

<b>Tab 1</b>	<b>SB 1766 by Lee; (Compare to H 00461) Motor Vehicle Insurance</b>					
--------------	---	--	--	--	--	--

482232	A	S	WD	BI, Lee	btw L.588 - 589:	04/13 09:15 AM
463472	A	S	WD	BI, Lee	Delete L.3787 - 3788:	04/13 09:15 AM
754868	A	S	L WD	BI, Steube	Delete L.1963 - 2030:	04/13 09:15 AM

<b>Tab 2</b>	<b>SB 1768 by Lee; (Compare to CS/H 01063) Public Records/Medical Payments Coverage and Liability Motor Vehicle Insurance Policies/Department of Highway Safety and Motor Vehicles</b>					
--------------	--	--	--	--	--	--

685848	A	S	RCS	BI, Lee	Delete L.97:	04/13 09:15 AM
--------	---	---	-----	---------	--------------	----------------

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

**BANKING AND INSURANCE**  
**Senator Flores, Chair**  
**Senator Steube, Vice Chair**

**MEETING DATE:** Thursday, April 13, 2017  
**TIME:** 8:00—9:00 a.m.  
**PLACE:** *Toni Jennings Committee Room*, 110 Senate Office Building

**MEMBERS:** Senator Flores, Chair; Senator Steube, Vice Chair; Senators Bracy, Braynon, Farmer, Gainer, Garcia, Mayfield, and Thurston

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>SB 1766</b> Lee (Compare H 461, CS/H 1063, S 156, Linked S 1768)	Motor Vehicle Insurance; Repealing provisions which compose the Florida Motor Vehicle No-Fault Law; requiring certain motor vehicle liability insurance policies to include specified medical payments coverage; providing requirements, procedures, conditions, exclusions, prohibited acts, and construction relating to an insurer's payment of medical payments coverage benefits, etc.  BI 04/03/2017 Not Considered BI 04/13/2017 Favorable AHS AP	Favorable Yeas 8 Nays 1
2	<b>SB 1768</b> Lee (Compare CS/H 1063, Linked S 1766)	Public Records/Medical Payments Coverage and Liability Motor Vehicle Insurance Policies/Department of Highway Safety and Motor Vehicles; Revising an exemption from public records requirements to exempt certain information held by the Department of Highway Safety and Motor Vehicles relating to medical payments coverage and liability motor vehicle insurance policies, rather than relating to personal injury protection and property damage liability insurance policies; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc.  BI 04/03/2017 Not Considered BI 04/13/2017 Fav/CS GO AP	Fav/CS Yeas 9 Nays 0

Other Related Meeting Documents

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

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

Prepared By: The Professional Staff of the Committee on Banking and Insurance

BILL: SB 1766

INTRODUCER: Senator Lee

SUBJECT: Motor Vehicle Insurance

DATE: March 31, 2017      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Knudson	Knudson	BI	<b>Favorable</b>
2.			AHS	
3.			AP	

**I. Summary:**

SB 1766 repeals the Florida Motor Vehicle No-Fault Law (No-Fault Law), which requires every owner and registrant of a motor vehicle in this state to maintain \$10,000 Personal Injury Protection (PIP) coverage. The bill replaces the PIP coverage mandate with a medical payments (MedPay) coverage mandate of \$5,000. Medical payments coverage under the bill provides substantially similar coverage to current PIP medical benefits, except that it provides reimbursement for 100 percent of covered medical losses, whereas PIP reimburses only 80 percent of covered medical losses. The repeal of the No-Fault Law eliminates the limitations on recovering pain and suffering damages from PIP insureds which currently require bodily injury that causes death or significant and permanent injury.

The bill enacts financial responsibility requirements for damages for liability on account of accidents arising out of the ownership, maintenance, or use of a motor vehicle in the amount of:

- Beginning January 1, 2018, through December 31, 2019, \$20,000 for bodily injury (BI) or death of one person in any one crash, and subject to that limit for one person, \$40,000 for bodily injury or death of two or more people in any one crash.
- Beginning January 1, 2020, through December 31, 2021, \$25,000 for bodily injury or death of one person in any one crash, and subject to that limit for one person, \$50,000 for bodily injury or death of two or more people in any one crash.
- Beginning January 1, 2022, and thereafter \$30,000 for bodily injury or death of one person in any one crash, and subject to that limit for one person, \$60,000 for bodily injury or death of two or more people in any one crash.

The bill retains the \$10,000 financial responsibility requirement for property damage.

The repeal of the No-Fault Law and the financial responsibility requirements for bodily injury take effect January 1, 2018.

## II. Present Situation:

### Florida Motor Vehicle No-Fault Law

Under the Florida Motor Vehicle No-Fault Law (No-Fault law)<sup>1</sup>, owners or registrants of motor vehicles are required to purchase personal injury protection (PIP) insurance which compensates persons injured in accidents regardless of fault.<sup>2</sup> Policyholders are indemnified by their own insurer. The intent of no-fault insurance is to provide prompt medical treatment without regard to fault.<sup>3</sup> This coverage also provides policyholders with immunity from liability for economic damages up to the policy limits and limits tort suits for non-economic damages (pain and suffering) below a specified injury threshold.<sup>4</sup> In contrast, under a tort liability system, the negligent party is responsible for damages caused and an accident victim can sue the at-fault driver to recover economic and non-economic damages.

Florida drivers are required to purchase both PIP and property damage liability (PD) insurance.<sup>5</sup> The personal injury protection must provide a minimum benefit of \$10,000 for bodily injury to any one person who sustains an emergency medical condition, which is reduced to a \$2,500 limit for medical benefits if a treating medical provider determines an emergency medical condition did not exist.<sup>6</sup> PIP coverage provides reimbursement for 80 percent of reasonable medical expenses,<sup>7</sup> 60 percent of loss of income,<sup>8</sup> and 100 percent of replacement services,<sup>9</sup> for bodily injury sustained in a motor vehicle accident, without regard to fault. The property damage liability coverage must provide a \$10,000 minimum benefit. A \$5,000 death benefit is also provided.<sup>10</sup>

### PIP Medical Benefits

The 2012 Legislature revised the provision of PIP medical benefits under the Florida Motor Vehicle No-Fault Law, effective January 1, 2013.<sup>11</sup> To receive PIP medical benefits, insureds must receive initial services and care within 14 days after the motor vehicle accident.<sup>12</sup> Initial services and care are only reimbursable if lawfully provided, supervised, ordered or prescribed by a licensed physician, licensed osteopathic physician, licensed chiropractic physician, licensed dentist, or must be rendered in a hospital, a facility that owns or is owned by a hospital, or a licensed emergency transportation and treatment provider.<sup>13</sup> Follow up services and care requires a referral from such providers and must be consistent with the underlying medical diagnosis rendered when the individual received initial services and care.<sup>14</sup>

---

<sup>1</sup> Sections 627.730-627.7405, F.S.

<sup>2</sup> Section 627.733, F.S.

<sup>3</sup> See s. 627.731, F.S.

<sup>4</sup> Section 627.737, F.S.

<sup>5</sup> See ss. 324.022, F.S. and 627.733, F.S.

<sup>6</sup> Section 627.736(1), F.S.

<sup>7</sup> Section 627.736(1)(a), F.S.

<sup>8</sup> Section 627.736(1)(b), F.S.

<sup>9</sup> Id.

<sup>10</sup> Section 627.736(1)(c), F.S.

<sup>11</sup> Chapter 2012-197, L.O.F. (CS/CS/HB 119)

<sup>12</sup> Section 627.736(1)(a), F.S.

<sup>13</sup> Section 627.736(1)(a)1., F.S.

<sup>14</sup> Section 627.736(1)(a)2., F.S.

PIP medical benefits have two different coverage limits, based upon the severity of the medical condition of the individual. An insured may receive up to \$10,000 in medical benefits for services and care if a physician, osteopathic physician, dentist, physician's assistant or advanced registered nurse practitioner has determined that the injured person had an emergency medical condition.<sup>15</sup> An emergency medical condition is defined as a medical condition manifesting itself by acute symptoms of sufficient severity that the absence of immediate medical attention could reasonably be expected to result in serious jeopardy to patient health, serious impairment to bodily functions, or serious dysfunction of a body organ or part.<sup>16</sup> If a provider who rendered treatment or services determines that the insured did not have an emergency medical condition, the PIP medical benefit limit is \$2,500.<sup>17</sup> Massage and acupuncture are not reimbursable, regardless of the type of provider rendering such services.<sup>18</sup>

The \$5,000 PIP death benefit is provided in addition to medical and disability benefits, effective January 1, 2013. Previously, the death benefit was the lesser of the unused PIP benefits, up to a limit of \$5,000.

### **Medical Fee Limits for PIP Reimbursement**

Section 627.736(5), F.S., authorizes insurers to limit reimbursement for benefits payable from PIP coverage to 80 percent of the following schedule of maximum charges:

- For emergency transport and treatment (ambulance and emergency medical technicians), 200 percent of Medicare;
- For emergency services and care provided by a hospital, 75 percent of the hospital's usual and customary charges;
- For emergency services and care and related hospital inpatient services rendered by a physician or dentist, the usual and customary charges in the community;
- For hospital inpatient services, 200 percent of Medicare Part A;
- For hospital outpatient services, 200 percent of Medicare Part A;
- For services supplies and care provided by ambulatory surgical centers and clinical laboratories, 200 percent of Medicare Part B;
- For durable medical equipment, 200 percent of the Durable Medical Equipment Prosthetics/Orthotics and Supplies fee schedule of Medicare Part B;
- For all other medical services, supplies, and care, 200 percent of the participating physicians fee schedule of Medicare Part B; and
- For medical care not reimbursable under Medicare, 80 percent of the workers' compensation fee schedule. If the medical care is not reimbursable under either Medicare or workers' compensation then the insurer is not required to provide reimbursement.

The insurer may not apply any utilization limits that apply under Medicare or workers' compensation.<sup>19</sup> Also, the insurer must reimburse a health care provider rendering services under the scope of his or her license, regardless of any restriction under Medicare that restricts

---

<sup>15</sup> Section 627.736(1)(a)3., F.S.

<sup>16</sup> Section 627.732(16), F.S.

<sup>17</sup> Section 627.736(1)(a)4., F.S.

<sup>18</sup> Section 627.736(1)(a)5., F.S.

