409 ~~627.736(4)(b)~~. The office may order the insurer to pay
 1410 restitution to a policyholder, medical provider, or other
 1411 claimant, including interest at a rate consistent with the
 1412 amount set forth in s. 55.03(1), for the time period within
 1413 which an insurer fails to pay claims as required by law.
 1414 Restitution is in addition to any other penalties allowed by
 1415 law, including, but not limited to, the suspension of the
 1416 insurer's certificate of authority.

1417 4. Failing to pay undisputed amounts of partial or full
 1418 benefits owed under first-party property insurance policies
 1419 within 90 days after an insurer receives notice of a residential
 1420 property insurance claim, determines the amounts of partial or
 1421 full benefits, and agrees to coverage, unless payment of the
 1422 undisputed benefits is prevented by an act of God, prevented by
 1423 the impossibility of performance, or due to actions by the
 1424 insured or claimant that constitute fraud, lack of cooperation,
 1425 or intentional misrepresentation regarding the claim for which

1426 | benefits are owed.

1427 | (o) Illegal dealings in premiums; excess or reduced
1428 | charges for insurance.-

1429 | 1. Knowingly collecting any sum as a premium or charge for
1430 | insurance, which is not then provided, or is not in due course
1431 | to be provided, subject to acceptance of the risk by the
1432 | insurer, by an insurance policy issued by an insurer as
1433 | permitted by this code.

1434 | 2. Knowingly collecting as a premium or charge for
1435 | insurance any sum in excess of or less than the premium or
1436 | charge applicable to such insurance, in accordance with the
1437 | applicable classifications and rates as filed with and approved
1438 | by the office, and as specified in the policy; or, in cases when
1439 | classifications, premiums, or rates are not required by this
1440 | code to be so filed and approved, premiums and charges collected
1441 | from a Florida resident in excess of or less than those
1442 | specified in the policy and as fixed by the insurer.

1443 | Notwithstanding any other provision of law, this provision shall
1444 | not be deemed to prohibit the charging and collection, by
1445 | surplus lines agents licensed under part VIII of this chapter,
1446 | of the amount of applicable state and federal taxes, or fees as
1447 | authorized by s. 626.916(4), in addition to the premium required
1448 | by the insurer or the charging and collection, by licensed
1449 | agents, of the exact amount of any discount or other such fee
1450 | charged by a credit card facility in connection with the use of

1451 a credit card, as authorized by subparagraph (q)3., in addition
 1452 to the premium required by the insurer. This subparagraph shall
 1453 not be construed to prohibit collection of a premium for a
 1454 universal life or a variable or indeterminate value insurance
 1455 policy made in accordance with the terms of the contract.

1456 3.a. Imposing or requesting an additional premium for
 1457 bodily injury liability coverage, property damage liability
 1458 coverage ~~a policy of motor vehicle liability, personal injury~~
 1459 ~~protection, medical payment,~~ or collision coverage in a motor
 1460 vehicle liability insurance policy ~~insurance or any combination~~
 1461 ~~thereof~~ or refusing to renew the policy solely because the
 1462 insured was involved in a motor vehicle accident unless the
 1463 insurer's file contains information from which the insurer in
 1464 good faith determines that the insured was substantially at
 1465 fault in the accident.

1466 b. An insurer which imposes and collects such a surcharge
 1467 or which refuses to renew such policy shall, in conjunction with
 1468 the notice of premium due or notice of nonrenewal, notify the
 1469 named insured that he or she is entitled to reimbursement of
 1470 such amount or renewal of the policy under the conditions listed
 1471 below and will subsequently reimburse him or her or renew the
 1472 policy, if the named insured demonstrates that the operator
 1473 involved in the accident was:

- 1474 (I) Lawfully parked;
- 1475 (II) Reimbursed by, or on behalf of, a person responsible

1476 | for the accident or has a judgment against such person;
 1477 | (III) Struck in the rear by another vehicle headed in the
 1478 | same direction and was not convicted of a moving traffic
 1479 | violation in connection with the accident;
 1480 | (IV) Hit by a "hit-and-run" driver, if the accident was
 1481 | reported to the proper authorities within 24 hours after
 1482 | discovering the accident;
 1483 | (V) Not convicted of a moving traffic violation in
 1484 | connection with the accident, but the operator of the other
 1485 | automobile involved in such accident was convicted of a moving
 1486 | traffic violation;
 1487 | (VI) Finally adjudicated not to be liable by a court of
 1488 | competent jurisdiction;
 1489 | (VII) In receipt of a traffic citation which was dismissed
 1490 | or nolle prossed; or
 1491 | (VIII) Not at fault as evidenced by a written statement
 1492 | from the insured establishing facts demonstrating lack of fault
 1493 | which are not rebutted by information in the insurer's file from
 1494 | which the insurer in good faith determines that the insured was
 1495 | substantially at fault.
 1496 | c. In addition to the other provisions of this
 1497 | subparagraph, an insurer may not fail to renew a policy if the
 1498 | insured has had only one accident in which he or she was at
 1499 | fault within the current 3-year period. However, an insurer may
 1500 | nonrenew a policy for reasons other than accidents in accordance

1501 with s. 627.728. This subparagraph does not prohibit nonrenewal
 1502 of a policy under which the insured has had three or more
 1503 accidents, regardless of fault, during the most recent 3-year
 1504 period.

1505 4. Imposing or requesting an additional premium for, or
 1506 refusing to renew, a policy for motor vehicle insurance solely
 1507 because the insured committed a noncriminal traffic infraction
 1508 as described in s. 318.14 unless the infraction is:

1509 a. A second infraction committed within an 18-month
 1510 period, or a third or subsequent infraction committed within a
 1511 36-month period.

1512 b. A violation of s. 316.183, when such violation is a
 1513 result of exceeding the lawful speed limit by more than 15 miles
 1514 per hour.

1515 5. Upon the request of the insured, the insurer and
 1516 licensed agent shall supply to the insured the complete proof of
 1517 fault or other criteria which justifies the additional charge or
 1518 cancellation.

1519 6. No insurer shall impose or request an additional
 1520 premium for motor vehicle insurance, cancel or refuse to issue a
 1521 policy, or refuse to renew a policy because the insured or the
 1522 applicant is a handicapped or physically disabled person, so
 1523 long as such handicap or physical disability does not
 1524 substantially impair such person's mechanically assisted driving
 1525 ability.

1526 7. No insurer may cancel or otherwise terminate any
1527 insurance contract or coverage, or require execution of a
1528 consent to rate endorsement, during the stated policy term for
1529 the purpose of offering to issue, or issuing, a similar or
1530 identical contract or coverage to the same insured with the same
1531 exposure at a higher premium rate or continuing an existing
1532 contract or coverage with the same exposure at an increased
1533 premium.

1534 8. No insurer may issue a nonrenewal notice on any
1535 insurance contract or coverage, or require execution of a
1536 consent to rate endorsement, for the purpose of offering to
1537 issue, or issuing, a similar or identical contract or coverage
1538 to the same insured at a higher premium rate or continuing an
1539 existing contract or coverage at an increased premium without
1540 meeting any applicable notice requirements.

1541 9. No insurer shall, with respect to premiums charged for
1542 motor vehicle insurance, unfairly discriminate solely on the
1543 basis of age, sex, marital status, or scholastic achievement.

1544 10. Imposing or requesting an additional premium for motor
1545 vehicle comprehensive or uninsured motorist coverage solely
1546 because the insured was involved in a motor vehicle accident or
1547 was convicted of a moving traffic violation.

1548 11. No insurer shall cancel or issue a nonrenewal notice
1549 on any insurance policy or contract without complying with any
1550 applicable cancellation or nonrenewal provision required under

1551 the Florida Insurance Code.

1552 12. No insurer shall impose or request an additional
 1553 premium, cancel a policy, or issue a nonrenewal notice on any
 1554 insurance policy or contract because of any traffic infraction
 1555 when adjudication has been withheld and no points have been
 1556 assessed pursuant to s. 318.14(9) and (10). However, this
 1557 subparagraph does not apply to traffic infractions involving
 1558 accidents in which the insurer has incurred a loss due to the
 1559 fault of the insured.

1560 Section 33. Paragraph (a) of subsection (1) of section
 1561 626.989, Florida Statutes, is amended to read:

1562 626.989 Investigation by department or Division of
 1563 Investigative and Forensic Services; compliance; immunity;
 1564 confidential information; reports to division; division
 1565 investigator's power of arrest.—

1566 (1) For the purposes of this section:

1567 (a) A person commits a "fraudulent insurance act" if the
 1568 person:

1569 1. Knowingly and with intent to defraud presents, causes
 1570 to be presented, or prepares with knowledge or belief that it
 1571 will be presented, to or by an insurer, self-insurer, self-
 1572 insurance fund, servicing corporation, purported insurer,
 1573 broker, or any agent thereof, any written statement as part of,
 1574 or in support of, an application for the issuance of, or the
 1575 rating of, any insurance policy, or a claim for payment or other

1576 benefit pursuant to any insurance policy, which the person knows
 1577 to contain materially false information concerning any fact
 1578 material thereto or if the person conceals, for the purpose of
 1579 misleading another, information concerning any fact material
 1580 thereto.

1581 2. Knowingly submits:

1582 a. A false, misleading, or fraudulent application or other
 1583 document when applying for licensure as a health care clinic,
 1584 seeking an exemption from licensure as a health care clinic, or
 1585 demonstrating compliance with part X of chapter 400 with an
 1586 intent to use the license, exemption from licensure, or
 1587 demonstration of compliance to provide services or seek
 1588 reimbursement under a motor vehicle liability insurance policy's
 1589 medical payments coverage ~~the Florida Motor Vehicle No-Fault~~
 1590 ~~Law.~~

1591 b. A claim for payment or other benefit under medical
 1592 payments coverage ~~pursuant to a personal injury protection~~
 1593 ~~insurance policy under the Florida Motor Vehicle No-Fault Law~~ if
 1594 the person knows that the payee knowingly submitted a false,
 1595 misleading, or fraudulent application or other document when
 1596 applying for licensure as a health care clinic, seeking an
 1597 exemption from licensure as a health care clinic, or
 1598 demonstrating compliance with part X of chapter 400.

1599 Section 34. Subsection (1) of section 627.06501, Florida
 1600 Statutes, is amended to read:

1601 627.06501 Insurance discounts for certain persons
 1602 completing driver improvement course.—

1603 (1) Any rate, rating schedule, or rating manual for the
 1604 liability, medical payments ~~personal injury protection~~, and
 1605 collision coverages of a motor vehicle insurance policy filed
 1606 with the office may provide for an appropriate reduction in
 1607 premium charges as to such coverages if ~~when~~ the principal
 1608 operator on the covered vehicle has successfully completed a
 1609 driver improvement course approved and certified by the
 1610 Department of Highway Safety and Motor Vehicles which is
 1611 effective in reducing accident ~~crash~~ or violation rates, or
 1612 both, ~~as determined pursuant to s. 318.1451(5)~~. Any discount,
 1613 not to exceed 10 percent, used by an insurer is presumed to be
 1614 appropriate unless credible data demonstrates otherwise.

1615 Section 35. Subsection (1) of section 627.0652, Florida
 1616 Statutes, is amended to read:

1617 627.0652 Insurance discounts for certain persons
 1618 completing safety course.—

1619 (1) Any rates, rating schedules, or rating manuals for the
 1620 liability, medical payments ~~personal injury protection~~, and
 1621 collision coverages of a motor vehicle insurance policy filed
 1622 with the office must ~~shall~~ provide for an appropriate reduction
 1623 in premium charges as to such coverages if ~~when~~ the principal
 1624 operator on the covered vehicle is an insured 55 years of age or
 1625 older who has successfully completed a motor vehicle accident

1626 prevention course approved by the Department of Highway Safety
1627 and Motor Vehicles. Any discount used by an insurer is presumed
1628 to be appropriate unless credible data demonstrates otherwise.