<sup>19</sup> Section 627.736(5)(a)3., F.S.

payments to certain types of health care providers for specified procedures. Medical providers are not allowed to bill the insured for any excess amount when an insurer limits payment as authorized in the fee schedule, except for amounts that are not covered due to the PIP coinsurance amount (the 20 percent copayment) or for amounts that exceed maximum policy limits.<sup>20</sup>

CS/CS/HB 119 revised the PIP medical fee schedule in an effort to resolve alleged ambiguities that led to conflicts and litigation between claimants and insurers. The bill clarified the reimbursement levels for care provided by ambulatory surgical centers and clinical laboratories and for durable medical equipment. The bill also provided that Medicare fee schedule in effect on March 1 is applicable for the remainder of that year.<sup>21</sup> Insurers are authorized to use Medicare coding policies and payment methodologies of the Centers for Medicare and Medicare Services, including applicable modifiers, when applying the fee schedule if they do not constitute a utilization limit.<sup>22</sup> The bill also requires insurers to include notice of the fee schedule in their policies.<sup>23</sup>

### **Attorney Fees**

Section 627.428, F.S., requires an insurer to pay the insured's or beneficiary's reasonable attorney fees upon a judgment against the insurer and in favor of the insured or named beneficiary under an insurance policy, and applies to disputes under the No-Fault Law.<sup>24</sup> CS/CS/HB 119 amended provisions related to attorney fee awards in No-Fault disputes. The bill prohibits the application of attorney fee multipliers.<sup>25</sup> The bill also requires that the attorney fees awarded must comply with prevailing professional standards, not overstate or inflate the number of hours reasonably necessary for a case of comparable skill or complexity, and represent legal services that are reasonable to achieve the result obtained.<sup>26</sup> The offer of judgment statute, s. 768.79, F.S., is applied to No-Fault cases, providing statutory authority for insurers to recover fees if the plaintiff's recovery does not exceed the insurer's settlement offer by a statutorily specified percentage.<sup>27</sup>

### **Mandatory Rate Filings and Data Call**

CS/CS/HB 119 required the Office of Insurance Regulation to contract with a consulting firm to calculate the expected savings from the act.<sup>28</sup> The OIR retained Pinnacle Actuarial Resources, Inc., which released an August 20, 2012, report estimating an indicated statewide average savings in PIP premiums of 14 percent to 24.6 percent and an average overall motor vehicle insurance premium reduction ranging from 2.8 percent to 4.9 percent.<sup>29</sup> The report noted that if insurers' current PIP rates were inadequate they would likely offset the savings from

---

<sup>20</sup> Section 627.736(5)(a)4., F.S.

<sup>21</sup> Section 627.736(5)(a)2., F.S.

<sup>22</sup> Section 627.736(5)(a)3., F.S.

<sup>23</sup> Section 627.736(5)(a)5., F.S.

<sup>24</sup> Section 627.736(8), F.S.

<sup>25</sup> See id.

<sup>26</sup> See id.

<sup>27</sup> See id.

<sup>28</sup> Section 15, Ch. 2012-197, L.O.F.

<sup>29</sup> Pinnacle Actuarial Resources, Inc., *Impact Analysis of HB 119*, (Aug. 20, 2012).

CS/CS/HB 119 against their indicated PIP rates. By October 1, 2012, each insurer writing private passenger automobile PIP insurance was required to submit a rate filing providing at least a 10 percent reduction of its PIP rate or explain in detail its reasons for failing to achieve those savings. The Legislature required a second mandatory rate filing due January 1, 2014, that provided at least a 25 percent reduction of the insurer’s July 1, 2012, PIP rate or explained in detail its reasons for failing to achieve those savings.

The Office of Insurance Regulation performed a comprehensive PIP data call on January 1, 2015, that analyzed the impact of the act’s reforms on the PIP insurance market. The top 25 personal lines automobile insurers<sup>30</sup> generally failed to achieve a 25 percent rate reduction and instead reduced PIP rates an average of 13.6 percent.<sup>31</sup> Rates were only reduced an average of 0.1 percent for a full auto insurance premium consisting of PIP, property damage, bodily injury, uninsured motorists, collision and comprehensive coverages.<sup>32</sup> The OIR noted that though the post-HB 119 rate filings were on the low end of 2012 Pinnacle report, prior to CS/CS/HB 119 the statewide average approved rate changes were a 46.3 percent increase in PIP rates, and a 12.9 percent rate increase for full auto insurance.<sup>33</sup>

Rate filings by top 25 auto insurers from January 1, 2015 to January 18, 2017, have reversed the entirety of the rate reductions achieved post HB 119, resulting in average premiums that are higher than those charged before CS/CS/HB 119 became law.<sup>34</sup>

**Changes in Personal Auto Rates for the Top 25 Insurers<sup>35</sup>**

Filing Effective Date Range	PIP	Liability Coverages	All Coverages
Jan. 1, 2011 – Dec. 31, 2012	46.2%	21.1%	13.2%
Jan. 1, 2013 – Dec. 31, 2014	-14.4%	-1.3%	-0.7%
Jan 1, 2015 – Jan. 18, 2017	25.7%	23.4%	21.4%

Generally, motor vehicle insurance rates increased nationally from year-end 2014 to year-end 2016, with the consumer price index for motor vehicle insurance (U.S. city average for urban consumers) increasing 13.1 percent during that time frame.<sup>36</sup> The U.S. Department of Transportation has reported increased driving activity on the nation’s roads, which may be a contributing cause to higher automobile insurance rates.<sup>37</sup> The number of crashes and crashes involving injuries reported to the Florida Department of Highway Safety has increased in recent

<sup>30</sup> On an earned premium basis.

<sup>31</sup> Office of Insurance Regulation, *Report on Review of the Data Call Pursuant to HB 119 – Motor Vehicle Personal Injury Protection (PIP) Insurance*, Pg. 43 (January 1, 2015).

<sup>32</sup> See id.

<sup>33</sup> See id. at pg. 41.

<sup>34</sup> See Office of Insurance Regulation, *Florida Personal Auto Market Presented to The Florida Senate Committee on Banking and Insurance*, pg. 3 (January 24, 2017).

<sup>35</sup> Top 25 insurers determined using 2013 calendar year Florida direct written premium for the personal automobile lines of business.

<sup>36</sup> See fn. 34 at pg. 4.

<sup>37</sup> See fn. 34 at pg. 5.

years, going from 317,355 crashes (140,241 being injury crashes) in 2013 to 395,326 crashes (165,926 being injury crashes) in 2017.<sup>38</sup>

### **Motor Vehicle Insurance Fraud**

Motor vehicle insurance fraud is a long-standing problem in Florida. In November 2005, the Senate Banking and Insurance Committee issued a report entitled Florida's Motor Vehicle No-Fault Law, which was a comprehensive review of Florida's No-Fault system. The report noted that fraud was at an "all-time" high at the time, noting that there were 3,942 PIP fraud referrals received by the Division of Insurance Fraud during the 3 fiscal years beginning in 2002 and ending in 2005. That 3-year amount was nearly doubled by the 7,240 PIP fraud referrals received by the division during the 2014/2015 fiscal year.<sup>39</sup> Given this fact, the following description from the 2005 report is an accurate description of the current situation regarding motor vehicle insurance fraud:

"Florida's no-fault laws are being exploited by sophisticated criminal organizations in schemes that involve health care clinic fraud, staging (faking) car crashes, manufacturing false crash reports, adding occupants to existing crash reports, filing PIP claims using contrived injuries, colluding with dishonest medical treatment providers to fraudulently bill insurance companies for medically unnecessary or non-existent treatments, and patient-brokering..."

Fraudulent claims are a major cost-driver and result in higher motor vehicle insurance premium costs for Florida policyholders. CS/CS/HB 119 contained numerous provisions designed to curtail PIP fraud. A health care practitioner found guilty of insurance fraud under s. 817.234, F.S., loses his or her license for 5 years and may not receive PIP reimbursement for 10 years. Insurers are provided an additional 60 days (90 total) to investigate suspected fraudulent claims, however, an insurer that ultimately pays the claim must also pay an interest penalty.<sup>40</sup> All entities seeking reimbursement under the No-Fault Law must obtain health care clinic licensure except for hospitals, ambulatory surgical centers, entities owned or wholly owned by a hospital, clinical facilities affiliated with an accredited medical school and practices wholly owned by a physician, dentist, or chiropractic physician or by such physicians and specified family members.<sup>41</sup> The bill also defined failure to pay PIP claims within the time limits of s. 627.736(4)(b), F.S., as an unfair and deceptive practice.

### **Financial Responsibility Law**

Florida's financial responsibility law requires proof of ability to pay monetary damages for bodily injury and property damage liability arising out of a motor vehicle accident or serious traffic violation.<sup>42</sup> The owner and operator of a motor vehicle need not demonstrate financial

---

<sup>38</sup> See Florida Department of Highway Safety and Motor Vehicles, Florida Integrated Report Exchange System Quick Statistics at <https://firesportal.com/Pages/Public/QuickStats.aspx> (last accessed on March 31, 2017).

<sup>39</sup> Florida Department of Financial Services, *Division of Insurance Fraud Annual Report Fiscal Year 2014 – 2015*, pg. 28 [http://www.myfloridacfo.com/Division/DIFS/resources/documents/2014-15\\_Annual-Report.pdf](http://www.myfloridacfo.com/Division/DIFS/resources/documents/2014-15_Annual-Report.pdf) (last accessed on March 31, 2017).

<sup>40</sup> Section 627.736(4)(i), F.S.

<sup>41</sup> Section 627.736(5)(h), F.S.

<sup>42</sup> See ch. 324, F.S.



responsibility, i.e., obtain BI and PD coverages, until *after the accident*.<sup>43</sup> At that time, a driver's financial responsibility is proved by the furnishing of an active motor vehicle liability policy. The minimum amounts of liability coverages required are \$10,000 in the event of bodily injury to, or death of, one person, \$20,000 in the event of injury to, or death of, two or more persons, and \$10,000 in the event of damage to property of others, or \$30,000 combined BI/PD policy.<sup>44</sup> The driver's license and registration driver who fails to comply with the security requirement to maintain PIP and PD insurance coverage is subject to suspension.<sup>45</sup> A driver's license and registration may be reinstated by obtaining a liability policy and by paying a fee to the Department of Highway Safety and Motor Vehicles.<sup>46</sup>

### **Review of Auto Insurance Systems**

Two auto insurance systems are utilized throughout the country: the tort system and the no-fault system, with certain variations. Thirty-eight states utilize the tort system in which the at-fault party is liable for damages (medical, economic, property damage and pain and suffering) to other parties in the accident.<sup>47</sup> Parties seeking redress for their injuries do so from the at-fault driver, and must prove negligence on the part of that individual. Nine of the 38 tort states, known as "add-on" states, require auto insurers to offer PIP coverage, but unlike no-fault states, do not restrict the right to pursue a liability claim or lawsuit.<sup>48</sup> Benefits are generally either offered in a PIP coverage form similar to that in no-fault states or as additional wage replacement benefits to medical payments coverage. Three tort add-on states require the purchase of PIP coverage; six do not, but require insurers to offer PIP coverage.

Twelve states (including Florida) have a no-fault system and mandate first party PIP coverage for medical benefits, wage loss, and death benefits, with a limitation on pain and suffering lawsuits.<sup>49</sup> All 12 jurisdictions take different approaches to no-fault legislation in that coverage amounts, deductibles, mandated coverages, tort thresholds for pain and suffering claims and the use of fee schedules or treatment protocols, vary widely among these entities. Each state has either a "verbal" or "monetary" threshold regarding the seriousness of a person's injuries that must be met prior to the filing of a tort suit for noneconomic damages against an at-fault driver. Florida and the four most populous no-fault states use a verbal threshold, which is a statutory description of the severity of an injury. The seven remaining no-fault states have monetary thresholds ranging from \$1,000 to \$5,000. Three of the 12 no-fault states (Kentucky, New Jersey and Pennsylvania) are known as "choice" states and offer consumers a choice between purchasing PIP coverage or traditional tort liability coverage which does not include PIP benefits.

---

<sup>43</sup> Section 324.011, F.S.

<sup>44</sup> Section 324.022, F.S.

<sup>45</sup> Section 324.0221(2), F.S.

<sup>46</sup> Section 324.0221(3), F.S.

<sup>47</sup> Alabama, Alaska, Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Georgia, Idaho, Illinois, Indiana, Iowa, Louisiana, Maine, Maryland, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Mexico, North Carolina, Ohio, Oklahoma, Oregon, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming.

<sup>48</sup> Arkansas, Delaware, Maryland, Oregon, South Dakota, Texas, Virginia, Washington, and Wisconsin.

<sup>49</sup> Hawaii, Kansas, Kentucky, Massachusetts, Michigan, Minnesota, New Jersey, New York, North Dakota, Pennsylvania, and Utah are the other No-Fault states.

**Auto Coverage Requirements**

Forty-eight states require car owners to buy a minimum amount of bodily injury liability (BI) and property damage liability (PD) insurance coverage before they can legally drive their vehicles.<sup>50</sup> Further, all states have financial responsibility laws which require persons involved in auto accidents (or serious traffic infractions) to furnish proof of BI and PD liability insurance. The minimum coverage amounts vary among the states. Florida has a requirement for bodily liability coverage for persons subject to the Financial Responsibility Law of \$10,000 per person, \$20,000 per accident, and \$10,000 in the event of damage to property of others, or a \$30,000 combined (BI/PD) single limit. A Florida driver is not required to maintain BI coverage until he or she is involved in a crash or convicted of certain traffic offenses. The following chart shows the required motor vehicle insurance coverages in each state and the minimum coverages for bodily injury liability coverage and property damage coverage.

**State Motor Vehicle Insurance Requirements**

ST	Ins. Req.	Min. BI/PD	ST	Ins. Req.	Min. BI/PD	ST	Ins. Req.	Min. BI/PD
AL	BI/PD	25/50/25	LA	BI/PD	15/30/25	OH	BI/PD	25/50/25
AK	BI/PD	50/100/25	ME	BI/PD/UM	50/100/25	OK	BI/PD	25/50/25
AZ	BI/PD	15/30/10	MD	BI/PD/PIP/UM	30/60/15	OR	BI/PD/PIP/UM	25/50/25
AR	BI/PD/PIP	25/50/25	MA	BI/PD/PIP/UM	20/40/5	PA	BI/PD/PIP	15/30/5
CA	BI/PD	15/30/5	MI	BI/PD/PIP	20/40/10	RI	BI/PD	25/50/25
CO	BI/PD	25/50/15	MN	BI/PD/PIP/UM	30/60/10	SC	BI/PD/UM	25/50/25
CT	BI/PD/UM	20/40/10	MS	BI/PD	25/50/25	SD	BI/PD/UM	25/50/25
DE	BI/PD/PIP	15/30/10	MO	BI/PD/UM	25/50/10	TN	BI/PD	25/50/15
FL	PIP/PD	10/20/10	MT	BI/PD	25/50/20	TX	BI/PD	30/60/25
GA	BI/PD	25/50/25	NE	BI/PD/UM	25/50/25	UT	BI/PD/PIP	25/65/15
HI	BI/PD/PIP	20/40/10	NV	BI/PD	15/30/10	VT	BI/PD/UM	25/50/10
ID	BI/PD	25/50/15	NH	None	25/50/25	VA	BI/PD/UM	25/50/20
IL	BI/PD/UM	25/50/20	NJ	BI/PD/PIP/UM	15/30/5	WA	BI/PD	25/50/10
IN	BI/PD	25/50/25	NM	BI/PD	25/50/10	WV	BI/PD/UM	25/50/25
IA	BI/PD	20/40/15	NY	BI/PD/PIP/UM	35/50/10	WI	BI/PD/UM	25/50/10
KS	BI/PD/PIP	25/50/25	NC	BI/PD/UM	30/60/25	WY	BI/PD	25/50/20
KY	BI/PD/PIP	25/50/10	ND	BI/PD/PIP/UM	25/50/25	DC	BI/PD/PIP/UM	25/50/10

**Tort-Based Motor Vehicle Insurance Jurisdictions**

In a tort-based liability system, auto injury claimants seek payment from the at-fault driver for both economic and non-economic damages from dollar one. A tort-based system represents a more traditional legal philosophy of holding persons responsible for injuries caused by their

<sup>50</sup> New Hampshire does not require auto insurance if the driver complies with alternative financial responsibility requirements. Florida only requires BI coverage after a driver is involved in a crash.

negligent operation of a vehicle. In theory, this encourages safer operation of automobiles and is generally viewed by the public as consistent with the concept of personal responsibility.

If Florida repeals PIP and mandates BI coverage, it will be important for drivers to appreciate coverage applications under the tort system. For the most common type of accident (with one party at-fault), the at-fault party's BI coverage would pay for injuries to the not at-fault driver, unless the at-fault party was uninsured. If the at-fault party is uninsured (or underinsured), the not at-fault party would utilize his/her UM coverage, if purchased, to pay for injuries sustained in an accident. The at-fault party's PD coverage would compensate for physical damages to the not at-fault driver's vehicle. If the not-at-fault party has Med Pay coverage, it can be used to cover his or her own medical expenses, which could then be subrogated into the BI claim by the not at-fault driver's insurer.

With respect to the at-fault party, that driver's own health insurance, if available, would cover his or her own expenses. Med Pay coverage, if purchased, would pay for his/her medical expenses up to the Med Pay limits, at which point health insurance would apply. In the event the at-fault party did not have health insurance, then the medical costs would not be reimbursed and the individual would be responsible for these costs or such costs would be assumed by the health care provider.

For single car accidents, the driver of the vehicle is presumed to be the at-fault party and therefore will be essentially in the same situation as the at-fault party described above. Occupants in the vehicle can sue the driver of the vehicle for their injuries and are in a similar circumstance to the not at-fault party's situation, previously described. Family members are precluded from suing the driver because of the intra-family exclusion due to the fact that only non-family occupants can pursue a tort claim. Pedestrians who are injured in an accident are in a similar situation as the not at-fault party.

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

#### **Repeal of the Florida Motor Vehicle No-Fault Law**

**Sections 1** repeals ss. 627.730-627.7405, F.S., which constitute the Florida Motor Vehicle No-Fault Law.

Many of the provisions of the No-Fault Law are retained in s. 627.7265, F.S., as detailed below. Two of the most significant provisions not retained are the tort exemption in s. 627.737, F.S., which prohibits tort actions to recover pain and suffering damages from PIP insureds unless death or significant and permanent injury causes such damages, and coverage for disability and death benefits under PIP.

**Section 2** repeals s. 627.7407, F.S., which explained how the Florida Motor Vehicle No-Fault Law was to be applied after being reinstated by ch. 2007-324, Laws of Florida.

## **Mandatory Medical Payments Coverage<sup>51</sup>**

### ***Medical Payments Coverage Benefits***

**Section 3** creates s. 627.7265, F.S., which requires the inclusion of medical payments coverage of at least \$5,000 in each motor vehicle liability insurance policy used to meet the financial responsibility requirements of s. 324.031, F.S.

Medical payments coverage protects the named insured, resident relatives, and all passengers and operators of the insured vehicle. Medical payments coverage must provide reimbursement of medically necessary medical, surgical, X-ray, dental, and rehabilitative services, including prosthetic devices, and ambulance, hospital, and nursing services.

MedPay provides reimbursement of 100 percent of covered medical care and services, which differs from PIP, which provides reimbursement for 80 percent of such services and care. Massage and acupuncture are not reimbursable under MedPay coverage, nor is treatment provided by a licensed massage therapist or licensed acupuncturist. MedPay benefits are generally primary except that worker's compensation benefits are primary and MedPay must reimburse the state Medicaid program for any benefits it pays.

The bill retains within MedPay the PIP requirements for obtaining medical reimbursement. An individual seeking reimbursement must receive initial services and care within 14 days of the motor vehicle accident from specified medical providers.<sup>52</sup> Follow-up services and care are available upon the referral of one of the providers of initial services and care and must be consistent with the underlying medical diagnosis initially rendered. The bill specifies the licensed medical providers and entities that may provide MedPay benefits.

### ***Requirements for Billing and Payment of MedPay Claims***

The insurer must pay MedPay benefits to the insured within 30 days of receiving written notice of a covered loss. An insurer that denies a claim or makes partial payment must provide specifically itemize the treatments and services denied and provide medical necessity information the insurer wants the claimant to consider. If the claim denies a claim because of an alleged claim error, the insurer must provide an itemized explanation of benefits due to the specific error. The claimant has 15 days from receipt of the explanation to submit a revised claim. The bill provides standards for determining when payment is overdue and the interest that is due, and specifies that a general business practice of failing to timely provide benefits violates the Insurance Code. The bill specifies the procedures for an insurer to investigate potential acts of insurance fraud. Insurers are required to maintain a log of medical benefits paid for each insured and to give an insured that requests it, a copy of the log within 30 days of the request.

---

<sup>51</sup> Footnotes in the Effect of Proposed Changes section of this analysis refer to the statutory citations contained in SB 1766, and not current law.

<sup>52</sup> A licensed physician, licensed dentist, licensed chiropractor, by a person or entity licensed under part III of ch. 401, F.S. Initial services and care may also be provided in a licensed hospital, or in a facility that owns or is wholly owned by a licensed hospital.

MedPay generally retains provisions in the PIP statute related to payment of medical claims. These include the grounds for an insurer not paying a claim.<sup>53</sup> Billing requirements are retained, including requiring providers of medical services bill insurers for specified services within certain periods,<sup>54</sup> using specified forms for billing,<sup>55</sup> and directing insurers to investigate claims of improper billing.<sup>56</sup> Disclosure requirements are retained, including that insurers must notify insureds of MedPay rights<sup>57</sup> and medical providers must obtain from an insured a signed disclosure and acknowledgment form.<sup>58</sup> The law continues to require that specified entities obtain health care clinic licensure as a condition of receiving reimbursement, with exceptions.<sup>59</sup>

### ***Medical Fee Schedule for MedPay Reimbursement***

Medical payments coverage reimbursement contains a medical fee schedule that is identical to the fee schedule for PIP. The fee schedule allows insurers to limit reimbursement to the following:

- Emergency services transport and treatment by licensed medical transportation service – 200 percent of Medicare.
- Emergency services and care provided by a licensed hospital – 75 percent of a hospital’s usual and customary charges.
- Emergency services and care and related hospital inpatient services provided by a licensed physician or dentist, if rendered in a facility licensed under ch. 395, F.S., (hospitals, ambulatory surgical centers, and mobile surgical facilities) – usual and customary charges in the community.
- Hospital inpatient services other than emergency services and care – 200 percent of the Medicare Part A prospective payment applicable to the specific hospital providing the inpatient services.
- Hospital outpatient services other than emergency services and care – 200 percent of the Medicare Part A Ambulatory Payment Classification for that particular hospital.
- All other medical supplies, services, and care – 200 percent of the participating physician’s fee schedule of Medicare Part B, with the following exceptions:
  - Services, supplies, and care provided by ambulatory surgical centers and clinical laboratories – 200 percent of Medicare Part B.
  - Durable medical equipment – 200 percent of the Durable Medical Equipment Prosthetics/Orthotics and Supplies fee schedule of Medicare Part B.
  - Services, supplies, or care not reimbursable under Medicare Part B – 80 percent of the maximum reimbursement under workers’ compensation.
  - Services, supplies, or care that are not reimbursable under Medicare or workers’ compensation – no reimbursement.

---

<sup>53</sup> See s. 627.7265(6)(b), F.S.

<sup>54</sup> See s. 627.7265(6)(c), F.S.