1629 Section 36. Subsections (1), (3), and (6) of section
1630 627.0653, Florida Statutes, are amended to read:

1631 627.0653 Insurance discounts for specified motor vehicle
1632 equipment.—

1633 (1) Any rates, rating schedules, or rating manuals for the
1634 liability, medical payments ~~personal injury protection~~, and
1635 collision coverages of a motor vehicle insurance policy filed
1636 with the office shall provide a premium discount if the insured
1637 vehicle is equipped with factory-installed, four-wheel antilock
1638 brakes.

1639 (3) Any rates, rating schedules, or rating manuals for
1640 medical payments coverage ~~personal injury protection coverage~~
1641 ~~and medical payments coverage~~, if offered, of a motor vehicle
1642 insurance policy filed with the office shall provide a premium
1643 discount if the insured vehicle is equipped with one or more air
1644 bags which are factory installed.

1645 (6) The Office of Insurance Regulation may approve a
1646 premium discount to any rates, rating schedules, or rating
1647 manuals for the liability, medical payments ~~personal injury~~
1648 ~~protection~~, and collision coverages of a motor vehicle insurance
1649 policy filed with the office if the insured vehicle is equipped
1650 with autonomous driving technology or electronic vehicle

HB 1063

2017

1651 collision avoidance technology that is factory installed or a
1652 retrofitted system and that complies with National Highway
1653 Traffic Safety Administration standards.

1654 Section 37. Section 627.4132, Florida Statutes, is amended
1655 to read:

1656 627.4132 Stacking of coverages prohibited.—If an insured
1657 or named insured is protected by any type of motor vehicle
1658 insurance policy for bodily injury and property damage
1659 liability, ~~personal injury protection, or other coverage,~~ the
1660 policy must ~~shall~~ provide that the insured or named insured is
1661 protected only to the extent of the coverage she or he has on
1662 the vehicle involved in the accident. However, if none of the
1663 insured's or named insured's vehicles are ~~is~~ involved in the
1664 accident, coverage is available only to the extent of coverage
1665 on any one of the vehicles with applicable coverage. Coverage on
1666 any other vehicles may ~~shall~~ not be added to or stacked upon
1667 that coverage. This section does not apply:

1668 (1) To uninsured motorist coverage which is separately
1669 governed by s. 627.727.

1670 (2) To reduce the coverage available by reason of
1671 insurance policies insuring different named insureds.

1672 Section 38. Paragraph (b) of subsection (4) of section
1673 627.7015, Florida Statutes, is amended to read:

1674 627.7015 Alternative procedure for resolution of disputed
1675 property insurance claims.—

1676 (4) The department shall adopt by rule a property
 1677 insurance mediation program to be administered by the department
 1678 or its designee. The department may also adopt special rules
 1679 which are applicable in cases of an emergency within the state.
 1680 The rules shall be modeled after practices and procedures set
 1681 forth in mediation rules of procedure adopted by the Supreme
 1682 Court. The rules shall provide for:

1683 (b) Qualifications, denial of application, suspension,
 1684 revocation of approval, and other penalties for mediators as
 1685 provided in ~~s. 627.745~~ and the Florida Rules for Certified and
 1686 Court-Appointed Mediators.

1687 Section 39. Section 627.7263, Florida Statutes, is amended
 1688 to read:

1689 627.7263 Rental and leasing driver's insurance to be
 1690 primary; exception.—

1691 (1) The valid and collectible liability insurance ~~or~~
 1692 ~~personal injury protection insurance~~ providing coverage for the
 1693 lessor of a motor vehicle for rent or lease is primary unless
 1694 otherwise stated in at least 10-point type on the face of the
 1695 rental or lease agreement. Such insurance is primary for the
 1696 limits of liability in an amount not less than the minimum
 1697 limits described in and ~~personal injury protection coverage as~~
 1698 ~~required by s. 324.021(7) ss. 324.021(7) and 627.736.~~

1699 (2) If the lessee's coverage is to be primary, the rental
 1700 or lease agreement must contain the following language, in at

HB 1063

2017

1701 least 10-point type:

1702 "The valid and collectible liability insurance ~~and personal~~
1703 ~~injury protection insurance~~ of an ~~any~~ authorized rental or
1704 leasing driver is primary for the limits of liability in an
1705 amount not less than the minimum limits described in ~~and~~
1706 ~~personal injury protection coverage required~~ s. 324.021(7) ~~by~~
1707 ~~ss. 324.021(7) and 627.736~~, Florida Statutes."

1708 Section 40. Section 627.7265, Florida Statutes, is created
1709 to read:

1710 627.7265 Definitions.—As used in s. 627.7266, the term:

1711 (1) "Broker" means any person not possessing a license
1712 under chapter 395, chapter 400, chapter 429, chapter 458,
1713 chapter 459, chapter 460, chapter 461, or chapter 641, who
1714 charges or receives compensation for the use of medical
1715 equipment and is not the 100 percent owner or the 100 percent
1716 lessee of such equipment. Such owner or lessee may be an
1717 individual, a corporation, a partnership, or other entity and
1718 its wholly owned affiliates and subsidiaries.

1719 (a) For purposes of this section, the term "lessee" means
1720 a long-term lessee under a capital or operating lease, but does
1721 not include a part-time lessee.

1722 (b) The term "broker" does not include:

1723 1. A hospital or physician management company whose
1724 medical equipment is ancillary to the practices managed.

1725 2. A debt collection agency.

1726 3. An entity that has contracted with the insurer to
1727 obtain a discounted rate for such services.

1728 4. A management company that contracted to provide general
1729 management services for a licensed physician or health care
1730 facility and whose compensation is not materially affected by
1731 the usage or frequency of usage of medical equipment.

1732 5. An entity that is wholly owned by one or more hospitals
1733 or physicians.

1734 6. A person or entity that certifies, upon request of an
1735 insurer, that:

1736 a. It is a clinic licensed under ss. 400.990-400.995;

1737 b. It owns 100 percent of the medical equipment;

1738 c. The owner's part-time lease of medical equipment for
1739 medical payments coverage patients is on a temporary basis and
1740 does not exceed 30 days in a 12-month period, and such lease is
1741 solely for the purposes of necessary repair or maintenance of
1742 the 100-percent-owned medical equipment or pending the arrival
1743 and installation of newly purchased or replacement of the 100-
1744 percent-owned medical equipment, or for patients for whom,
1745 because of physical size or claustrophobia, it is determined by
1746 the medical director or clinical director to be medically
1747 necessary that the test be performed in medical equipment that
1748 is open-style. The 30-day period may be extended for an
1749 additional 60 days for the lease of a magnetic resonance imaging
1750 equipment if the owner certifies that the extension otherwise

1751 complies with this paragraph. The leased medical equipment
1752 cannot be used by patients who are not patients of the
1753 registered clinic for medical treatment of services. A person or
1754 entity who makes a false certification under this sub-
1755 subparagraph commits insurance fraud as defined in s. 817.234.

1756 (2) "Entity wholly owned" means a proprietorship, group
1757 practice, partnership, or corporation that provides health care
1758 services rendered by licensed health care practitioners who are
1759 the business owners of all aspects of the business entity,
1760 including, but not limited to, being the business owners on the
1761 title or lease of the physical facility, filing taxes as the
1762 business owners, being account holders on the entity's bank
1763 account, being listed as the principals on all incorporation
1764 documents, and having ultimate authority over all personnel and
1765 compensation decisions relating to the entity. However, this
1766 definition does not apply to an entity that is wholly owned,
1767 directly or indirectly, by a hospital licensed under chapter
1768 395.

1769 (3) "Hospital" means a facility that was licensed under
1770 chapter 395 at the time medical care was rendered.

1771 (4) "Incident" means services furnished in a hospital by a
1772 physician licensed under chapter 458, chapter 459, chapter 460,
1773 or chapter 461 that is not an integral part of the physician's
1774 professional service. For services not furnished in a hospital,
1775 the term "incident" means an integral part of a covered

1776 physician's service.

1777 (5) "Lawful" or "lawfully" means in substantial compliance
1778 with all relevant applicable criminal, civil, and administrative
1779 requirements of state and federal law related to the provision
1780 of medical care.

1781 (6) "Medical care" means medical service, medical
1782 treatment, medical supply, medical transportation, prescription
1783 drug, and emergency services and care as defined by s. 395.002.

1784 (7) "Medically necessary" means medical care that a
1785 prudent physician or other qualified health care professional
1786 would provide for the purpose of preventing, diagnosing, or
1787 treating an illness, injury, disease, or symptom in a manner
1788 that is:

1789 (a) In accordance with generally accepted standards of
1790 medical practice;

1791 (b) Clinically appropriate in terms of type, frequency,
1792 extent, site, and duration; and

1793 (c) Not primarily for the convenience of the patient,
1794 physician, or other medical provider.

1795 (8) "Motor vehicle" has the same meaning as in s.
1796 320.01(1).

1797 (9) "Newly acquired vehicle" has the same meaning as in s.
1798 324.151(1).

1799 (10) "Properly completed" means providing truthful,
1800 substantially complete accurate responses to requests for

1801 information or statements that is lawfully provided, complies
 1802 with s. 627.7266, or as agreed by the parties.

1803 (11) "Resident relative" has the same meaning as in s.
 1804 324.151(1).

1805 (12) "Temporary substitute vehicle" has the same meaning
 1806 as in s. 324.151(1).

1807 (13) "Unbundled" means an action that submits a billing
 1808 code that is properly billed under one billing code, but that
 1809 has been separated into two or more billing codes, and would
 1810 result in payment greater in amount than would be paid using one
 1811 billing code.

1812 (14) "Upcoded" means an action that submits a billing code
 1813 that would result in payment greater in amount than would be
 1814 paid using a billing code that accurately describes the services
 1815 performed. The term does not include an otherwise lawful bill by
 1816 a magnetic resonance imaging facility, which globally combines
 1817 both technical and professional components, if the amount of the
 1818 global bill is not more than the components if billed
 1819 separately; however, payment of such a bill constitutes payment
 1820 in full for all components of such service.

1821 Section 41. Section 627.7266, Florida Statutes, is created
 1822 to read:

1823 627.7266 Motor vehicle insurance; medical payments
 1824 coverage.—

1825 (1) Required security.—

1826 (a) If a motor vehicle liability insurance policy includes
1827 medical payments coverage, such coverage must protect the named
1828 insured, resident relatives, persons operating the insured motor
1829 vehicle, passengers in the insured motor vehicle, and other
1830 persons struck by the insured motor vehicle and suffering bodily
1831 injury while not an occupant of a self-propelled vehicle, to a
1832 limit of at least \$5,000 per person, for medical expense
1833 incurred due to bodily injury, sickness, or disease arising out
1834 of the ownership, maintenance, or use of a motor vehicle.

1835 (b) Insurers are prohibited from offering any applicant or
1836 policyholder medical payments coverage with a deductible.

1837 (c) Nothing in this section shall be construed to limit
1838 any other coverage made available by an insurer.

1839 (2) Authorized exclusions.—Notwithstanding any other
1840 requirement herein, an insurer may exclude medical payment
1841 benefits:

1842 (a) For injury sustained by the named insured or a
1843 resident relative while occupying another motor vehicle owned by
1844 the named insured and not insured under the policy, unless such
1845 vehicle qualifies as a newly acquired vehicle or temporary
1846 substitute vehicle.

1847 (b) For injury sustained by any person operating the
1848 insured motor vehicle without the express or implied consent of
1849 the insured.

1850 (c) To any injured person, if such person caused injury to

1851 himself or herself intentionally.

1852 (3) Required benefits.—If a policy contains medical
1853 payments coverage, the medical payments coverage shall provide
1854 reimbursement of all reasonable expenses, up to the limit, for
1855 any medically necessary medical care, if such care would be
1856 covered under Medicare Part A, Medicare Part B, or workers'
1857 compensation.

1858 (4) Payment of benefits.—

1859 (a) Benefits due from an insurer under medical payments
1860 coverage shall be primary to any health insurance benefit of a
1861 person injured in a motor vehicle accident, and shall apply to
1862 any coinsurance or deductible amount required by the injured
1863 person's health insurance policy.