<sup>55</sup> See s. 627.7265(6)(d), F.S.

<sup>56</sup> See s. 627.7265(6)(f), F.S.

<sup>57</sup> See s. 627.7265(7), F.S.

<sup>58</sup> See s. 627.7265(6)(e), F.S.

<sup>59</sup> See s. 627.7265(6)(h), F.S.

### ***Claimant Compliance with MedPay Claims Investigations***

The bill retains requirements that claimants comply with the insurer's claim investigation. These include that the claimant comply with the insurer's discovery of facts about an injured person,<sup>60</sup> insureds comply with policy terms, including submitting to an examination under oath,<sup>61</sup> and that an insured is prohibited from unreasonably not notifying the insurer of the existence of a claim.<sup>62</sup> The insured must also submit to a mental or physical examination upon the request of the insurer.<sup>63</sup>

### ***Prohibitions against Certain Acts by Insurers***

Insurers are prohibited from systematically downcoding with intent to deny due reimbursement.<sup>64</sup> Insurers must notify insureds or assignees that policy limits have been reached within 15 days of that occurring.<sup>65</sup> Insurers may not limit the number of treatments or impose other utilization limits that apply under Medicare or workers' compensation. Insurers that engage in a general business practice of not paying valid claims until receiving a demand letter are subject to punishment under s. 626.9521, F.S., of the Unfair Insurance Trade Practices Act.

### ***Insurance Fraud Related to MedPay Claims***

The bill retains provisions in the PIP law related to insurance fraud. An insurer may bring a civil action against any person convicted of insurance fraud associated with a MedPay claim, and may recover punitive damages, attorney fees and costs.<sup>66</sup> Claims generated as a result of patient brokering are not reimbursable.<sup>67</sup> Insurers must send a fraud advisory notice to MedPay claimants informing them of potential monetary rewards for providing information related to insurance fraud and that claimants should report any solicitation of persons injured in a motor vehicle crash for the purpose of filing a MedPay claim or lawsuit to the Department of Financial Services.<sup>68</sup>

### ***Demand Letter and Single Action Requirements***

As under PIP, a prospective plaintiff must provide a written demand letter to the insurer as a condition precedent to filing a legal action.<sup>69</sup> All claims related to the same health care provider for the same injured person, must be brought in one action, unless good cause is shown for bringing multiple claims.<sup>70</sup>

### ***Insurer Subrogation Rights***

The bill allows insurers to subrogate losses paid by MedPay coverage when the wrongful act or omission of another causes such losses. The subrogation right is inferior to the rights of the

---

<sup>60</sup> See s. 627.7265(8)

<sup>61</sup> See s. 627.7265(8)(g)

<sup>62</sup> See s. 627.7265(8)(d)

<sup>63</sup> See s. 627.7265(9)

<sup>64</sup> See s. 627.7265(6)(g), F.S.

<sup>65</sup> See s. 627.7265(8)(e)

<sup>66</sup> See s. 627.7265(14)

<sup>67</sup> See s. 627.7265(16)

<sup>68</sup> See s. 627.7265(15)

<sup>69</sup> See s. 627.7265(11)

<sup>70</sup> See s. 627.7265(12)

injured insured, and is available only after all the insured's damages have been recovered and the insured has been made whole. If an insured recovers from a third party the full amount of damages sustained and delivers a release that impairs the insurer's subrogation right, the insured must repay MedPay benefits, less any expenses of acquiring the recovery, including a prorated share of attorney fees and costs.

### **Mandatory Bodily Injury Liability Coverage Requirements**

Chapter 324, F.S., requires the owners and operators of motor vehicles to demonstrate the ability to respond in damages for liability because of crashes arising out of the use of a motor vehicle.<sup>71</sup> This requirement is usually met through the purchase of motor vehicle insurance.

**Sections 9 and 10** amend s. 324.021, F.S., and s. 324.022, F.S., to require every owner of a motor vehicle registered in this state, and every operator of a motor vehicle licensed in this state to maintain the ability to respond in damages for liability on account of accidents arising out of the ownership, maintenance, or use of a motor vehicle in the amount of:

- Beginning January 1, 2018, through December 31, 2019, \$20,000 for bodily injury or death of one person in any one crash, and subject to that limit for one person, \$40,000 for bodily injury or death of two or more people in any one crash.
- Beginning January 1, 2020, through December 31, 2021, \$25,000 for bodily injury or death of one person in any one crash, and subject to that limit for one person, \$50,000 for bodily injury or death of two or more people in any one crash.
- Beginning January 1, 2022, and thereafter \$30,000 for bodily injury or death of one person in any one crash, and subject to that limit for one person, \$60,000 for bodily injury or death of two or more people in any one crash.

The bill retains current law that requires drivers to maintain the ability to respond in damages of \$10,000 for damage to or the destruction of other's property in a crash.

Financial responsibility may be met through motor vehicle insurance that provides BI and PD coverage in at least the minimum amounts required to meet responsibility or through insurance that provides BI and PD with a combined single coverage limit that equals the BI requirement for more than one person plus the PD requirement. From January 1, 2018, through December 31, 2019, minimum combined single limit will be \$50,000 and will subsequently increase to \$60,000 on January 1, 2020, and \$70,000 on January 1, 2022.

### ***Required Provisions in Motor Vehicle Liability Policies***

Section 324.151, F.S., requires motor vehicle liability insurance policies that serve as proof of financial responsibility to contain certain provisions. Current law requires the policy to explicitly describe or reference all motor vehicles covered by the policy and must insure the owner and any other person using an insured motor vehicle with the express or implied permission of the owner.

---

<sup>71</sup> Owners and operators of motor vehicles may satisfy financial responsibility requirements by alternate means, such as depositing security with the Department of Highway Safety and Motor Vehicles pursuant to s. 324.161, F.S., or qualifying as a self-insurer pursuant to s. 324.171, F.S.

### ***Meeting Financial Responsibility through a Certificate of Self-Insurance***

**Section 11** amends s. 324.031, F.S., which allows owners and operators of motor vehicles that are not for-hire vehicles to prove financial responsibility by providing evidence of holding a motor vehicle liability policy. Two alternatives are also available under the statute. A person may prove financial responsibility by furnishing a certificate of self-insurance that shows a deposit of cash with a financial institution, or furnishing a certificate of self-insurance issued by the DHSMV based on demonstrating sufficient net unencumbered worth.

The bill increases the amounts that must be deposited under both alternatives. **Sections 11 and 15** provide that under s. 324.161, F.S., a certificate of self-insurance must, beginning January 1, 2018, equal the number of vehicles owned times \$50,000, to a maximum of \$200,000. As of January 1, 2020, the deposit must equal the number of vehicles owned times \$60,000, to a maximum of \$240,000. On January 1, 2022, and thereafter, the deposit must equal the number of vehicles owned times \$70,000, to a maximum of \$280,000. Current law requires a deposit equal to the number of vehicles times \$30,000, to a maximum of \$120,000. The bill also requires all persons using this method to maintain excess coverage of the amount deposited. Current law does not require this of natural persons, and requires the excess coverage of a \$10,000/\$20,000/\$10,000 BI/PD or a \$30,000 combined single limit. The bill retains current law that the excess coverage must have limits of at least \$125,000/\$250,000/\$50,000 BI/PD or a \$300,000 BI/PD combined single limit.

**Section 16** provides that a certificate of self-insurance from the DHSMV pursuant to s. 324.171, F.S., may be obtained by a private individual with private passenger vehicles by demonstrating sufficient net unencumbered worth of at least \$80,000 beginning January 1, 2018; at least \$100,000 beginning January 1, 2020; and at least \$120,000 beginning January 1, 2022, and thereafter. Current law requires a net unencumbered worth of at least \$40,000. A person other than a natural person may obtain a certificate of self-insurance from the DHSMV by possessing a net unencumbered worth of at least \$80,000 for the first motor vehicle and \$40,000 for each additional vehicle beginning on January 1, 2018; a net unencumbered worth of at least \$100,000 for the first motor vehicle and \$50,000 for each additional motor vehicle beginning January 1, 2020; and a net unencumbered worth of at least \$120,000 for the first motor vehicle and \$60,000 for each additional motor vehicle. The bill retains current law that authorizes the DHSMV to promulgate by rule an alternative net worth requirement for persons other than natural persons. Current law requires a net unencumbered worth of \$40,000 for the first motor vehicle and \$20,000 for each additional motor vehicle.

### ***Financial Responsibility Requirement for For-Hire Vehicles***

**Section 12** amends s. 324.032, F.S., to apply the financial responsibility requirements for for-hire passenger vehicles to the operators of such vehicles. The bill also retains current law requiring the owner or lessee to meet the financial responsibility requirement.

### ***Reinstatement Fees***

**Section 13** amends s. 324.071, F.S., to create uniform fees for the reinstatement of a suspended license. Under the bill, all reinstatement fees are \$150 for the first reinstatement. A second reinstatement within 3 years of the first requires a \$250 reinstatement fee and a third and subsequent reinstatements require a \$500 fee. These are the current reinstatement fees for failure



to maintain required PIP insurance in s. 324.0221, F.S. Currently, s. 324.071, F.S., requires a lower \$25 fee for failure to maintain BI liability coverage in certain circumstances.

**Section 14** requires that such policies also insure any resident relative of a named insured. The bill also requires the policy to provide liability coverage for motor vehicles not described or referenced in the policy that are newly acquired vehicles and temporary substitute vehicles. The policy may only exclude a motor vehicle that is not described in the policy if it was owned by an insured or furnished for an insured's regular use for more than 30 consecutive days before the event giving rise to the claim and is not a newly acquired vehicle or temporary substitute vehicle.

The bill requires a motor vehicle liability insurance policy issued to a person who does not own a Florida-registered motor vehicle (and who is not already insured as a named insured, resident relative, or permissive operator of an insured motor vehicle) to insure named insureds against loss from liability. The policy need not provide such coverage if the vehicle was furnished for the named insured's regular use and was used by the named insured for more than 30 consecutive days before giving rise to the claim.

The bill requires motor vehicle liability insurance policies to insure all covered persons against loss from legal liability for litigation costs or attorney fees in any civil action defended by the insurer.

The bill also allows motor vehicle insurance policies to exclude liability coverage for a vehicle being used outside the United States or Canada at the time of the accident. Current law allows the policies to limit coverage to motor vehicles used in the United States and Canada.

**Section 28** amends s. 627.7275, F.S., to require all motor vehicle insurance policies delivered or issued in Florida for a motor vehicle registered or principally garaged in this state to include BI liability coverage and PD liability coverage as required by s. 324.022, F.S., and MedPay coverage as required by s. 627.7265, F.S.

#### *Chapter Title and Purpose Statement*

**Section 17** retitles ch. 324, F.S., the "Financial Responsibility Law of 2017" and makes it effective at 12:01 a.m., on January 1, 2018.

**Section 8** amends s. 324.011, F.S., which provides the purpose of ch. 324, F.S., to specify that the chapter applies to the owners of motor vehicles.

#### **Uninsured and Underinsured Motor Vehicle Insurance Coverage**

**Section 27** amends s. 627.727, F.S., which governs uninsured and underinsured motor vehicle insurance coverage. The bill specifies that the liability of an insurer providing UM coverage includes tort damages for pain, suffering, disability or physical impairment, disfigurement, mental anguish, inconvenience, and the loss of capacity for the enjoyment of life experienced in the past and future. Current law specifies that UM coverage does not include damages in tort for pain, suffering, mental anguish, and inconvenience unless the injury or disease is of sufficient severity under s. 627.737(2), F.S.