1864 (b) Medical payments coverage benefits paid pursuant to
1865 this section are overdue if not paid within 30 days after the
1866 insurer is furnished written notice of the fact of a covered
1867 loss and of the amount of same. However:

1868 1. If written notice of the entire claim is not furnished
1869 to the insurer, any partial amount supported by written notice
1870 is overdue if not paid within 30 days after written notice is
1871 furnished to the insurer. Any part or all of the remainder of
1872 the claim that is subsequently supported by written notice is
1873 overdue if not paid within 30 days after written notice is
1874 furnished to the insurer.

1875 2. If an insurer pays only a portion of a claim or rejects

1876 a claim, the insurer shall provide at the time of the partial
1877 payment or rejection an itemized specification of each item that
1878 the insurer had reduced, omitted, or declined to pay and any
1879 information that the insurer desires the claimant to consider
1880 related to the medical necessity of the denied treatment or to
1881 explain the reasonableness of the reduced charge if this does
1882 not limit the introduction of evidence at trial. The insurer
1883 must also include the name and address of the person to whom the
1884 claimant should respond and a claim number to be referenced in
1885 future correspondence.

1886 3. If an insurer pays only a portion of a claim or rejects
1887 a claim due to an alleged error in the claim, the insurer, at
1888 the time of the partial payment or rejection, shall provide an
1889 itemized specification or explanation of benefits due to the
1890 specified error. Upon receiving the specification or
1891 explanation, the person making the claim, at the person's option
1892 and without waiving any other legal remedy for payment, has 15
1893 days to submit a revised claim, which shall be considered a
1894 timely submission of written notice of a claim.

1895 4. Notwithstanding the fact that written notice has been
1896 furnished to the insurer, payment is not overdue if the insurer
1897 has reasonable proof that the insurer is not responsible for the
1898 payment.

1899 5. For the purpose of calculating the extent to which
1900 benefits are overdue, payment shall be treated as being made on

1901 the date a draft or other valid instrument that is equivalent to
1902 payment was placed in the United States mail in a properly
1903 addressed, postpaid envelope or, if not so posted, on the date
1904 of delivery.

1905 6. This paragraph does not preclude or limit the ability
1906 of the insurer to assert that the claim was unrelated, was not
1907 medically necessary, or was unreasonable or that the amount of
1908 the charge was in excess of that permitted under, or in
1909 violation of, subsection (5). Such assertion may be made at any
1910 time, including after payment of the claim or after the 30-day
1911 period for payment set forth in this paragraph.

1912 (c) All overdue payments bear simple interest at the rate
1913 established under s. 55.03 or the rate established in the
1914 insurance contract, whichever is greater, for the quarter in
1915 which the payment became overdue, calculated from the date the
1916 insurer was furnished with written notice of the amount of
1917 covered loss. Interest is due at the time payment of the overdue
1918 claim is made.

1919 (d) It is a violation of the insurance code for an insurer
1920 to fail to timely provide benefits as required by this section
1921 with such frequency as to constitute a general business
1922 practice.

1923 (e) If two or more insurers are liable for paying medical
1924 payments coverage benefits for the same injury to any one
1925 person, the maximum payable benefits is as specified in

1926 subsection (1), and the insurer paying the benefits is entitled
1927 to recover from each of the other insurers an equitable pro rata
1928 share of the benefits paid and expenses incurred in processing
1929 the claim.

1930 (f) Benefits are not due or payable to or on the behalf of
1931 an insured person if that person has committed, by a material
1932 act or omission, insurance fraud relating to medical payments
1933 coverage under his or her policy, if the fraud is admitted to in
1934 a sworn statement by the insured or established in a court of
1935 competent jurisdiction. Any insurance fraud voids all coverage
1936 arising from the claim related to such fraud under the medical
1937 payments coverage of the insured person who committed the fraud,
1938 irrespective of whether a portion of the insured person's claim
1939 may be legitimate, and any benefits paid before the discovery of
1940 the fraud is recoverable by the insurer in its entirety from the
1941 person who committed insurance fraud. The prevailing party is
1942 entitled to its costs and attorney fees in any action in which
1943 it prevails in an insurer's action to enforce its right of
1944 recovery under this paragraph.

1945 (g) If an insurer has a reasonable belief that a
1946 fraudulent insurance act, for the purposes of s. 626.989 or s.
1947 817.234, has been committed, the insurer shall notify the
1948 claimant, in writing, within 30 days after submission of the
1949 claim that the claim is being investigated for suspected fraud.
1950 Beginning at the end of the initial 30-day period, the insurer

1951 has an additional 60 days to conduct its fraud investigation. No
1952 later than 90 days after the submission of the claim, the
1953 insurer must deny the claim or pay the claim with simple
1954 interest as provided in paragraph (c). Interest shall be
1955 assessed from the day the claim was submitted until the day the
1956 claim is paid. All claims denied for suspected fraudulent
1957 insurance acts shall be reported to the Division of
1958 Investigative and Forensic Services.

1959 (h) An insurer shall create and maintain for each insured
1960 a log of medical payments benefits paid by the insurer on behalf
1961 of the insured. The insurer shall provide to the insured a copy
1962 of the log within 30 days after receiving a request for the log
1963 from the insured.

1964 (5) Charges for care of injured persons.—

1965 (a)1. A physician, hospital, clinic, or other person or
1966 institution lawfully providing medical care to an injured person
1967 for a bodily injury covered by medical payments coverage may
1968 charge the insurer and injured party only a reasonable amount
1969 pursuant to this section for the medical care provided, and the
1970 insurer providing such coverage may pay for such charges
1971 directly to such person or institution lawfully providing such
1972 medical care if the insured receiving such care or his or her
1973 guardian has countersigned the properly completed invoice, bill,
1974 or claim form approved by the office upon which such charges are
1975 to be paid for as having actually been provided, to the best

1976 | knowledge of the insured or his or her guardian. However, such a
 1977 | charge may not exceed the amount the person or institution
 1978 | customarily charges for like medical care. In determining
 1979 | whether a charge for a particular service, treatment, supply,
 1980 | prescription or otherwise is reasonable, consideration may be
 1981 | given to evidence of usual and customary charges and payments
 1982 | accepted by the provider involved in the dispute, reimbursement
 1983 | levels in the community and various federal and state medical
 1984 | fee schedules applicable to motor vehicle and other insurance
 1985 | coverages, and other information relevant to the reasonableness
 1986 | of the reimbursement for the service, treatment, supply or
 1987 | prescription. The insurer may limit reimbursement to 200 percent
 1988 | of Medicare or 200 percent of the maximum reimbursable allowance
 1989 | under workers' compensation, whichever is lower. Medical care
 1990 | that is not reimbursable under Medicare or workers' compensation
 1991 | is not required to be reimbursed by the insurer.

1992 | 2. For purposes of subparagraph 1., the applicable fee
 1993 | schedule or payment limitation under Medicare is the fee
 1994 | schedule or payment limitation in effect on March 1 of the
 1995 | service year in which the medical care and for the area in which
 1996 | medical care is rendered, and the applicable fee schedule or
 1997 | payment limitation applies to medical care rendered during that
 1998 | service year, notwithstanding any subsequent change made to the
 1999 | fee schedule or payment limitation, except that it may not be
 2000 | less than the allowable amount under the applicable schedule of

2001 Medicare Part B for 2007 for medical care subject to Medicare
2002 Part B. For purposes of this subparagraph, the term "service
2003 year" means the period from March 1 through the end of February
2004 of the following year.

2005 3. For purposes of subparagraph 1., the applicable fee
2006 schedule or payment limitation under workers' compensation is
2007 determined under s. 440.13 and rules adopted thereunder which
2008 are in effect at the time such services, supplies, or care is
2009 provided.

2010 4. Subparagraph 1. does not allow the insurer to apply any
2011 limitation on the number of treatments or other utilization
2012 limits that apply under Medicare or workers' compensation. An
2013 insurer that applies the allowable payment limitations of
2014 subparagraph 1. must reimburse a provider who lawfully provided
2015 medical care under the scope of his or her license, regardless
2016 of whether such provider is entitled to reimbursement under
2017 Medicare or workers' compensation due to restrictions or
2018 limitations on the types or discipline of health care providers
2019 who may be reimbursed for particular procedures or procedure
2020 codes. However, subparagraph 1. does not prohibit an insurer
2021 from using the Medicare coding policies and payment
2022 methodologies of the federal Centers for Medicare and Medicaid
2023 Services, including applicable modifiers, to determine the
2024 appropriate amount of reimbursement for medical services,
2025 supplies, or care if the coding policy or payment methodology

2026 does not constitute a utilization limit.

2027 5. If an insurer limits payment as authorized by
2028 subparagraph 1., the person providing such medical care may not
2029 bill or attempt to collect from the insured any amount in excess
2030 of such limits, except for amounts that are not covered by the
2031 insured's medical payments coverage due to the maximum policy
2032 limits.

2033 6. An insurer may limit payment as authorized by this
2034 paragraph only if the insurance policy includes a notice at the
2035 time of issuance or renewal that the insurer may limit payment
2036 pursuant to the schedule of charges specified in this paragraph.
2037 A policy form approved by the office satisfies this requirement.
2038 If a provider submits a charge for an amount less than the
2039 amount allowed under subparagraph 1., the insurer may pay the
2040 amount of the charge submitted.

2041 (b)1. An insurer or insured is not required to pay a claim
2042 or charges:

2043 a. Made by a broker or by a person making a claim on
2044 behalf of a broker;

2045 b. For any service or treatment that was not lawful at the
2046 time rendered;

2047 c. To any person who knowingly submits a false or
2048 misleading statement relating to the claim or charges;

2049 d. With respect to a bill or statement that does not
2050 substantially meet the applicable requirements of paragraph (d);

2051 e. For any treatment or service that is upcoded, or that
2052 is unbundled when such treatment or services should be bundled.
2053 To facilitate prompt payment of lawful services, an insurer may
2054 change codes that it determines have been improperly or
2055 incorrectly upcoded or unbundled and may make payment based on
2056 the changed codes, without affecting the right of the provider
2057 to dispute the change by the insurer, if, before doing so, the
2058 insurer contacts the health care provider and discusses the
2059 reasons for the insurer's change and the health care provider's
2060 reason for the coding, or makes a reasonable good faith effort
2061 to do so, as documented in the insurer's file; and

2062 f. For medical care billed by a physician and not provided
2063 in a hospital unless such care is rendered by the physician or
2064 are incident to his or her professional services and is included
2065 on the physician's bill, including documentation verifying that
2066 the physician is responsible for the medical care that was
2067 rendered and billed.

2068 2. The Department of Health, in consultation with the
2069 appropriate professional licensing boards, shall adopt, by rule,
2070 a list of diagnostic tests deemed not to be medically necessary
2071 for use in the treatment of persons sustaining bodily injury
2072 covered by medical payments benefits under this section. The
2073 list shall be revised from time to time as determined by the
2074 Department of Health, in consultation with the respective
2075 professional licensing boards. Inclusion of a test on the list

2076 shall be based on lack of demonstrated medical value and a level
2077 of general acceptance by the relevant provider community and may
2078 not be dependent for results entirely upon subjective patient
2079 response. Notwithstanding its inclusion on a fee schedule in
2080 this subsection, an insurer or insured is not required to pay
2081 any charges or reimburse claims for an invalid diagnostic test
2082 as determined by the Department of Health.

2083 (c) With respect to any medical care, other than medical
2084 services billed by a hospital or other provider for emergency
2085 services and care as defined in s. 395.002 or inpatient services
2086 rendered at a hospital-owned facility, the statement of charges
2087 must be furnished to the insurer by the provider and may not
2088 include, and the insurer is not required to pay, charges for
2089 treatment or services rendered more than 35 days before the
2090 postmark date or electronic transmission date of the statement,
2091 except for past due amounts previously billed on a timely basis
2092 under this paragraph, and except that, if the provider submits
2093 to the insurer a notice of initiation of treatment within 21
2094 days after its first examination or treatment of the claimant,
2095 the statement may include charges for treatment or services
2096 rendered up to, but not more than, 75 days before the postmark
2097 date of the statement. The injured party is not liable for, and
2098 the provider may not bill the injured party for, charges that
2099 are unpaid because of the provider's failure to comply with this
2100 paragraph. Any agreement requiring the injured person or insured

2101 to pay for such charges is unenforceable.

2102 1. If the insured fails to furnish the provider with the
2103 correct name and address of the insured's medical payments
2104 coverage insurer, the provider has 35 days from the date the
2105 provider obtains the correct information to furnish the insurer
2106 with a statement of the charges. The insurer is not required to
2107 pay for such charges unless the provider includes with the
2108 statement documentary evidence that was provided by the insured
2109 during the 35-day period demonstrating that the provider
2110 reasonably relied on erroneous information from the insured and
2111 either:

2112 a. A denial letter from the incorrect insurer; or
2113 b. Proof of mailing, which may include an affidavit under
2114 penalty of perjury, reflecting timely mailing to the incorrect
2115 address or insurer.

2116 2. For emergency services and care rendered in a hospital
2117 emergency department or for transport and treatment rendered by
2118 an ambulance provider licensed pursuant to part III of chapter
2119 401, the provider is not required to furnish the statement of
2120 charges within the time periods established by this paragraph,
2121 and the insurer is not considered to have been furnished with
2122 notice of the amount of covered loss for purposes of paragraph
2123 (4) (b) until it receives a statement complying with paragraph
2124 (d), or copy thereof, which specifically identifies the place of
2125 service to be a hospital emergency department or an ambulance in

2126 accordance with billing standards recognized by the federal
2127 Centers for Medicare and Medicaid Services.

2128 (d) All statements and bills for medical services rendered
2129 by a physician, hospital, clinic, or other person or institution
2130 shall be submitted to the insurer on a properly completed
2131 Centers for Medicare and Medicaid Services (CMS) 1500 form, UB
2132 92 forms, or any other standard form approved by the office and
2133 adopted by the commission for purposes of this paragraph. All
2134 billings for such services rendered by providers must, to the
2135 extent applicable, comply with the CMS 1500 form instructions,
2136 the American Medical Association CPT Editorial Panel, and the
2137 Healthcare Common Procedure Coding System (HCPCS); and must
2138 follow the Physicians' Current Procedural Terminology (CPT), the
2139 HCPCS in effect for the year in which services are rendered, and
2140 the International Classification of Diseases (ICD) adopted by
2141 the United States Department of Health and Human Services in
2142 effect for the year in which services are rendered. All
2143 providers, other than hospitals, must include on the applicable
2144 claim form the professional license number of the provider in
2145 the line or space provided for "Signature of Physician or
2146 Supplier, Including Degrees or Credentials." In determining
2147 compliance with applicable CPT and HCPCS coding, guidance shall
2148 be provided by the CPT or the HCPCS in effect for the year in
2149 which services were rendered, the Office of the Inspector
2150 General, Physicians Compliance Guidelines, and other

2151 authoritative treatises designated by rule by the Agency for
2152 Health Care Administration. A statement of medical services may
2153 not include charges for medical services of a person or entity
2154 that performed such services without possessing the valid
2155 licenses required to perform such services. For purposes of
2156 paragraph (4) (b), an insurer is not considered to have been
2157 furnished with notice of the amount of covered loss or medical
2158 bills due unless the statements or bills comply with this
2159 paragraph and are properly completed in their entirety as to all
2160 material provisions, with all relevant information being
2161 provided therein.

2162 (e)1. At the initial treatment or service provided, each
2163 physician, other licensed professional, clinic, or other medical
2164 institution providing medical services upon which a claim for
2165 medical payments coverage benefits is based shall require an
2166 insured person, or his or her guardian, to execute a disclosure
2167 and acknowledgment form, which reflects at a minimum that:

2168 a. The insured, or his or her guardian, must countersign
2169 the form attesting to the fact that the services set forth
2170 therein were actually rendered;

2171 b. The insured, or his or her guardian, has both the right
2172 and affirmative duty to confirm that the services were actually
2173 rendered;

2174 c. The insured, or his or her guardian, was not solicited
2175 by any person to seek any services from the medical provider;

2176 d. The physician, other licensed professional, clinic, or
2177 other medical institution rendering services for which payment
2178 is being claimed explained the services to the insured or his or
2179 her guardian; and

2180 e. If the insured notifies the insurer in writing of a
2181 billing error, the insured may be entitled to a certain
2182 percentage of a reduction in the amounts paid by the insured's
2183 motor vehicle insurer.

2184 2. The physician, other licensed professional, clinic, or
2185 other medical institution rendering services for which payment
2186 is being claimed has the affirmative duty to explain the
2187 services rendered to the insured, or his or her guardian, so
2188 that the insured, or his or her guardian, countersigns the form
2189 with informed consent.

2190 3. Countersignature by the insured, or his or her
2191 guardian, is not required for the reading of diagnostic tests or
2192 other services that are of such a nature that they are not
2193 required to be performed in the presence of the insured.

2194 4. The licensed medical professional rendering treatment
2195 for which payment is being claimed must sign, by his or her own
2196 hand, the form complying with this paragraph.

2197 5. The original completed disclosure and acknowledgment
2198 form shall be furnished to the insurer pursuant to paragraph
2199 (4) (b) and may not be electronically furnished.

2200 6. The disclosure and acknowledgment form is not required

2201 for services billed by a provider for emergency services and
2202 care as defined in s. 395.002 rendered in a hospital emergency
2203 department, or for transport and treatment rendered by an
2204 ambulance provider licensed pursuant to part III of chapter 401.

2205 7. The Financial Services Commission shall adopt, by rule,
2206 a standard disclosure and acknowledgment form to be used to
2207 fulfill the requirements of this paragraph.

2208 8. As used in this paragraph, the term "countersign" or
2209 "countersignature" means a second or verifying signature, as on
2210 a previously signed document, and is not satisfied by the
2211 statement "signature on file" or any similar statement.

2212 9. The requirements of this paragraph apply only with
2213 respect to the initial treatment or service of the insured by a
2214 provider. For subsequent treatments or service, the provider
2215 must maintain a patient log signed by the patient, in
2216 chronological order by date of service, which is consistent with
2217 the services being rendered to the patient as claimed. The
2218 requirement to maintain a patient log signed by the patient may
2219 be met by a hospital that maintains medical records as required
2220 by s. 395.3025 and applicable rules and makes such records
2221 available to the insurer upon request.

2222 (f) Upon written notification by any person, an insurer
2223 shall investigate any claim of improper billing by a physician
2224 or other medical provider. The insurer shall determine if the
2225 insured was properly billed for only the medical care that the

2226 insured actually received. If the insurer determines that the
2227 insured has been improperly billed, the insurer shall notify the
2228 insured, the person making the written notification, and the
2229 provider of its findings and reduce the amount of payment to the
2230 provider by the amount determined to be improperly billed. If a
2231 reduction is made due to a written notification by any person,
2232 the insurer shall pay to the person 20 percent of the amount of
2233 the reduction, up to \$500. If the provider is arrested due to
2234 the improper billing, the insurer shall pay to the person 40
2235 percent of the amount of the reduction, up to \$500.

2236 (g) An insurer may not systematically downcode with the
2237 intent to deny reimbursement otherwise due. Such action
2238 constitutes a material misrepresentation under s.
2239 626.9541(1)(i)2.

2240 (h) As provided in s. 400.9905, an entity excluded from
2241 the definition of a clinic shall be deemed a clinic and must be
2242 licensed under part X of chapter 400 in order to receive
2243 reimbursement under medical payments coverage. However, this
2244 licensing requirement does not apply to:

2245 1. An entity wholly owned by a physician licensed under
2246 chapter 458 or chapter 459, or by the physician and the spouse,
2247 parent, child, or sibling of the physician;

2248 2. An entity wholly owned by a dentist licensed under
2249 chapter 466, or by the dentist and the spouse, parent, child, or
2250 sibling of the dentist;

2251 3. An entity wholly owned by a chiropractic physician
 2252 licensed under chapter 460, or by the chiropractic physician and
 2253 the spouse, parent, child, or sibling of the chiropractic
 2254 physician;

2255 4. A hospital or ambulatory surgical center licensed under
 2256 chapter 395;

2257 5. An entity that wholly owns or is wholly owned, directly
 2258 or indirectly, by a hospital or hospitals licensed under chapter
 2259 395;

2260 6. An entity that is a clinical facility affiliated with
 2261 an accredited medical school at which training is provided for
 2262 medical students, residents, or fellows;

2263 7. An entity that is certified under 42 C.F.R. part 485,
 2264 subpart H; or

2265 8. An entity that is owned by a publicly traded
 2266 corporation, either directly or indirectly through its
 2267 subsidiaries, that has \$250 million or more in total annual
 2268 sales of health care services provided by licensed health care
 2269 practitioners if one or more of the persons responsible for the
 2270 operations of the entity are health care practitioners who are
 2271 licensed in this state and who are responsible for supervising
 2272 the business activities of the entity and the entity's
 2273 compliance with state law for purposes of this section.

2274 (6) Notification of insured's rights.-

2275 (a) The commission, by rule, shall adopt a form for the

2276 notification of insureds of their right to receive medical
 2277 payments coverage. Such notice shall include:

2278 1. A description of the benefits provided by medical
 2279 payments coverage, when payments are due, how benefits are
 2280 coordinated with other insurance benefits that the insured may
 2281 have, penalties and interest that may be imposed on insurers for
 2282 failure to make timely payments of benefits, and rights of
 2283 parties regarding disputes as to benefits.

2284 2. The following statement in at least 12-point type:

2285
 2286 "BILLING REQUIREMENTS.—Florida law provides that with respect to
 2287 any medical care, other than certain hospital and emergency
 2288 services, the statement of charges furnished to the insurer by
 2289 the provider may not include, and the insurer and the injured
 2290 party are not required to pay, charges for medical care rendered
 2291 more than 35 days before the postmark date of the statement,
 2292 except for past due amounts previously billed on a timely basis,
 2293 and except that, if the provider submits to the insurer a notice
 2294 of initiation of treatment within 21 days after its first
 2295 examination or treatment of the claimant, the statement may
 2296 include charges for medical care rendered up to, but not more
 2297 than, 75 days before the postmark date of the statement."

2298 3. An advisory informing the insured that pursuant to s.
 2299 626.9892, the Department of Financial Services may pay rewards
 2300 of up to \$25,000 to persons providing information leading to the

2301 arrest and conviction of persons committing crimes investigated
2302 by the Division of Investigative and Forensic Services arising
2303 from violations of s. 440.105, s. 624.15, s. 626.9541, s.
2304 626.989, or s. 817.234.

2305 4. An advisory informing the insured that pursuant to s.
2306 627.7276(5)(e)1., if the insured notifies the insurer of a
2307 billing error, the insured may be entitled to a certain
2308 percentage of a reduction in the amount paid by the insurer.

2309 5. A notice that solicitation of a person injured in a
2310 motor vehicle accident for purposes of filing a claim for bodily
2311 injury liability coverage or tort claims could be a violation of
2312 s. 817.234 or s. 817.505, or rules regulating The Florida Bar
2313 and should be immediately reported to the Division of
2314 Investigative and Forensic Services if such conduct has taken
2315 place.

2316 (b) Each insurer issuing a policy in this state providing
2317 bodily injury liability coverage benefits must mail or deliver
2318 the notice as specified in subsection (1) to the named insured
2319 within 21 days after receiving from the insured notice of an
2320 automobile accident or claim involving personal injury to an
2321 insured who is covered under the policy. The office may allow an
2322 insurer additional time to provide the notice specified in
2323 subsection (1) not to exceed 30 days, upon a showing by the
2324 insurer that an emergency justifies an extension of time.

2325 (c) The notice required by this section does not alter or

2326 modify the terms of the insurance contract or other requirements
 2327 of this section.