## Commercial Motor Vehicle Coverage Requirements

**Section 30** amends s. 627.7415, F.S., to increase the minimum levels of combined BI liability and PD liability coverage that commercial motor vehicles must have.

A commercial motor vehicle that weighs 26,000 pounds or more but less than 35,000 pounds must have coverage of no less than \$50,000 per occurrence beginning January 1, 2018; of no less than \$60,000 per occurrence beginning January 1, 2020; and of no less than \$70,000 per occurrence beginning January 1, 2022, and thereafter. Current law requires \$50,000 of coverage.

A commercial motor vehicle that weighs 35,000 pounds or more but less than 44,000 pounds must have coverage of no less than \$100,000 per occurrence beginning January 1, 2018; of no less than \$120,000 per occurrence beginning January 1, 2020; and of no less than \$140,000 per occurrence beginning January 1, 2022, and thereafter. Current law requires \$100,000 of coverage.

## Garage Liability Requirement

**Section 6** amends s. 320.27, F.S., which requires the licensure of motor vehicle dealers. The bill increases the garage liability insurance requirement. The bill requires at least a \$75,000 combined single limit policy that provides BI liability and PD liability coverage, and MedPay coverage. Current law only requires at least \$25,000 in such coverage and also requires PIP.

**Section 7** amends s. 320.771, F.S., and applies the same garage liability insurance requirement to recreational vehicle dealers.

## Technical and Conforming Changes

**Section 4** amends s. 316.646, F.S., which requires drivers to maintain and be able to display proof of security demonstrating compliance with financial responsibility requirements. The bill deletes references to PIP and inserts references to BI liability and PD liability coverages.

**Section 18** revises the definition of a “clinic” contained in s. 400.9905, F.S., of the Health Care Clinic Act, to replace references to PIP coverage and the Florida Motor Vehicle No-Fault Law with references to MedPay or bodily injury coverage.

**Section 19** revises the definition of a “third party benefit” in s. 409.901, F.S., for purposes of Medicaid to refer to MedPay rather than PIP coverage.

**Section 20** amends s. 409.910(11), F.S., to specify that the Agency for Health Care Administration may recoup the total amount of medical assistance provided by Medicaid from motor vehicle insurance medical coverage benefits provided to a Medicaid beneficiary. Current law refers to PIP.

**Section 21** amends s. 456.072, F.S., which allows the Department of Health to discipline licensees for submitting claims for PIP reimbursement when treatment was not rendered or that is intentionally upcoded, to instead refer to MedPay coverage.

**Section 22** amends s. 626.9541(1)(i) and (o), F.S., to reference MedPay coverage rather than PIP in the prohibitions against the unfair insurance trade practice of not timely paying PIP claims, and the unfair practice of increasing premium or cancelling a motor vehicle insurance policy solely because the insured was involved in a motor vehicle accident without having information the insured was substantially at fault.

**Section 23** amends s. 626.989, F.S., to revise the “fraudulent insurance acts” detailed in the section to refer to MedPay coverage rather than the No-Fault Law.

**Sections 24 and 25** amend s. 627.0652 and s. 627.0653, F.S., relating to insurance discounts for motor vehicle coverage, by replacing references to PIP with references to MedPay coverage.

**Section 26** amends s. 627.4132, F.S., which prohibits stacking of motor vehicle coverage other than uninsured motorist coverage if the insured’s vehicle is not involved in the accident, to refer to BI and PD liability coverage rather than PIP.

**Section 29** amends s. 627.7295, F.S., to revise definitions relating to motor vehicle insurance contracts by deleting references to PIP and insert references to BI liability coverage and MedPay coverage.

**Section 31** amends s. 627.8405, F.S., regarding prohibited acts of premium finance companies to replace a reference to a PIP/PD only policy with a reference to a policy that only provides BI/PD/MedPay.

**Section 32** amends s. 817.234, F.S., regarding false and fraudulent insurance claims, to delete references to PIP and replace them with references to MedPay coverage.

**Section 33** amends s. 318.18(2), F.S., regarding nonmoving traffic violations to delete statutory references repealed by the bill.

**Section 34** amends s. 320.0609, F.S., regarding transfer and exchange of registration license plates to eliminate a reference to PIP.

**Sections 35 and 36** amend provisions in ch. 322, F.S., governing drivers licenses, to delete references to the No-Fault law repealed by the bill.

**Section 37** amends s. 324.0221, F.S., which requires insurers to report motor vehicle insurance cancellations to the DHSMV, to remove references to PIP and insert references to MedPay coverage and BI liability coverage.

**Sections 38 and 39** amend s. 400.991, F.S., and s. 400.9935, F.S., of the Health Care Clinic Act to remove references to PIP and the No-Fault Law and insert references to MedPay coverage.

**Section 40** amends s. 456.057, F.S., regarding patient records, to correct a reference.

**Section 41** amends s. 627.06501, F.S., regarding insurance discounts for completing a driver improvement course, to delete a reference to PIP and insert a reference to MedPay.

**Section 42** amends s. 627.7263, F.S., which generally makes rental and leasing driver's insurance primary, to delete references to PIP and insert references to MedPay.

**Section 43** amends s. 627.728, F.S., which governs cancellations of motor vehicle insurance policies, to delete a reference to PIP in the definition of "policy."

**Section 44** amends s. 627.915, F.S., which requires private passenger automobile insurers to annually report information to the office, to remove references to PIP.

**Section 45** amends s. 628.909, F.S., which applies certain provisions of the Insurance Code to captive insurance companies, to delete references to the No-Fault Law.

**Section 46** amends s. 705.184, F.S., which governs derelict or abandoned motor vehicles on the premises of public-use airports, to delete references to s. 627.736, F.S., which is repealed by the bill.

**Section 47** amends s. 713.78, F.S., regarding liens for recovering, towing, or storing vehicles and vessels, to delete references to s. 627.736, F.S., which is repealed by the bill.

**Section 48** amends s. 324.051, F.S., regarding crash reports, to refer to motor vehicle liability policies rather than automobile liability policies.

**Section 49** amends s. 324.091, F.S., which requires owners and operators involved in a crash or conviction case to furnish evidence of liability insurance, by deleting references to automobile liability policy while retaining references to a motor vehicle liability policy.

**Section 50** corrects cross references in s. 324.023, F.S., which requires drivers who plead guilty or nolo contendere to a charge of driving under the influence to meet additional liability insurance requirements.

### **Application of Bill and Effective Date**

**Section 51** applies financial responsibility and medical payments coverage requirements created by the bill as follows:

- Effective January 1, 2018:
  - All Motor vehicle insurance policies issued or renewed may not include PIP.
  - All persons must maintain at least minimum security requirements, which is the ability to respond in damages for liability because of motor vehicle crashes in the amounts required by s. 324.021, F.S. (See Section 9)
  - Any new or renewal motor vehicle insurance policy delivered or issued in this state must provide coverage that complies with minimum security requirements.
  - New and renewal motor vehicle insurance policies used to prove financial responsibility must also provide medical payments coverage.
  - An existing motor vehicle insurance policy that provide PIP and property damage liability coverage but do not meet the new bodily injury liability requirements is deemed to meet the bodily injury and MedPay requirements until the policy is renewed, nonrenewed or cancelled on or after January 1, 2018.

- Insurers must allow each insured who has a policy providing PIP which is effective before January 1, 2018, and whose policy does not meet minimum security requirements, to eliminate PIP coverage and obtain coverage providing minimum security requirements effective on or after January 1, 2018. Insurers may not impose additional fees solely to change coverage, but may charge an additional premium that is actuarially indicated.
- By September 1, 2017, each motor vehicle insurer shall provide notice that:
  - The Florida Motor Vehicle No-Fault Law is repealed effective January 1, 2018, and that PIP coverage is no longer required or available for purchase.
  - That effective January 1, 2018, a person subject to the financial security requirements of s. 324.022, F.S., must maintain medical payments coverage and applicable minimum security requirements for bodily injury liability and property damage liability.
  - That a policyholder may obtain underinsured motorist coverage, which provides benefits to a policyholder entitled to recover bodily injury damages resulting from a motor vehicle accident with an uninsured or underinsured owner or operator of a motor vehicle.
  - That a policy effective before January 1, 2018, is deemed to meet minimum security requirements until it is renewed, nonrenewed, or canceled.
  - That a policyholder may change coverages to eliminate PIP protection and obtain coverage providing minimum security requirements.
  - That if the policyholder has any questions, he or she should contact the person named at the telephone number provided in the notice.

This section is effective January 1, 2018.

**Section 52** requires all suspensions for failure to maintain required security as required by law in effect before January 1, 2018, remain in full force and effect after the effective date of this act. A driver may reinstate a suspended drivers license or registration as provided under s. 324.0221, F.S.

**Section 53** directs the Division of Law Revision and Information to replace “the effective date of this act” with the date the act becomes a law.

**Section 54** provides that except as otherwise expressly provided in the act and this section, which take effect upon this act becoming a law, the act is effective January 1, 2018.

#### IV. Constitutional Issues:

##### A. Municipality/County Mandates Restrictions:

None.

##### B. Public Records/Open Meetings Issues:

None.

##### C. Trust Funds Restrictions:

None.

## V. Fiscal Impact Statement:

### A. Tax/Fee Issues:

Bodily injury coverage is not a required coverage under Florida law unless a person is involved in a certain accidents causing bodily injury, convicted of certain offenses, or is otherwise required to maintain BI liability coverage in statute. Failure to maintain BI coverage, when required, can result in the suspension of a license or registration. The reinstatement fee under s. 324.071, F.S., for such suspension under current law is \$15.

Personal Injury Protection and property damage liability coverage are required under Florida law, and failure to maintain them is grounds for the suspension of a license or registration. The reinstatement fee for such suspensions under s. 324.0221, F.S., is \$150 for a first reinstatement, while second and subsequent reinstatements within 3 years of the first reinstatement require fees of \$250 and \$500, respectively.

The bill applies the reinstatement fees for failure to maintain mandatory coverage under s. 324.0221, F.S., to the failure to maintain BI liability coverage because the bill creates a financial responsibility requirement for bodily injury. See the “Government Sector Impact” section below additional information.

### B. Private Sector Impact:

The report *Florida Office of Insurance Regulation: Review of Personal Injury Protection Legislation* provides actuarial estimates of the savings expected from repealing the No-Fault Law.<sup>72</sup> The charts in this section are taken from data in Appendix 2 and Appendix 3 of the report.

The following chart provides the statewide average premium for each auto insurance coverage under current law and premium estimates if the No-Fault Law is repealed and replaced with mandatory financial responsibility for bodily injury and mandatory medical payments coverage.

---

<sup>72</sup> Office of Insurance Regulation, *Review of Personal Injury Protection Legislation*, (Sept. 13, 2016). Available at <http://www.floir.com/siteDocuments/FLOIRReviewPIP20160913.pdf> (last accessed March 31, 2017).