2328 (7) Discovery of facts about an injured person; disputes.-

2329 (a) A person making a claim under medical payments
 2330 coverage shall, if requested by the insurer against whom the
 2331 claim has been made, furnish a written report of the history,
 2332 condition, treatment, dates, and costs of such treatment of the
 2333 injured person and why the items identified by the insurer were
 2334 reasonable in amount and medically necessary, together with a
 2335 sworn statement that the medical care rendered was reasonable
 2336 and necessary with respect to the bodily injury sustained and
 2337 identifying which portion of the expenses for such medical care
 2338 was incurred as a result of such bodily injury. If requested by
 2339 the insurer, the person making the claim under medical payments
 2340 coverage shall also produce, and allow the inspection and
 2341 copying of, his or her or its records regarding the history,
 2342 condition, treatment, dates, and costs of such treatment of the
 2343 injured person. Such sworn statement must read as follows:
 2344 "Under penalty of perjury, I declare that I have read the
 2345 foregoing, and the facts alleged are true, to the best of my
 2346 knowledge and belief." A cause of action for violation of the
 2347 physician-patient privilege or invasion of the right of privacy
 2348 may not be brought against any physician, hospital, clinic, or
 2349 other medical institution complying with this section. The
 2350 person requesting such records and such sworn statement shall

2351 pay all reasonable costs connected therewith. If an insurer
2352 makes a written request for documentation or information under
2353 this paragraph within 30 days after having received notice of
2354 the amount of a covered loss under paragraph (4) (a), the amount
2355 or the partial amount that is the subject of the insurer's
2356 inquiry is overdue if the insurer does not pay in accordance
2357 with paragraph (4) (b) or within 10 days after the insurer's
2358 receipt of the requested documentation or information, whichever
2359 occurs later. As used in this paragraph, the term "receipt"
2360 includes, but is not limited to, inspection and copying pursuant
2361 to this paragraph. An insurer that requests documentation or
2362 information pertaining to reasonableness of charges or medical
2363 necessity under this paragraph without a reasonable basis for
2364 such requests as a general business practice is engaging in an
2365 unfair trade practice under the insurance code.

2366 (b) In the event of a dispute regarding an insurer's right
2367 to discovery of facts under this section, the insurer may
2368 petition a court of competent jurisdiction to enter an order
2369 permitting such discovery. The order may be made only on motion
2370 for good cause shown and upon notice to all persons having an
2371 interest, and must specify the time, place, manner, conditions,
2372 and scope of the discovery. In order to protect against
2373 annoyance, embarrassment, or oppression, as justice requires,
2374 the court may enter an order refusing discovery or specifying
2375 conditions of discovery and may order payments of costs and

2376 expenses of the proceeding, including reasonable fees for the
 2377 appearance of attorneys at the proceedings, as justice requires.

2378 (c) The injured person shall be furnished, upon request, a
 2379 copy of all information obtained by the insurer under this
 2380 section, and pay a reasonable charge, if required by the
 2381 insurer.

2382 (d) Notice to an insurer of the existence of a claim may
 2383 not be unreasonably withheld by an insured.

2384 (e) In a dispute between the insured and the insurer, or
 2385 between an assignee of the insured's rights and the insurer,
 2386 upon request, the insurer must notify the insured or the
 2387 assignee that the policy limits under this section have been
 2388 reached within 15 days after the limits have been reached.

2389 (f) In any civil action to recover medical payments
 2390 benefits brought by a claimant pursuant to this section against
 2391 an insurer, all claims related to the same health care provider
 2392 for the same injured person shall be brought in one action,
 2393 unless good cause is shown why such claims should be brought
 2394 separately.

2395 (8) Demand letter.—

2396 (a) As a condition precedent to filing any action for
 2397 benefits under this section, written notice of an intent to
 2398 initiate litigation must be provided to the insurer. Such notice
 2399 may not be sent until the claim is overdue, including any
 2400 additional time the insurer has to pay the claim pursuant to

2401 paragraph (4) (b).

2402 (b) The notice must state that it is a "demand letter
2403 under s. 627.7266" and state with specificity:

2404 1. The name of the insured upon which such benefits are
2405 being sought, including a copy of the assignment giving rights
2406 to the claimant if the claimant is not the insured.

2407 2. The claim number or policy number upon which such claim
2408 was originally submitted to the insurer.

2409 3. To the extent applicable, the name of any medical
2410 provider who rendered to an insured the treatment, services,
2411 accommodations, or supplies that form the basis of such claim;
2412 and an itemized statement specifying each exact amount, the date
2413 of treatment, service, or accommodation, and the type of benefit
2414 claimed to be due. To the extent that the demand involves an
2415 insurer's withdrawal of payment for future treatment not yet
2416 rendered, the claimant shall attach a copy of the insurer's
2417 notice withdrawing such payment and an itemized statement of the
2418 type, frequency, and duration of future treatment claimed to be
2419 reasonable and medically necessary.

2420 (c) Each notice required by this subsection must be
2421 delivered to the insurer by United States certified or
2422 registered mail, return receipt requested. Such postal costs
2423 shall be reimbursed by the insurer if requested by the claimant
2424 in the notice, when the insurer pays the claim. Such notice
2425 must be sent to the person and address specified by the insurer

2426 for the purposes of receiving notices under this subsection.
2427 Each licensed insurer, whether domestic, foreign, or alien,
2428 shall file with the office the name and address of the
2429 designated person to whom notices must be sent which the office
2430 shall make available on its Internet website. The name and
2431 address on file with the office pursuant to s. 624.422 is deemed
2432 the authorized representative to accept notice pursuant to this
2433 subsection if no other designation has been made.

2434 (d) If, within 30 days after receipt of notice by the
2435 insurer, the overdue claim specified in the notice is paid by
2436 the insurer together with applicable interest and a penalty of
2437 10 percent of the overdue amount paid by the insurer, no action
2438 may be brought against the insurer. If the demand involves an
2439 insurer's withdrawal of payment for future treatment not yet
2440 rendered, no action may be brought against the insurer if,
2441 within 30 days after its receipt of the notice, the insurer
2442 mails to the person filing the notice a written statement of the
2443 insurer's agreement to pay for such treatment in accordance with
2444 the notice and to pay a penalty of 10 percent when it pays for
2445 such future treatment in accordance with the requirements of
2446 this section. To the extent the insurer determines not to pay
2447 any amount demanded, the penalty is not payable in any
2448 subsequent action. For purposes of this subsection, payment or
2449 the insurer's agreement shall be treated as being made on the
2450 date a draft or other valid instrument that is equivalent to

2451 payment, or the insurer's written statement of agreement, is
 2452 placed in the United States mail in a properly addressed,
 2453 postpaid envelope, or if not so posted, on the date of delivery.

2454 The insurer is not obligated to pay any attorney fees if the
 2455 insurer pays the claim or mails its agreement to pay for future
 2456 treatment within the time prescribed by this subsection.

2457 (e) The applicable statute of limitation for an action
 2458 under this section shall be tolled for 30 business days by the
 2459 mailing of the notice required by this subsection.

2460 (9) Failure to pay valid claims; unfair or deceptive
 2461 practice.—

2462 (a) An insurer is engaging in a prohibited unfair or
 2463 deceptive practice that is subject to the penalties provided in
 2464 s. 626.9521 and the office has the powers and duties specified
 2465 in ss. 626.9561-626.9601 if the insurer, with such frequency so
 2466 as to indicate a general business practice, fails to pay valid
 2467 claims for medical payments coverage.

2468 (b) Notwithstanding s. 501.212, the Department of Legal
 2469 Affairs may investigate and initiate actions for a violation of
 2470 this subsection, including, but not limited to, the powers and
 2471 duties specified in part II of chapter 501.

2472 (10) Civil action for insurance fraud.—An insurer has a
 2473 cause of action against any person convicted of, or who,
 2474 regardless of adjudication of guilt, pleads guilty or nolo
 2475 contendere to insurance fraud under s. 817.234, patient

2476 brokering under s. 817.505, or kickbacks under s. 456.054,
2477 associated with a claim for medical payments coverage benefits
2478 in accordance with this section. An insurer prevailing in an
2479 action brought under this subsection may recover compensatory,
2480 consequential, and punitive damages subject to the requirements
2481 and limitations of part II of chapter 768, and attorney's fees
2482 and costs incurred in litigating a cause of action against any
2483 person convicted of, or who, regardless of adjudication of
2484 guilt, pleads guilty or nolo contendere to insurance fraud under
2485 s. 817.234, patient brokering under s. 817.505, or kickbacks
2486 under s. 456.054, associated with a claim for medical payments
2487 coverage benefits in accordance with this section.

2488 (11) Fraud advisory notice.—Upon receiving notice of a
2489 claim under this section, an insurer shall provide a notice to
2490 the insured or to a person for whom a claim for reimbursement
2491 for diagnosis or treatment of injuries has been filed, advising
2492 that:

2493 (a) Pursuant to s. 626.9892, the Department of Financial
2494 Services may pay rewards of up to \$25,000 to persons providing
2495 information leading to the arrest and conviction of persons
2496 committing crimes investigated by the Division of Investigative
2497 and Forensic Services arising from violations of s. 440.105, s.
2498 624.15, s. 626.9541, s. 626.989, or s. 817.234.

2499 (b) Solicitation of a person injured in a motor vehicle
2500 crash for purposes of filing medical payments coverage or tort

HB 1063

2017

2501 claims could be a violation of s.817.234 or s. 817.505, or the
2502 rules regulating The Florida Bar, and should be immediately
2503 reported to the Division of Investigative and Forensic Services
2504 if such conduct has taken place.

2505 (12) Nonreimbursable claims.—Claims generated as a result
2506 of activities that are unlawful pursuant to s. 817.505 are not
2507 reimbursable.

2508 (13) Secure electronic data transfer.—Except as otherwise
2509 provided in this section, a notice, documentation, transmission,
2510 or other required or authorized communication may be transmitted
2511 electronically if it is transmitted by secure electronic data
2512 transfer that is consistent with state and federal privacy and
2513 security laws.

2514 (14) Insurer's right of subrogation.—

2515 (a) A medical payments insurer may include a provision in
2516 its policy that permits subrogation for medical payments
2517 benefits it paid, if the expenses giving rise to the payments
2518 were caused by the wrongful act or omission of another. However,
2519 this subrogation right is inferior to the rights of the injured
2520 insured, and will be available only after all the insured's
2521 damages have been recovered and the insured has been made whole.
2522 An insured who obtains a recovery from a third party of the full
2523 amount of the damages sustained, and delivers a release or
2524 satisfaction that impairs a medical payments insurer's
2525 subrogation right, is liable to the insurer for repayment of

2526 medical payments benefits, less any expenses of acquiring the
2527 recovery, including a pro-rated share of attorney's fees and
2528 costs, and will hold that net recovery in trust to be delivered
2529 to the medical payments insurer.

2530 (b) The insurer shall have no right of subrogation for
2531 medical payments coverage benefits paid for the insured if the
2532 tortfeasor who caused the motor vehicle accident is also an
2533 insured under the policy which paid the medical payments
2534 benefits.

2535 Section 42. Subsections (1) and (7) of section 627.727,
2536 Florida Statutes, are amended to read:

2537 627.727 Motor vehicle insurance; uninsured and
2538 underinsured vehicle coverage; insolvent insurer protection.—

2539 (1) No motor vehicle liability insurance policy which
2540 provides bodily injury liability coverage shall be delivered or
2541 issued for delivery in this state with respect to any
2542 specifically insured or identified motor vehicle registered or
2543 principally garaged in this state unless uninsured motor vehicle
2544 coverage is provided therein or supplemental thereto for the
2545 protection of persons insured thereunder who are legally
2546 entitled to recover damages from owners or operators of
2547 uninsured motor vehicles because of bodily injury, sickness, or
2548 disease, including death, resulting therefrom. However, the
2549 coverage required under this section is not applicable if ~~when~~,
2550 or to the extent that, an insured named in the policy makes a

2551 written rejection of the coverage on behalf of all insureds
2552 under the policy. If ~~When~~ a motor vehicle is leased for a ~~period~~
2553 ~~of~~ 1 year or longer and the lessor of such vehicle, by the terms
2554 of the lease contract, provides liability coverage on the leased
2555 vehicle, the lessee of such vehicle shall have the sole
2556 privilege to reject uninsured motorist coverage or to select
2557 lower limits than the bodily injury liability limits, regardless
2558 of whether the lessor is qualified as a self-insurer pursuant to
2559 s. 324.171. Unless an insured, or lessee having the privilege of
2560 rejecting uninsured motorist coverage, requests such coverage or
2561 requests higher uninsured motorist limits in writing, the
2562 coverage or such higher uninsured motorist limits need not be
2563 provided in or supplemental to any other policy which renews,
2564 extends, changes, supersedes, or replaces an existing policy
2565 with the same bodily injury liability limits when an insured or
2566 lessee had rejected the coverage. When an insured or lessee has
2567 initially selected limits of uninsured motorist coverage lower
2568 than her or his bodily injury liability limits, higher limits of
2569 uninsured motorist coverage need not be provided in or
2570 supplemental to any other policy that ~~which~~ renews, extends,
2571 changes, supersedes, or replaces an existing policy with the
2572 same bodily injury liability limits unless an insured requests
2573 higher uninsured motorist coverage in writing. The rejection or
2574 selection of lower limits shall be made on a form approved by
2575 the office. The form must ~~shall~~ fully advise the applicant of

HB 1063

2017

2576 the nature of the coverage and must ~~shall~~ state that the
2577 coverage is equal to bodily injury liability limits unless lower
2578 limits are requested or the coverage is rejected. The heading of
2579 the form shall be in 12-point bold type and shall state: "You
2580 are electing not to purchase certain valuable coverage that
2581 ~~which~~ protects you and your family or you are purchasing
2582 uninsured motorist limits less than your bodily injury liability
2583 limits when you sign this form. Please read carefully." If this
2584 form is signed by a named insured, it will be conclusively
2585 presumed that there was an informed, knowing rejection of
2586 coverage or election of lower limits on behalf of all insureds.
2587 The insurer shall notify the named insured at least annually of
2588 her or his options as to the coverage required by this section.
2589 Such notice must ~~shall~~ be part of, and attached to, the notice
2590 of premium, must ~~shall~~ provide for a means to allow the insured
2591 to request such coverage, and must ~~shall~~ be given in a manner
2592 approved by the office. Receipt of this notice does not
2593 constitute an affirmative waiver of the insured's right to
2594 uninsured motorist coverage if ~~where~~ the insured has not signed
2595 a selection or rejection form. The coverage described under this
2596 section shall be over and above, but shall not duplicate, the
2597 benefits available to an insured under any workers' compensation
2598 law, ~~personal injury protection benefits~~, disability benefits
2599 law, or similar law; under any automobile medical payments
2600 ~~expense~~ coverage; under any motor vehicle liability insurance

2601 coverage; or from the owner or operator of the uninsured motor
 2602 vehicle or any other person or organization jointly or severally
 2603 liable together with such owner or operator for the accident;
 2604 and such coverage shall cover the difference, if any, between
 2605 the sum of such benefits and the damages sustained, up to the
 2606 maximum amount of such coverage provided under this section. The
 2607 amount of coverage available under this section may ~~shall~~ not be
 2608 reduced by a setoff against any coverage, including liability
 2609 insurance. Such coverage does ~~shall~~ not inure directly or
 2610 indirectly to the benefit of any workers' compensation or
 2611 disability benefits carrier or any person or organization
 2612 qualifying as a self-insurer under any workers' compensation or
 2613 disability benefits law or similar law.

2614 (7) The legal liability of an uninsured motorist coverage
 2615 insurer includes ~~does not include~~ damages in tort for pain,
 2616 suffering, disability or physical impairment, disfigurement,
 2617 mental anguish, and inconvenience, and the loss of capacity for
 2618 the enjoyment of life experienced in the past and to be
 2619 experienced in the future ~~unless the injury or disease is~~
 2620 ~~described in one or more of paragraphs (a) - (d) of s. 627.737(2).~~

2621 Section 43. Subsection (1) and paragraphs (a) and (b) of
 2622 subsection (2) of section 627.7275, Florida Statutes, are
 2623 amended to read:

2624 627.7275 Motor vehicle liability.—

2625 (1) A motor vehicle insurance policy ~~providing personal~~

HB 1063

2017

2626 ~~injury protection as set forth in s. 627.736 may not be~~
2627 delivered or issued for delivery in this state for a with
2628 ~~respect to any~~ specifically insured or identified motor vehicle
2629 registered or principally garaged in this state must provide
2630 bodily injury liability coverage and ~~unless the policy also~~
2631 ~~provides coverage for~~ property damage liability coverage as
2632 required under ~~by~~ s. 324.022.

2633 (2) (a) Insurers writing motor vehicle insurance in this
2634 state shall make available, subject to the insurers' usual
2635 underwriting restrictions:

2636 1. Coverage under policies as described in subsection (1)
2637 to an applicant for private passenger motor vehicle insurance
2638 coverage who is seeking the coverage in order to reinstate the
2639 applicant's driving privileges in this state if the driving
2640 privileges were revoked or suspended pursuant to s. 316.646 or
2641 s. 324.0221 due to the failure of the applicant to maintain
2642 required security.

2643 2. Coverage under policies as described in subsection (1),
2644 which also provides bodily injury liability coverage and
2645 property damage liability coverage ~~for bodily injury, death, and~~
2646 ~~property damage arising out of the ownership, maintenance, or~~
2647 ~~use of the motor vehicle~~ in an amount not less than the minimum
2648 limits described in s. 324.021(7) or s. 324.023 and conforms to
2649 the requirements of s. 324.151, to an applicant for private
2650 passenger motor vehicle insurance coverage who is seeking the

HB 1063

2017

2651 coverage in order to reinstate the applicant's driving
2652 privileges in this state after such privileges were revoked or
2653 suspended under s. 316.193 or s. 322.26(2) for driving under the
2654 influence.

2655 (b) The policies described in paragraph (a) shall be
2656 issued for at least 6 months and, as to the minimum coverages
2657 required under this section, may not be canceled by the insured
2658 for any reason or by the insurer after 60 days, during which
2659 period the insurer is completing the underwriting of the policy.
2660 After the insurer has completed underwriting the policy, the
2661 insurer shall notify the Department of Highway Safety and Motor
2662 Vehicles that the policy is in full force and effect and is not
2663 cancelable for the remainder of the policy period. A premium
2664 shall be collected and the coverage is in effect for the 60-day
2665 period during which the insurer is completing the underwriting
2666 of the policy whether or not the person's driver license, motor
2667 vehicle tag, and motor vehicle registration are in effect. Once
2668 the noncancelable provisions of the policy become effective, the
2669 bodily injury liability and property damage liability coverages
2670 ~~for bodily injury, property damage, and personal injury~~
2671 ~~protection~~ may not be reduced below the minimum limits required
2672 under s. 324.021 or s. 324.023 during the policy period.

2673 Section 44. Paragraph (a) of subsection (1) of section
2674 627.728, Florida Statutes, is amended to read:

2675 627.728 Cancellations; nonrenewals.—

2676 (1) As used in this section, the term:

2677 (a) "Policy" means the bodily injury and property damage
 2678 liability, ~~personal injury protection~~, medical payments,
 2679 comprehensive, collision, and uninsured motorist coverage
 2680 portions of a policy of motor vehicle insurance delivered or
 2681 issued for delivery in this state:

2682 1. Insuring a natural person as named insured or one or
 2683 more related individuals who are residents ~~resident~~ of the same
 2684 household; and

2685 2. Insuring only a motor vehicle of the private passenger
 2686 type or station wagon type which is not used as a public or
 2687 livery conveyance for passengers or rented to others; or
 2688 insuring any other four-wheel motor vehicle having a load
 2689 capacity of 1,500 pounds or less which is not used in the
 2690 occupation, profession, or business of the insured other than
 2691 farming; other than any policy issued under an automobile
 2692 insurance assigned risk plan or covering garage, automobile
 2693 sales agency, repair shop, service station, or public parking
 2694 place operation hazards.

2695
 2696 The term "policy" does not include a binder as defined in s.
 2697 627.420 unless the duration of the binder period exceeds 60
 2698 days.

2699 Section 45. Subsection (1), paragraph (a) of subsection
 2700 (5), and subsection (7) of section 627.7295, Florida Statutes,

2701 are amended to read:

2702 627.7295 Motor vehicle insurance contracts.—

2703 (1) As used in this section, the term:

2704 (a) "Policy" means a motor vehicle insurance policy that
 2705 provides bodily injury liability coverage ~~personal injury~~
 2706 ~~protection coverage~~, property damage liability coverage, or
 2707 both.

2708 (b) "Binder" means a binder that provides motor vehicle
 2709 bodily injury liability coverage ~~personal injury protection~~ and
 2710 property damage liability coverage.

2711 (5) (a) A licensed general lines agent may charge a per-
 2712 policy fee up not to ~~exceed~~ \$10 to cover the administrative
 2713 costs of the agent associated with selling the motor vehicle
 2714 insurance policy if the policy covers only bodily injury
 2715 liability coverage ~~personal injury protection coverage as~~
 2716 ~~provided by s. 627.736~~ and property damage liability coverage as
 2717 provided by s. 627.7275 and if no other insurance is sold or
 2718 issued in conjunction with or collateral to the policy. The fee
 2719 is not ~~considered~~ part of the premium.

2720 (7) A policy of private passenger motor vehicle insurance
 2721 or a binder for such a policy may be initially issued in this
 2722 state only if, before the effective date of such binder or
 2723 policy, the insurer or agent has collected ~~from the insured an~~
 2724 ~~amount equal to~~ 2 months' premium from the insured. An insurer,
 2725 agent, or premium finance company may not, directly or

2726 indirectly, take any action that results ~~resulting~~ in the
2727 insured paying ~~having paid~~ from the insured's own funds an
2728 amount less than the 2 months' premium required by this
2729 subsection. This subsection applies without regard to whether
2730 the premium is financed by a premium finance company or is paid
2731 pursuant to a periodic payment plan of an insurer or an
2732 insurance agent.

2733 (a) This subsection does not apply:

2734 1. If an insured or member of the insured's family is
2735 renewing or replacing a policy or a binder for such policy
2736 written by the same insurer or a member of the same insurer
2737 group.

2738 2. ~~To This subsection does not apply to~~ an insurer that
2739 issues private passenger motor vehicle coverage primarily to
2740 active duty or former military personnel or their dependents.

2741 3. ~~If This subsection does not apply if~~ all policy
2742 payments are paid pursuant to a payroll deduction plan, an
2743 automatic electronic funds transfer payment plan from the
2744 policyholder, or a recurring credit card or debit card agreement
2745 with the insurer.

2746 (b) This subsection and subsection (4) do not apply if:

2747 1. All policy payments to an insurer are paid pursuant to
2748 an automatic electronic funds transfer payment plan from an
2749 agent, a managing general agent, or a premium finance company
2750 and if the policy includes, at a minimum, bodily injury

HB 1063

2017

2751 ~~liability and personal injury protection pursuant to ss.~~
2752 ~~627.730-627.7405; motor vehicle property damage liability~~
2753 ~~coverage pursuant to s. 627.7275.; and bodily injury liability~~
2754 ~~in at least the amount of \$10,000 because of bodily injury to,~~
2755 ~~or death of, one person in any one accident and in the amount of~~
2756 ~~\$20,000 because of bodily injury to, or death of, two or more~~
2757 ~~persons in any one accident. This subsection and subsection (4)~~
2758 ~~do not apply if an~~

2759 2. An insured has had a policy in effect for at least 6
2760 months, the insured's agent is terminated by the insurer that
2761 issued the policy, and the insured obtains coverage on the
2762 policy's renewal date with a new company through the terminated
2763 agent.