**Average Annual Statewide Premium Paid by Coverage and  
Estimates of Average Statewide Premium<sup>73</sup>**

Coverage	Current Law 10/20/10 PIP/PD	Repeal PIP & Mandate 15/30/5 BI/MedPay	Repeal PIP & Mandate 25/50/5 BI/MedPay
Bodily Injury	\$329.22	\$462.32	\$469.37
PIP/MedPay	\$219.10	\$72.30	\$72.30
Uninsured Motorist	\$111.60	\$122.43	\$122.43
Property Damage	\$180.06	\$180.06	\$180.06
Comprehensive	\$102.03	\$102.03	\$102.03
Collision	\$267.50	\$267.50	\$267.50
<b>TOTAL</b>	<b>\$1,209.51</b>	<b>\$1,206.94</b>	<b>\$1213.69</b>

The chart below provides select average countywide estimates of the change in what policyholders will annually pay in premiums for certain coverages if the No-Fault law is repealed and replaced with a mandate to carry \$5,000 in MedPay insurance coverage and a financial responsibility requirement for bodily injury. The 2016 PIP Study indicates that replacing the \$10,000 PIP requirement with a \$5,000 MedPay coverage requirement will lower the premium paid for first-party medical motor vehicle insurance coverage. This reduction is offset by increases in premium for bodily injury liability coverage and uninsured motorist’s coverage.

**Average Change in Annual Premiums by Coverage if the No-Fault Law is Repealed  
and Financial Responsibility for Bodily Injury Liability and Medical Payments  
Coverage is Mandatory**

County	Avg. MedPay 5	Avg. BI 15/30	Avg. BI 25/50	Avg. UM
Alachua	- \$84.83	+ \$101.03	+ \$106.15	+ \$8.88
Brevard	- \$94.07	+ \$113.84	+ \$119.60	+ \$9.66
Desoto	- \$121.87	+ \$107.98	+ \$113.44	+ \$9.30
Duval	- \$117.42	+ \$124.26	+ \$130.55	+ \$9.39
Escambia	- \$96.47	+ \$101.05	+ \$106.17	+ \$8.30
Hillsborough	- \$177.01	+ \$162.66	+ \$170.89	+ \$12.15
Leon	- \$82.88	+ \$102.79	+ \$107.99	+ \$8.36
Miami/Dade	- \$279.50	+ \$138.64	+ \$145.65	+ \$12.77
Orange	- \$161.52	+ \$131.99	+ \$138.67	+ \$9.94

<sup>73</sup> The header on the chart details the current minimum mandatory coverage limit for PIP/PD and possible minimum mandatory coverage limits for BI/MedPay. The statewide average premiums are for the coverages at any policy limit, not the minimum required limits under state law.

The 2016 PIP Study estimates that health insurers will cover approximately \$469.7 million of current PIP loss if No-Fault is repealed.<sup>74</sup> Health care providers will cover approximately \$32.8 million of current PIP losses. Injured claimants will cover approximately \$82.9 million in current PIP losses.

**C. Government Sector Impact:**

The Department of Highway Safety and Motor Vehicles (DHSMV) estimates that the application of the reinstatement fees in s. 324.0221, F.S., and screening new vehicles, including for-hire and heavy trucks, for compliance with financial responsibility will result in the DHSMV receiving revenues from reinstatement fees. The DHSMV provided the following estimate ranges of possible increased revenue to the Highway Safety Operating Trust Fund (HSOTF) and general revenue (GR) for the next 4 fiscal years<sup>75</sup>:

- Fiscal Year 2018/2019
  - HSOTF – \$5,078,383 to \$8,512,621
  - GR – \$406,271 to \$681,010
- Fiscal Year 2019/2020
  - HSOTF – \$9,814,460 to \$16,315,614
  - GR – \$785,157 to \$1,305,249
- Fiscal Year 2020/2021
  - HSOTF – \$3,760,234 to \$10,309,367
  - GR – \$300,819 to \$824,749
- Fiscal Year 2021/2022
  - HSOTF – \$3,787,152 to \$10,383,144
  - GR – \$302,972 to \$830,652

The DHSMV estimates that 7,869 hours will be required for programming and implementation. These hours are estimated to have a fiscal impact to the DSHMV of \$553,935 in FTE and contracted resources. (Development: 604 hours @ \$40/hour + 4,642 hours @ \$100/hour and Testing: 2,623 hours @ \$25/hour).<sup>76</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 316.646, 320.02, 320.27, 320.771, 324.011, 324.021, 324.022, 324.031, 324.032, 324.071, 324.151, 324.161,

<sup>74</sup>Office of Insurance Regulation, *Florida Office of Insurance Regulation Review of Personal Injury Protection Legislation*, pg. 6 (September 13, 2016).

<sup>75</sup> Florida Department of Highway Safety and Motor Vehicles, *2017 Agency Legislative Bill Analysis SB 1766*, at pg. 10 (March 31, 2017).

<sup>76</sup> See fn. 75 at pg. 10.



324.171, 324.251, 400.9905, 409.901, 409.910, 456.072, 626.9541, 626.989, 627.0652, 627.0653, 627.4132, 627.727, 627.7275, 627.7295, 627.7415, 627.8405, 817.234, 318.18, 320.0609, 322.251, 322.34, 324.0221, 400.991, 400.9935, 456.057, 627.06501, 627.7263, 627.728, 627.915, 628.909, 705.184, 713.78, 324.051, 324.091, 324.023.

This bill creates section 627.7265 of the Florida Statutes.

This bill repeals the following sections of the Florida Statutes: 627.730, 627.731, 627.7311, 627.732, 627.733, 627.734, 627.736, 627.737, 627.739, 627.7401, 627.7403, 627.7405, 627.7407.

**IX. Additional Information:**

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

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

None.

**B. Amendments:**

None.



482232

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/13/2017	.	
	.	
	.	
	.	

---

The Committee on Banking and Insurance (Lee) recommended the following:

**Senate Amendment**

Between lines 588 and 589  
insert:

(i) Upon receiving notice of an accident that is potentially covered by medical payments benefits, the insurer must reserve \$2,500 of medical payments benefits for payment to physicians licensed under chapter 458 or chapter 459 or dentists licensed under chapter 466 who provide emergency services and care, as defined in s. 395.002, or who provide hospital



482232

11 inpatient care. The amount required to be held in reserve may be  
12 used only to pay claims from such physicians or dentists until  
13 30 days after the date the insurer receives notice of the  
14 accident. After the 30-day period, any amount of the reserve for  
15 which the insurer has not received notice of such claims may be  
16 used by the insurer to pay other claims. The time periods  
17 specified in paragraph (b) for payment of medical payments  
18 benefits are tolled for the period of time an insurer must hold  
19 payment of a claim that is not from such physician or dentist to  
20 the extent that the medical payments benefits not held in  
21 reserve are insufficient to pay the claim. This paragraph does  
22 not require an insurer to establish a claim reserve for  
23 insurance accounting purposes.



463472

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/13/2017	.	
	.	
	.	
	.	

---

The Committee on Banking and Insurance (Lee) recommended the following:

**Senate Amendment**

Delete lines 3787 - 3788  
and insert:  
(5) This section shall take effect upon this act becoming a law.



754868

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/13/2017	.	
	.	
	.	
	.	

---

The Committee on Banking and Insurance (Steube) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 1963 - 2030  
and insert:  
before the event giving rise to the claim. In addition, pursuant to s. 627.747, the insurer may include provisions in its policy excluding liability coverage for an individual identified by name on the declarations page as an "excluded driver" while such individual is operating a vehicle designated as an insured vehicle on the policy ~~or motor vehicles within the United States~~



754868

11 ~~or the Dominion of Canada, subject to limits, exclusive of~~  
12 ~~interest and costs with respect to each such motor vehicle as is~~  
13 ~~provided for under s. 324.021(7).~~ Insurers may make available,  
14 with respect to property damage liability coverage, a deductible  
15 amount not to exceed \$500. In the event of a property damage  
16 loss covered by a policy containing a property damage deductible  
17 provision, the insurer shall pay to the third-party claimant the  
18 amount of any property damage liability settlement or judgment,  
19 subject to policy limits, as if no deductible existed.

20 (b) A motor vehicle liability insurance policy issued to a  
21 person who does not own a motor vehicle registered in this state  
22 and who is not already insured under a policy described in  
23 paragraph (a) must ~~An operator's motor vehicle liability policy~~  
24 ~~of insurance shall~~ insure the person or persons named therein  
25 against loss from the liability imposed ~~upon him or her~~ by law  
26 for damages arising out of the use ~~by the person~~ of any motor  
27 vehicle not owned by him or her, unless the vehicle was  
28 furnished for the named insured's regular use and was used by  
29 the named insured for more than 30 consecutive days before the  
30 event giving rise to the claim ~~with the same territorial limits~~  
31 ~~and subject to the same limits of liability as referred to above~~  
32 ~~with respect to an owner's policy of liability insurance.~~

33 (c) All such motor vehicle liability policies must ~~shall~~  
34 state the name and address of the named insured, the coverage  
35 afforded by the policy, the premium charged therefor, the policy  
36 period, and the limits of liability, ~~and~~ must ~~shall~~ contain an  
37 agreement or be endorsed that insurance is provided in  
38 accordance with the coverage defined in this chapter ~~as respects~~  
39 ~~bodily injury and death or property damage or both~~ and is



754868

40 subject to all provisions of this chapter. The policies must  
41 insure all persons covered under the liability coverage against  
42 loss from the liability imposed by law for any litigation costs  
43 or attorney fees in any civil action defended by the insurer  
44 which arises out of the ownership, maintenance, or use of a  
45 motor vehicle for which there is liability coverage under the  
46 policy. The ~~said~~ policies must ~~shall~~ also contain a provision  
47 that the satisfaction by an insured of a judgment for such  
48 injury or damage may ~~shall~~ not be a condition precedent to the  
49 right or duty of the insurance carrier to make payment on  
50 account of such injury or damage, and must ~~shall~~ also contain a  
51 provision that bankruptcy or insolvency of the insured or of the  
52 insured's estate may ~~shall~~ not relieve the insurance carrier of  
53 any of its obligations under the said policy. However, the  
54 policies may contain provisions excluding liability coverage for  
55 a vehicle being used outside the United States or outside Canada  
56 at the time of the accident.

57 (2) ~~The provisions of~~ This section is ~~shall~~ not be  
58 applicable to any automobile liability policy unless and until  
59 it is furnished as proof of financial responsibility for the  
60 future pursuant to s. 324.031, and then only from and after the  
61 date said policy is so furnished.

62 (3) As used in this section, the term:

63 (a) "Newly acquired vehicle" means a vehicle owned by a  
64 named insured or resident relative of the named insured which  
65 was acquired within 30 days before an accident.

66 (b) "Resident relative" means a person related to a named  
67 insured by any degree by blood, marriage, or adoption, including  
68 a ward or foster child, who usually makes his or her home in the



754868

69 same family unit as the named insured, whether or not he or she  
70 temporarily lives elsewhere.

71 (c) "Temporary substitute vehicle" means any motor vehicle  
72 as defined in s. 320.01(1) not owned by the named insured which  
73 is temporarily used with the permission of the owner as a  
74 substitute for the owned motor vehicle designated on the policy,  
75 when the owned vehicle is withdrawn from normal use because of  
76 breakdown, repair, servicing, loss, or destruction.