2764 Section 46. Subsections (1) and (2) of section 627.7415,
2765 Florida Statutes, are amended to read:

2766 627.7415 Commercial motor vehicles; additional liability
2767 insurance coverage.—Commercial motor vehicles, as defined in s.
2768 207.002 or s. 320.01, operated upon the roads and highways of
2769 this state shall be insured with the following minimum levels of
2770 combined bodily liability insurance and property damage
2771 liability insurance in addition to any other insurance
2772 requirements:

2773 (1) One hundred Fifty thousand dollars per occurrence for
2774 a commercial motor vehicle with a gross vehicle weight of ~~26,000~~
2775 ~~pounds or more, but~~ less than 35,000 pounds.

2776 (2) Two ~~One~~ hundred thousand dollars per occurrence for a
 2777 commercial motor vehicle with a gross vehicle weight of 35,000
 2778 pounds or more, but less than 44,000 pounds.

2779
 2780 A violation of this section is a noncriminal traffic infraction,
 2781 punishable as a nonmoving violation as provided in chapter 318.

2782 Section 47. "Florida Motor Vehicle No-Fault Law,"
 2783 consisting of ss. 627.730, 627.731, 627.7311, 627.732, 627.733,
 2784 627.734, 627.736, 627.737, 627.739, 627.7401, 627.7403, and
 2785 627.7405, Florida Statutes, is repealed.

2786 Section 48. Section 627.7407, Florida Statutes, is
 2787 repealed.

2788 Section 49. Section 627.745, Florida Statutes, is
 2789 repealed.

2790 Section 50. Section 627.8405, Florida Statutes, is amended
 2791 to read:

2792 627.8405 Prohibited acts; financing companies.—A ~~No~~
 2793 premium finance company ~~shall~~, in a premium finance agreement or
 2794 other agreement, may not finance the cost of or otherwise
 2795 provide for the collection or remittance of dues, assessments,
 2796 fees, or other periodic payments of money for the cost of:

2797 (1) A membership in an automobile club. The term
 2798 "automobile club" means a legal entity that ~~which~~, in
 2799 consideration of dues, assessments, or periodic payments of
 2800 money, promises its members or subscribers to assist them in

HB 1063

2017

2801 matters relating to the ownership, operation, use, or
2802 maintenance of a motor vehicle; however, the term ~~this~~
2803 ~~definition of "automobile club"~~ does not include persons,
2804 associations, or corporations which are organized and operated
2805 solely for the purpose of conducting, sponsoring, or sanctioning
2806 motor vehicle races, exhibitions, or contests upon racetracks,
2807 or upon racecourses established and marked as such for the
2808 duration of such particular events. The term ~~words~~ "motor
2809 vehicle" used herein have the same meaning as defined in chapter
2810 320.

2811 (2) An accidental death and dismemberment policy sold in
2812 combination with a policy providing only bodily injury liability
2813 coverage ~~personal injury protection~~ and property damage
2814 liability coverage only policy.

2815 (3) Any product not regulated under the provisions of this
2816 insurance code.

2817
2818 This section also applies to premium financing by any insurance
2819 agent or insurance company under part XVI. The commission shall
2820 adopt rules to assure disclosure, at the time of sale, of
2821 coverages financed ~~with personal injury protection and~~ shall
2822 prescribe the form of such disclosure.

2823 Section 51. Subsection (1) of section 627.915, Florida
2824 Statutes, is amended to read:

2825 627.915 Insurer experience reporting.—

2826 (1) Each insurer transacting private passenger automobile
 2827 insurance in this state shall report certain information
 2828 annually to the office. The information will be due on or before
 2829 July 1 of each year. The information shall be divided into the
 2830 following categories: bodily injury liability; property damage
 2831 liability; uninsured motorist; ~~personal injury protection~~
 2832 ~~benefits~~; medical payments; and comprehensive and collision. The
 2833 information given must ~~shall~~ be on direct insurance writings in
 2834 the state alone and must ~~shall~~ represent total limits data. The
 2835 information set forth in paragraphs (a)-(f) is applicable to
 2836 voluntary private passenger and Joint Underwriting Association
 2837 private passenger writings and shall be reported for each of the
 2838 latest 3 calendar-accident years, with an evaluation date of
 2839 March 31 of the current year. The information set forth in
 2840 paragraphs (g)-(j) is applicable to voluntary private passenger
 2841 writings and shall be reported on a calendar-accident year basis
 2842 ultimately seven times at seven different stages of development.

2843 (a) Premiums earned for the latest 3 calendar-accident
 2844 years.

2845 (b) Loss development factors and the historic development
 2846 of those factors.

2847 (c) Policyholder dividends incurred.

2848 (d) Expenses for other acquisition and general expense.

2849 (e) Expenses for agents' commissions and taxes, licenses,
 2850 and fees.

2851 (f) Profit and contingency factors as utilized in the
 2852 insurer's automobile rate filings for the applicable years.

2853 (g) Losses paid.

2854 (h) Losses unpaid.

2855 (i) Loss adjustment expenses paid.

2856 (j) Loss adjustment expenses unpaid.

2857 Section 52. Subsections (2) and (3) of section 628.909,
 2858 Florida Statutes, are amended to read:

2859 628.909 Applicability of other laws.—

2860 (2) The following provisions of the Florida Insurance Code
 2861 apply to captive insurance companies who are not industrial
 2862 insured captive insurance companies to the extent that such
 2863 provisions are not inconsistent with this part:

2864 (a) Chapter 624, except for ss. 624.407, 624.408,
 2865 624.4085, 624.40851, 624.4095, 624.411, 624.425, and 624.426.

2866 (b) Chapter 625, part II.

2867 (c) Chapter 626, part IX.

2868 ~~(d) Sections 627.730-627.7405, when no fault coverage is~~
 2869 ~~provided.~~

2870 (d)(e) Chapter 628.

2871 (3) The following provisions of the Florida Insurance Code
 2872 shall apply to industrial insured captive insurance companies to
 2873 the extent that such provisions are not inconsistent with this
 2874 part:

2875 (a) Chapter 624, except for ss. 624.407, 624.408,

2876 624.4085, 624.40851, 624.4095, 624.411, 624.425, 624.426, and
 2877 624.609(1).

2878 (b) Chapter 625, part II, if the industrial insured
 2879 captive insurance company is incorporated in this state.

2880 (c) Chapter 626, part IX.

2881 ~~(d) Sections 627.730-627.7405 when no-fault coverage is~~
 2882 ~~provided.~~

2883 (d)(e) Chapter 628, except for ss. 628.341, 628.351, and
 2884 628.6018.

2885 Section 53. Subsections (2), (6), and (7) of section
 2886 705.184, Florida Statutes, are amended to read:

2887 705.184 Derelict or abandoned motor vehicles on the
 2888 premises of public-use airports.-

2889 (2) The airport director or the director's designee shall
 2890 contact the Department of Highway Safety and Motor Vehicles to
 2891 notify that department that the airport has possession of the
 2892 abandoned or derelict motor vehicle and to determine the name
 2893 and address of the owner of the motor vehicle, the insurance
 2894 company insuring the motor vehicle, ~~notwithstanding the~~
 2895 ~~provisions of s. 627.736,~~ and any person who has filed a lien on
 2896 the motor vehicle. Within 7 business days after receipt of the
 2897 information, the director or the director's designee shall send
 2898 notice by certified mail, return receipt requested, to the owner
 2899 of the motor vehicle, the insurance company insuring the motor
 2900 vehicle, ~~notwithstanding the provisions of s. 627.736,~~ and all

2901 persons of record claiming a lien against the motor vehicle. The
 2902 notice shall state the fact of possession of the motor vehicle,
 2903 that charges for reasonable towing, storage, and parking fees,
 2904 if any, have accrued and the amount thereof, that a lien as
 2905 provided in subsection (6) will be claimed, that the lien is
 2906 subject to enforcement pursuant to law, that the owner or
 2907 lienholder, if any, has the right to a hearing as set forth in
 2908 subsection (4), and that any motor vehicle which, at the end of
 2909 30 calendar days after receipt of the notice, has not been
 2910 removed from the airport upon payment in full of all accrued
 2911 charges for reasonable towing, storage, and parking fees, if
 2912 any, may be disposed of as provided in s. 705.182(2) (a), (b),
 2913 (d), or (e), including, but not limited to, the motor vehicle
 2914 being sold free of all prior liens after 35 calendar days after
 2915 the time the motor vehicle is stored if any prior liens on the
 2916 motor vehicle are more than 5 years of age or after 50 calendar
 2917 days after the time the motor vehicle is stored if any prior
 2918 liens on the motor vehicle are 5 years of age or less.

2919 (6) The airport pursuant to this section or, if used, a
 2920 licensed independent wrecker company pursuant to s. 713.78 shall
 2921 have a lien on an abandoned or derelict motor vehicle for all
 2922 reasonable towing, storage, and accrued parking fees, if any,
 2923 except that no storage fee shall be charged if the motor vehicle
 2924 is stored less than 6 hours. As a prerequisite to perfecting a
 2925 lien under this section, the airport director or the director's

HB 1063

2017

2926 | designee must serve a notice in accordance with subsection (2)
2927 | on the owner of the motor vehicle, the insurance company
2928 | insuring the motor vehicle, ~~notwithstanding the provisions of s.~~
2929 | ~~627.736,~~ and all persons of record claiming a lien against the
2930 | motor vehicle. If attempts to notify the owner, the insurance
2931 | company insuring the motor vehicle, ~~notwithstanding the~~
2932 | ~~provisions of s. 627.736,~~ or lienholders are not successful, the
2933 | requirement of notice by mail shall be considered met. Serving
2934 | of the notice does not dispense with recording the claim of
2935 | lien.

2936 | (7) (a) For the purpose of perfecting its lien under this
2937 | section, the airport shall record a claim of lien which shall
2938 | state:

2939 | 1. The name and address of the airport.

2940 | 2. The name of the owner of the motor vehicle, the
2941 | insurance company insuring the motor vehicle, ~~notwithstanding~~
2942 | ~~the provisions of s. 627.736,~~ and all persons of record claiming
2943 | a lien against the motor vehicle.

2944 | 3. The costs incurred from reasonable towing, storage, and
2945 | parking fees, if any.

2946 | 4. A description of the motor vehicle sufficient for
2947 | identification.

2948 | (b) The claim of lien shall be signed and sworn to or
2949 | affirmed by the airport director or the director's designee.

2950 | (c) The claim of lien is ~~shall be~~ sufficient if it is in

2951 substantially the following form:
 2952 CLAIM OF LIEN
 2953 State of
 2954 County of
 2955 Before me, the undersigned notary public, personally appeared
 2956, who was duly sworn and says that he/she is the
 2957 of, whose address is.....; and that the
 2958 following described motor vehicle:
 2959 ...(Description of motor vehicle)...
 2960 owned by, whose address is, has accrued
 2961 \$..... in fees for a reasonable tow, for storage, and for
 2962 parking, if applicable; that the lienor served its notice to the
 2963 owner, the insurance company insuring the motor vehicle
 2964 ~~notwithstanding the provisions of s. 627.736, Florida Statutes,~~
 2965 and all persons of record claiming a lien against the motor
 2966 vehicle on, ...(year)...., by.....
 2967 ...(Signature)...
 2968 Sworn to (or affirmed) and subscribed before me this day of
 2969, ...(year)...., by ...(name of person making statement)....
 2970 ...(Signature of Notary Public)... ...(Print, Type, or Stamp
 2971 Commissioned name of Notary Public)...
 2972 Personally Known....OR Produced....as identification.
 2973 However, the negligent inclusion or omission of any information
 2974 in this claim of lien which does not prejudice the owner does
 2975 not constitute a default that operates to defeat an otherwise

2976 | valid lien.

2977 | (d) The claim of lien shall be served on the owner of the
 2978 | motor vehicle, the insurance company insuring the motor vehicle,
 2979 | ~~notwithstanding the provisions of s. 627.736,~~ and all persons of
 2980 | record claiming a lien against the motor vehicle. If attempts to
 2981 | notify the owner, the insurance company insuring the motor
 2982 | vehicle ~~notwithstanding the provisions of s. 627.736,~~ or
 2983 | lienholders are not successful, the requirement of notice by
 2984 | mail shall be considered met. The claim of lien shall be so
 2985 | served before recordation.