77 Section 15. Section 627.747, Florida Statutes, is created  
78 to read:

79 627.747 Named driver exclusion.-

80 (1) A private passenger motor vehicle policy may exclude an  
81 individual identified by name on the declarations page as an  
82 "excluded driver" from coverage while such individual is  
83 operating a vehicle designated as an insured vehicle on the  
84 policy; however, the policy may exclude such identified  
85 individual only as provided in this section. The coverages from  
86 which the identified individual may be excluded are:

87 (a) Coverages, other than uninsured motorist coverage, the  
88 named insured is not required by law to purchase;

89 (b) Uninsured motorist coverage for any damages sustained  
90 by the identified individual; and

91 (c) Bodily injury liability coverage and property damage  
92 liability coverage as required under chapter 324, but only as  
93 permitted by s. 324.151(1) (a).

94 (2) Notwithstanding any other law to the contrary, a  
95 private passenger motor vehicle policy may not exclude coverage  
96 when:

97 (a) The identified individual is injured while not





754868

98 operating a motor vehicle, as defined in s. 324.021(1);

99 (b) The exclusion is unfairly discriminatory as determined  
100 by the office under the insurance code; or

101 (c) The exclusion is inconsistent with the underwriting  
102 guidelines filed by the insurer pursuant to s. 627.0651(13)(a).

103

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

105 And the title is amended as follows:

106 Delete line 144

107 and insert:

108 terms; creating s. 627.747, F.S.; authorizing private  
109 passenger motor vehicle policies to exclude named  
110 individuals from specified coverages while such  
111 individuals are operating vehicles insured on the  
112 policies; prohibiting such policies from excluding  
113 coverage under certain circumstances; amending s.  
114 324.161, F.S.; revising

By Senator Lee

20-01083B-17

20171766\_\_

1 A bill to be entitled  
 2 An act relating to motor vehicle insurance; repealing  
 3 ss. 627.730, 627.731, 627.7311, 627.732, 627.733,  
 4 627.734, 627.736, 627.737, 627.739, 627.7401,  
 5 627.7403, and 627.7405, F.S., which compose the  
 6 Florida Motor Vehicle No-Fault Law; repealing s.  
 7 627.7407, F.S., relating to application of the Florida  
 8 Motor Vehicle No-Fault Law; creating s. 627.7265,  
 9 F.S.; defining terms; requiring certain motor vehicle  
 10 liability insurance policies to include specified  
 11 medical payments coverage; prohibiting an insurer from  
 12 offering medical payments coverage with a deductible;  
 13 providing construction; authorizing an insurer to  
 14 exclude medical payment benefits under certain  
 15 circumstances; specifying requirements, limitations,  
 16 and exclusions for medical payments coverage benefits;  
 17 requiring rulemaking by the Financial Services  
 18 Commission; providing requirements, procedures,  
 19 conditions, exclusions, prohibited acts, and  
 20 construction relating to an insurer's payment of  
 21 medical payments coverage benefits; specifying  
 22 requirements and procedures for, and conditions and  
 23 limitations on, the reimbursement of certain  
 24 providers' charges for medical care under medical  
 25 payments coverage; providing that reimbursements may  
 26 be limited according to a specified schedule of  
 27 maximum charges; providing construction; providing  
 28 that insurers or insureds are not required to pay  
 29 certain claims or charges; requiring the Department of

Page 1 of 132

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

20-01083B-17

20171766\_\_

30 Health to adopt certain rules; specifying procedures,  
 31 forms, and requirements for providers in furnishing  
 32 statements of charges and other statements and bills  
 33 to insurers; providing construction; specifying  
 34 disclosure and informed consent requirements for  
 35 certain entities providing medical services; requiring  
 36 the commission to adopt rules; requiring insurers to  
 37 investigate certain claims for improper billing and  
 38 providing procedures and requirements for such  
 39 investigations; prohibiting a certain act by an  
 40 insurer with the intent to deny reimbursement;  
 41 requiring certain entities to be licensed as clinics  
 42 to receive reimbursement under medical payments  
 43 coverage; providing exceptions; requiring insurers to  
 44 provide named insureds with a specified form notifying  
 45 the insureds of their right to receive medical  
 46 payments coverage; providing requirements for the  
 47 notice and for providing such notice; providing  
 48 requirements, procedures, and prohibited acts related  
 49 to discovery of facts about an insured person who  
 50 makes a medical payments coverage claim; requiring  
 51 such person to provide specified information to an  
 52 insurer upon request; providing procedures that apply  
 53 in the event of a dispute over discovery of facts;  
 54 providing requirements, prohibitions, and construction  
 55 relating to mental and physical examinations of  
 56 injured persons covered by medical payments coverage;  
 57 providing applicability of provisions relating to  
 58 attorney fees; requiring that a specified

Page 2 of 132

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

20-01083B-17

20171766\_\_

59 prelitigation demand letter be provided to an insurer  
 60 before an action for benefits may be filed; providing  
 61 requirements for delivering a demand letter to the  
 62 insurer; requiring an insurer to file certain  
 63 information designating an authorized representative  
 64 with the Office of Insurance Regulation; prohibiting  
 65 an action against an insurer if the insurer, within a  
 66 specified time, pays specified amounts or provides a  
 67 written statement agreeing to pay specified amounts  
 68 for future treatment; requiring certain civil action  
 69 claims to be brought in a single action unless good  
 70 cause is shown; providing that insurers who  
 71 repeatedly, and as a general business practice, fail  
 72 to pay certain valid claims are subject to penalties  
 73 for unfair or deceptive trade practices; authorizing  
 74 the Department of Legal Affairs to investigate and  
 75 initiate actions for such violations; providing an  
 76 insurer with a civil cause of action against certain  
 77 persons convicted of or pleading guilty or nolo  
 78 contendere to certain violations; specifying  
 79 recoverable damages; requiring an insurer, when a  
 80 claim is filed, to provide a specified fraud advisory  
 81 notice to an insured or the person who is the subject  
 82 of the claim; providing construction relating to  
 83 certain nonreimbursable claims; authorizing electronic  
 84 transmittal of certain documents; authorizing an  
 85 insurer to include in its policies a specified right  
 86 of subrogation for medical payments benefits;  
 87 providing construction; amending s. 316.646, F.S.;

Page 3 of 132

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

20-01083B-17

20171766\_\_

88 revising applicability of a requirement to have  
 89 immediate possession of proof of maintenance of  
 90 certain security; amending s. 320.02, F.S.; revising  
 91 the motor vehicle insurance coverages that an  
 92 applicant must show to register certain vehicles with  
 93 the Department of Highway Safety and Motor Vehicles;  
 94 deleting a requirement that specified information be  
 95 included on a certain insurance proof-of-purchase  
 96 card; revising construction; conforming a provision to  
 97 changes made by the act; amending s. 320.27, F.S.;  
 98 revising requirements for furnishing certain insurance  
 99 coverage information on an application for a motor  
 100 vehicle dealer; revising insurance coverage  
 101 requirements for certain motor vehicle dealers;  
 102 conforming a provision to changes made by the act;  
 103 amending s. 320.771, F.S.; revising garage liability  
 104 coverage requirements for a recreational vehicle  
 105 dealer license applicant; amending s. 324.011, F.S.;  
 106 revising legislative intent; amending s. 324.021,  
 107 F.S.; revising definitions of the terms "motor  
 108 vehicle" and "proof of financial responsibility";  
 109 revising, at specified timeframes, minimum coverage  
 110 requirements for proof of financial responsibility;  
 111 defining the term "for-hire passenger transportation  
 112 vehicle"; conforming a cross-reference; amending s.  
 113 324.022, F.S.; revising, at specified timeframes,  
 114 minimum liability coverage requirements for motor  
 115 vehicle owners and operators; revising authorized  
 116 methods for meeting such requirements; revising the

Page 4 of 132

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

20-01083B-17

20171766\_\_

117 vehicles that are excluded from the definition of the  
 118 term "motor vehicle" and providing security  
 119 requirements for certain excluded vehicles; deleting  
 120 the definition of the term "owner"; conforming  
 121 provisions to changes made by the act; conforming  
 122 cross-references; amending s. 324.031, F.S.; revising  
 123 applicability of a provision authorizing certain  
 124 methods of proving financial responsibility; revising,  
 125 at specified timeframes, the amount of a certificate  
 126 of deposit that is required for a specified method of  
 127 proof of financial responsibility; revising insurance  
 128 coverage requirements for a person electing to use  
 129 such method; amending s. 324.032, F.S.; revising  
 130 applicability of the minimum requirements of financial  
 131 responsibility for for-hire passenger transportation  
 132 vehicles; revising such requirements; revising a  
 133 requirement for a motor vehicle liability policy that  
 134 is obtained to comply with such requirements;  
 135 conforming a cross-reference; amending s. 324.071,  
 136 F.S.; revising the fee for reinstating an owner's or  
 137 operator's license or registration that has been  
 138 suspended for specified reasons; amending s. 324.151,  
 139 F.S.; revising requirements for a motor vehicle  
 140 liability policy that serves as proof of financial  
 141 responsibility for certain operators or owners;  
 142 authorizing an insurer to exclude liability coverage  
 143 in the policy under certain circumstances; defining  
 144 terms; amending s. 324.161, F.S.; revising  
 145 requirements for a certificate of deposit that is

Page 5 of 132

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

20-01083B-17

20171766\_\_

146 required if a person elects a certain method of  
 147 providing financial responsibility; amending s.  
 148 324.171, F.S.; revising, at specified timeframes, the  
 149 minimum net worth requirements that qualify certain  
 150 persons as self-insurers; conforming provisions to  
 151 changes made by the act; amending s. 324.251, F.S.;  
 152 revising the short title and an effective date;  
 153 amending s. 400.9905, F.S.; revising the definition of  
 154 the term "clinic"; amending s. 409.901, F.S.; revising  
 155 the definition of the term "third-party benefit";  
 156 amending s. 409.910, F.S.; revising the definition of  
 157 the term "medical coverage"; amending s. 456.072,  
 158 F.S.; revising applicability of certain grounds for  
 159 discipline, relating to medical payments coverage  
 160 claims rather than personal injury protection claims,  
 161 for certain health professions; amending s. 626.9541,  
 162 F.S.; revising the types of insurance coverage  
 163 applicable to certain prohibited acts; conforming a  
 164 cross-reference; amending s. 626.989, F.S.; revising  
 165 the definition of the term "fraudulent insurance act";  
 166 amending s. 627.0652, F.S.; revising the coverages of  
 167 a motor vehicle insurance policy which must provide a  
 168 premium charge reduction under certain circumstances;  
 169 amending s. 627.0653, F.S.; revising the coverages of  
 170 a motor vehicle insurance policy which must or may  
 171 provide a premium discount under certain  
 172 circumstances; amending s. 627.4132, F.S.; revising  
 173 the coverages of a motor vehicle policy which must  
 174 provide a specified limitation; amending s. 627.727,

Page 6 of 132

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

20-01083B-17

20171766\_\_

175 F.S.; revising the legal liability of an uninsured  
 176 motorist coverage insurer; conforming a provision to  
 177 changes made by the act; amending s. 627.7275, F.S.;  
 178 revising applicability and required coverages for a  
 179 motor vehicle insurance policy; conforming provisions  
 180 to changes made by the act; amending s. 627.7295,  
 181 F.S.; revising the definitions of the terms "policy"  
 182 and "binder"; revising the coverages of a motor  
 183 vehicle insurance policy for which a licensed general  
 184 lines agent may charge a specified fee; revising  
 185 applicability; conforming a cross-reference; amending  
 186 s. 627.7415, F.S.; revising, at specified intervals,  
 187 the minimum levels of certain liability insurance for  
 188 commercial motor vehicles; amending s. 627.8405, F.S.;  
 189 revising the coverages of a policy sold in conjunction  
 190 with an accidental death and dismemberment policy and  
 191 prohibiting a premium finance company from taking  
 192 certain acts relating to such policies; revising  
 193 coverages that are the subject of certain disclosure  
 194 rules by the commission; amending s. 817.234, F.S.;  
 195 revising the applicability of certain criminal acts of  
 196 insurance fraud, from personal injury protection  
 197 insurance to medical payments coverage; amending ss.  
 198 318.18, 320.0609, 322.251, 322.34, 324.0221, 400.991,  
 199 400.9935, 456.057, 627.06501, 627.7263, 627.728,  
 200 627.915, 628.909, 705.184, and 713.78, F.S.;  
 201 conforming provisions to changes made by the act;  
 202 amending ss. 324.051 and 324.091, F.S.; making  
 203 technical changes; amending s. 324.023, F.S.;

Page 7 of 132

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

20-01083B-17

20171766\_\_

204 conforming cross-references; defining the term  
 205 "minimum security requirements"; providing  
 206 applicability and construction; providing requirements  
 207 and procedures relating to motor vehicle insurance  
 208 policies providing personal injury protection as of  
 209 the effective date of the act; requiring an insurer to  
 210 provide, by a specified date, a specified notice to  
 211 policyholders relating to requirements under the act;  
 212 providing for construction relating to suspensions for  
 213 failure to maintain required security in effect before  
 214 the effective date of the act; providing a directive  
 215 to the Division of Law Revision and Information;  
 216 providing effective dates.