2986 | (e) The claim of lien shall be recorded with the clerk of
 2987 | court in the county where the airport is located. The recording
 2988 | of the claim of lien shall be constructive notice to all persons
 2989 | of the contents and effect of such claim. The lien shall attach
 2990 | at the time of recordation and shall take priority as of that
 2991 | time.

2992 | Section 54. Subsection (4) of section 713.78, Florida
 2993 | Statutes, is amended to read:

2994 | 713.78 Liens for recovering, towing, or storing vehicles
 2995 | and vessels.—

2996 | (4) (a) Any person regularly engaged in the business of
 2997 | recovering, towing, or storing vehicles or vessels who comes
 2998 | into possession of a vehicle or vessel pursuant to subsection
 2999 | (2), and who claims a lien for recovery, towing, or storage
 3000 | services, shall give notice to the registered owner, the

3001 insurance company insuring the vehicle ~~notwithstanding the~~
3002 ~~provisions of s. 627.736,~~ and to all persons claiming a lien
3003 thereon, as disclosed by the records in the Department of
3004 Highway Safety and Motor Vehicles or as disclosed by the records
3005 of any corresponding agency in any other state in which the
3006 vehicle is identified through a records check of the National
3007 Motor Vehicle Title Information System or an equivalent
3008 commercially available system as being titled or registered.

3009 (b) If a ~~Whenever any~~ law enforcement agency authorizes
3010 the removal of a vehicle or vessel or if a ~~whenever any~~ towing
3011 service, garage, repair shop, or automotive service, storage, or
3012 parking place notifies the law enforcement agency of possession
3013 of a vehicle or vessel pursuant to s. 715.07(2)(a)2., the law
3014 enforcement agency of the jurisdiction where the vehicle or
3015 vessel is stored shall contact the Department of Highway Safety
3016 and Motor Vehicles, or the appropriate agency of the state of
3017 registration, if known, within 24 hours through the medium of
3018 electronic communications, giving the full description of the
3019 vehicle or vessel. Upon receipt of the full description of the
3020 vehicle or vessel, the department shall search its files to
3021 determine the owner's name, the insurance company insuring the
3022 vehicle or vessel, and whether any person has filed a lien upon
3023 the vehicle or vessel as provided in s. 319.27(2) and (3) and
3024 notify the applicable law enforcement agency within 72 hours.
3025 The person in charge of the towing service, garage, repair shop,

3026 or automotive service, storage, or parking place shall obtain
3027 such information from the applicable law enforcement agency
3028 within 5 days after the date of storage and shall give notice
3029 pursuant to paragraph (a). The department may release the
3030 insurance company information to the requestor ~~notwithstanding~~
3031 ~~the provisions of s. 627.736.~~

3032 (c) Notice by certified mail shall be sent within 7
3033 business days after the date of storage of the vehicle or vessel
3034 to the registered owner, the insurance company insuring the
3035 vehicle ~~notwithstanding the provisions of s. 627.736~~, and all
3036 persons of record claiming a lien against the vehicle or vessel.
3037 The notice must ~~It shall~~ state the fact of possession of the
3038 vehicle or vessel, that a lien as provided in subsection (2) is
3039 claimed, that charges have accrued and the amount thereof, that
3040 the lien is subject to enforcement pursuant to law, ~~and~~ that the
3041 owner or lienholder, if any, has the right to a hearing as set
3042 forth in subsection (5), and that any vehicle or vessel which
3043 remains unclaimed, or for which the charges for recovery,
3044 towing, or storage services remain unpaid, may be sold free of
3045 all prior liens after 35 days if the vehicle or vessel is more
3046 than 3 years of age or after 50 days if the vehicle or vessel is
3047 3 years of age or less.

3048 (d) If attempts to locate the name and address of the
3049 owner or lienholder prove unsuccessful, the towing-storage
3050 operator shall, after 7 working days, excluding Saturday and

3051 Sunday, of the initial tow or storage, notify the public agency
3052 of jurisdiction where the vehicle or vessel is stored in writing
3053 by certified mail or acknowledged hand delivery that the towing-
3054 storage company has been unable to locate the name and address
3055 of the owner or lienholder and a physical search of the vehicle
3056 or vessel has disclosed no ownership information and a good
3057 faith effort has been made, including records checks of the
3058 Department of Highway Safety and Motor Vehicles database and the
3059 National Motor Vehicle Title Information System or an equivalent
3060 commercially available system. As used in ~~For purposes of~~ this
3061 paragraph and subsection (9), the term "good faith effort" means
3062 that the following checks have been performed by the company to
3063 establish prior state of registration and ~~for~~ title:

3064 1. Check of the Department of Highway Safety and Motor
3065 Vehicles database for the owner and any lienholder.

3066 2. Check of the electronic National Motor Vehicle Title
3067 Information System or an equivalent commercially available
3068 system to determine the state of registration when there is not
3069 a current registration record for the vehicle on file with the
3070 Department of Highway Safety and Motor Vehicles.

3071 3. Check of vehicle or vessel for any type of tag, tag
3072 record, temporary tag, or regular tag.

3073 4. Check of law enforcement report for tag number or other
3074 information identifying the vehicle or vessel, if the vehicle or
3075 vessel was towed at the request of a law enforcement officer.

3076 5. Check of trip sheet or tow ticket of tow truck operator
 3077 to see if a tag was on vehicle or vessel at beginning of tow, if
 3078 private tow.

3079 6. If there is no address of the owner on the impound
 3080 report, check of law enforcement report to see if an out-of-
 3081 state address is indicated from driver license information.

3082 7. Check of vehicle or vessel for inspection sticker or
 3083 other stickers and decals that may indicate a state of possible
 3084 registration.

3085 8. Check of the interior of the vehicle or vessel for any
 3086 papers that may be in the glove box, trunk, or other areas for a
 3087 state of registration.

3088 9. Check of vehicle for vehicle identification number.

3089 10. Check of vessel for vessel registration number.

3090 11. Check of vessel hull for a hull identification number
 3091 which should be carved, burned, stamped, embossed, or otherwise
 3092 permanently affixed to the outboard side of the transom or, if
 3093 there is no transom, to the outmost seaboard side at the end of
 3094 the hull that bears the rudder or other steering mechanism.

3095 Section 55. Paragraph (a) of subsection (1), paragraph (c)
 3096 of subsection (7), paragraphs (a), (b), and (c) of subsection
 3097 (8), and subsections (9) and (10) of section 817.234, Florida
 3098 Statutes, are amended to read:

3099 817.234 False and fraudulent insurance claims.-

3100 (1)(a) A person commits insurance fraud punishable as

3101 provided in subsection (11) if that person, with the intent to
3102 injure, defraud, or deceive any insurer:

3103 1. Presents or causes to be presented any written or oral
3104 statement as part of, or in support of, a claim for payment or
3105 other benefit pursuant to an insurance policy or a health
3106 maintenance organization subscriber or provider contract,
3107 knowing that such statement contains ~~any~~ false, incomplete, or
3108 misleading information concerning any fact or thing material to
3109 such claim;

3110 2. Prepares or makes any written or oral statement that is
3111 intended to be presented to an ~~any~~ insurer in connection with,
3112 or in support of, any claim for payment or other benefit
3113 pursuant to an insurance policy or a health maintenance
3114 organization subscriber or provider contract, knowing that such
3115 statement contains any false, incomplete, or misleading
3116 information concerning any fact or thing material to such claim;

3117 3.a. Knowingly presents, causes to be presented, or
3118 prepares or makes with knowledge or belief that it will be
3119 presented to an ~~any~~ insurer, purported insurer, servicing
3120 corporation, insurance broker, or insurance agent, or any
3121 employee or agent thereof, ~~any~~ false, incomplete, or misleading
3122 information or written or oral statement as part of, or in
3123 support of, an application for the issuance of, or the rating
3124 of, any insurance policy, or a health maintenance organization
3125 subscriber or provider contract; or

3126 b. Knowingly conceals information concerning any fact
3127 material to such application; or

3128 4. Knowingly presents, causes to be presented, or prepares
3129 or makes with knowledge or belief that it will be presented to
3130 an ~~any~~ insurer a claim for payment or other benefit under
3131 medical payments coverage in a motor vehicle ~~a personal injury~~
3132 ~~protection~~ insurance policy if the person knows that the payee
3133 knowingly submitted a false, misleading, or fraudulent
3134 application or other document when applying for licensure as a
3135 health care clinic, seeking an exemption from licensure as a
3136 health care clinic, or demonstrating compliance with part X of
3137 chapter 400.

3138 (7)

3139 (c) An insurer, or any person acting at the direction of
3140 or on behalf of an insurer, may not change an opinion in a
3141 mental or physical report ~~prepared under s. 627.736(7)~~ or direct
3142 the physician preparing the report to change such opinion;
3143 however, this provision does not preclude the insurer from
3144 calling to the attention of the physician errors of fact in the
3145 report based upon information in the claim file. Any person who
3146 violates this paragraph commits a felony of the third degree,
3147 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3148 (8) (a) It is unlawful for any person intending to defraud
3149 any other person to solicit or cause to be solicited any
3150 business from a person involved in a motor vehicle accident for

3151 the purpose of making, adjusting, or settling motor vehicle tort
3152 claims or claims for benefits under medical payments coverage in
3153 a motor vehicle insurance policy ~~personal injury protection~~
3154 ~~benefits required by s. 627.736~~. Any person who violates the
3155 provisions of this paragraph commits a felony of the second
3156 degree, punishable as provided in s. 775.082, s. 775.083, or s.
3157 775.084. A person who is convicted of a violation of this
3158 subsection shall be sentenced to a minimum term of imprisonment
3159 of 2 years.

3160 (b) A person may not solicit or cause to be solicited any
3161 business from a person involved in a motor vehicle accident by
3162 any means of communication other than advertising directed to
3163 the public for the purpose of making motor vehicle tort claims
3164 or claims for benefits under medical payments coverage in a
3165 motor vehicle insurance policy ~~personal injury protection~~
3166 ~~benefits required by s. 627.736~~, within 60 days after the
3167 occurrence of the motor vehicle accident. Any person who
3168 violates this paragraph commits a felony of the third degree,
3169 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

3170 (c) A lawyer, health care practitioner as defined in s.
3171 456.001, or owner or medical director of a clinic required to be
3172 licensed pursuant to s. 400.9905 may not, at any time after 60
3173 days have elapsed from the occurrence of a motor vehicle
3174 accident, solicit or cause to be solicited any business from a
3175 person involved in a motor vehicle accident by means of in

3176 person or telephone contact at the person's residence, for the
3177 purpose of making motor vehicle tort claims or claims for
3178 benefits under medical payments coverage in a motor vehicle
3179 policy ~~personal injury protection benefits required by s.~~
3180 ~~627.736~~. Any person who violates this paragraph commits a felony
3181 of the third degree, punishable as provided in s. 775.082, s.
3182 775.083, or s. 775.084.

3183 (9) A person may not organize, plan, or knowingly
3184 participate in an intentional motor vehicle accident ~~crash~~ or a
3185 scheme to create documentation of a motor vehicle accident ~~crash~~
3186 that did not occur for the purpose of making motor vehicle tort
3187 claims or claims for benefits under medical payments coverage in
3188 a motor vehicle insurance policy ~~personal injury protection~~
3189 ~~benefits as required by s. 627.736~~. Any person who violates this
3190 subsection commits a felony of the second degree, punishable as
3191 provided in s. 775.082, s. 775.083, or s. 775.084. A person who
3192 is convicted of a violation of this subsection shall be
3193 sentenced to a minimum term of imprisonment of 2 years.

3194 (10) A licensed health care practitioner who is found
3195 guilty of insurance fraud under this section for an act relating
3196 to a motor vehicle ~~personal injury protection~~ insurance policy
3197 loses his or her license to practice for 5 years and may not
3198 receive reimbursement under medical payments coverage in a motor
3199 vehicle insurance policy ~~for personal injury protection benefits~~
3200 for 10 years.

HB 1063

2017

3201 Section 56. Except as otherwise expressly provided in this
3202 act, this act shall take effect January 1, 2018.