217  
 218 Be It Enacted by the Legislature of the State of Florida:

219  
 220 Section 1. Sections 627.730, 627.731, 627.7311, 627.732,  
 221 627.733, 627.734, 627.736, 627.737, 627.739, 627.7401, 627.7403,  
 222 and 627.7405, Florida Statutes, which compose the Florida Motor  
 223 Vehicle No-Fault Law, are repealed.

224 Section 2. Section 627.7407, Florida Statutes, is repealed.

225 Section 3. Section 627.7265, Florida Statutes, is created  
 226 to read:

227 627.7265 Motor vehicle insurance; medical payments  
 228 coverage.—

229 (1) DEFINITIONS.—As used in this section, the term:

230 (a) "Broker" means a person who does not possess a license  
 231 under chapter 395, chapter 400, chapter 429, chapter 458,  
 232 chapter 459, chapter 460, chapter 461, or chapter 641, who

Page 8 of 132

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

20-01083B-17 20171766\_\_

233 charges or receives compensation for any use of medical  
 234 equipment and who is not the 100 percent owner or the 100  
 235 percent lessee of such equipment. For purposes of this section,  
 236 such owner or lessee may be an individual, a corporation, a  
 237 partnership, or any other entity and any of its 100-percent-  
 238 owned affiliates and subsidiaries. As used in this subsection,  
 239 the term "lessee" means a long-term lessee under a capital or  
 240 operating lease, but does not include a part-time lessee. The  
 241 term "broker" does not include a hospital or physician  
 242 management company whose medical equipment is ancillary to the  
 243 practices managed; a debt collection agency; an entity that has  
 244 contracted with the insurer to obtain a discounted rate for such  
 245 services; a management company that has contracted to provide  
 246 general management services for a licensed physician or health  
 247 care facility and whose compensation is not materially affected  
 248 by the usage or frequency of usage of medical equipment; or an  
 249 entity that is 100-percent-owned by one or more hospitals or  
 250 physicians. The term "broker" does not include a person or  
 251 entity that certifies, upon request of an insurer, that:  
 252 1. It is a clinic licensed under ss. 400.990-400.995;  
 253 2. It is a 100-percent-owner of medical equipment; and  
 254 3. The owner's only part-time lease of medical equipment  
 255 for medical payments coverage patients is on a temporary basis  
 256 not to exceed 30 days in a 12-month period, and such lease is  
 257 solely for the purposes of necessary repair or maintenance of  
 258 the 100-percent-owned medical equipment or pending the arrival  
 259 and installation of the newly purchased or a replacement for the  
 260 100-percent-owned medical equipment, or for patients for whom,  
 261 because of physical size or claustrophobia, it is determined by

20-01083B-17 20171766\_\_

262 the medical director or clinical director to be medically  
 263 necessary that the test be performed in medical equipment that  
 264 is open-style. The leased medical equipment cannot be used by  
 265 patients who are not patients of the registered clinic for  
 266 medical treatment services. Any person or entity making a false  
 267 certification under this subsection commits insurance fraud as  
 268 described in s. 817.234. However, the 30-day period provided in  
 269 this subparagraph may be extended for an additional 60 days as  
 270 applicable to magnetic resonance imaging equipment, if the owner  
 271 certifies that the extension otherwise complies with this  
 272 subparagraph.  
 273 (b) "Entity wholly owned" means a proprietorship, group  
 274 practice, partnership, or corporation that provides health care  
 275 services rendered by licensed health care practitioners and in  
 276 which licensed health care practitioners are the business owners  
 277 of all aspects of the business entity, including, but not  
 278 limited to, being reflected as the business owners on the title  
 279 or lease of the physical facility, filing taxes as the business  
 280 owners, being account holders on the entity's bank account,  
 281 being listed as the principals on all incorporation documents  
 282 required by this state, and having ultimate authority over all  
 283 personnel and compensation decisions relating to the entity.  
 284 However, this term does not include an entity that is wholly  
 285 owned, directly or indirectly, by a hospital licensed under  
 286 chapter 395.  
 287 (c) "Hospital" means a facility that, at the time medical  
 288 care was rendered, was licensed under chapter 395.  
 289 (d) "Incident," with respect to services considered as  
 290 incident to a physician's professional service for a physician

20-01083B-17 20171766\_\_

291 licensed under chapter 458, chapter 459, chapter 460, or chapter  
 292 461, if not furnished in a hospital, means such services must be  
 293 an integral, even if incidental, part of a covered physician's  
 294 service.

295 (e) "Knowingly" means that a person has actual knowledge of  
 296 information, acts in deliberate ignorance of the truth or  
 297 falsity of the information, or acts in reckless disregard of the  
 298 information. Proof of specific intent to defraud is not  
 299 required.

300 (f) "Lawful" or "lawfully" means in substantial compliance  
 301 with all relevant applicable criminal, civil, and administrative  
 302 requirements of state and federal law related to the provision  
 303 of medical care.

304 (g) "Medical care" means any medical service, medical  
 305 treatment, medical supply, medical transportation, prescription  
 306 drug, or emergency services and care as defined in s.  
 307 395.002(9).

308 (h) "Medically necessary" means medical care that a prudent  
 309 physician or other qualified health care professional would  
 310 provide for the purpose of preventing, diagnosing, or treating  
 311 an illness, injury, disease, or symptom in a manner that is:

312 1. In accordance with generally accepted standards of  
 313 medical practice;

314 2. Clinically appropriate in terms of type, frequency,  
 315 extent, site, and duration; and

316 3. Not primarily for the convenience of the patient,  
 317 physician, or other health care provider.

318 (i) "Motor vehicle" means a self-propelled vehicle with  
 319 four or more wheels which is designed and required to be

20-01083B-17 20171766\_\_

320 licensed for use on the highways of this state, and any trailer  
 321 or semitrailer designed for use with such vehicle. The term does  
 322 not include:

323 1. A mobile home; or

324 2. A motor vehicle that is used in mass transit, other than  
 325 public school transportation; that is designed to transport more  
 326 than five passengers exclusive of the operator of the motor  
 327 vehicle; and that is owned by a municipality, a transit  
 328 authority, or a political subdivision of the state.

329 (j) "Named insured" means a person identified in a policy  
 330 by name as an insured under the policy.

331 (k) "Newly acquired vehicle" means a motor vehicle owned by  
 332 a named insured or resident relative of the named insured which  
 333 was acquired 30 or less days before an accident.

334 (l) "Properly completed" means providing truthful,  
 335 substantially complete, and substantially accurate responses as  
 336 to all material elements to each applicable request for  
 337 information or for a statement, by a means that may lawfully be  
 338 provided and that complies with this section or as agreed by the  
 339 parties.

340 (m) "Resident relative" means a person related to a named  
 341 insured by any degree by blood, marriage, or adoption, including  
 342 a ward or foster child, who usually makes his or her home in the  
 343 same family unit as the named insured, regardless of whether the  
 344 resident relative temporarily lives elsewhere.

345 (n) "Temporary substitute vehicle" means a motor vehicle as  
 346 defined in s. 320.01(1) which is not owned by the named insured  
 347 and which is temporarily used with the permission of the owner  
 348 as a substitute for the owned motor vehicle designated on the

20-01083B-17 20171766\_\_

349 policy when the owned vehicle is withdrawn from normal use  
 350 because of breakdown, repair, servicing, loss, or destruction.

351 (o) "Unbundled" means an action that submits a billing code  
 352 that is properly billed under one billing code, but that has  
 353 been separated into two or more billing codes, which would  
 354 result in payment greater in amount than would be paid using one  
 355 billing code.

356 (p) "Upcoded" means an action that submits a billing code  
 357 that would result in payment greater in amount than would be  
 358 paid using a billing code that accurately describes the services  
 359 performed. The term does not include an otherwise lawful bill by  
 360 a magnetic resonance imaging facility, which globally combines  
 361 both technical and professional components, if the amount of the  
 362 global bill is not more than for the components if billed  
 363 separately; however, payment of such a bill constitutes payment  
 364 in full for all components of such service.

365 (2) REQUIRED SECURITY.—

366 (a) A motor vehicle liability insurance policy that is  
 367 furnished as proof of financial responsibility pursuant to s.  
 368 324.031 must include medical payments coverage as provided in  
 369 this section. The medical payments coverage must protect the  
 370 named insured, resident relatives, persons operating the insured  
 371 motor vehicle, passengers in the insured motor vehicle, and  
 372 other persons who are struck by the insured motor vehicle and  
 373 suffer bodily injury while not an occupant of a self-propelled  
 374 motor vehicle, to a limit of at least \$5,000 per person for  
 375 medical expense incurred due to bodily injury, sickness, or  
 376 disease arising out of the ownership, maintenance, or use of a  
 377 motor vehicle.

Page 13 of 132

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

20-01083B-17 20171766\_\_

378 (b) An insurer may not offer medical payments coverage with  
 379 a deductible to an applicant or policyholder.

380 (c) This section may not be construed to limit any other  
 381 coverage made available by an insurer.

382 (3) AUTHORIZED EXCLUSIONS.—Notwithstanding any other  
 383 requirement herein, an insurer may exclude medical payment  
 384 benefits:

385 (a) For injury sustained by the named insured or a resident  
 386 relative while occupying another motor vehicle owned by the  
 387 named insured and not insured under the policy, unless such  
 388 vehicle qualifies as a newly acquired vehicle or temporary  
 389 substitute vehicle.

390 (b) For injury sustained by any person operating the  
 391 insured motor vehicle without the express or implied consent of  
 392 the insured.

393 (c) For any person who intentionally causes injury to  
 394 himself or herself.

395 (d) For any person injured while committing a felony.

396 (4) REQUIRED BENEFITS.—

397 (a) Medical payments coverage must provide reimbursement of  
 398 medically necessary medical, surgical, X-ray, dental, and  
 399 rehabilitative services, including prosthetic devices and  
 400 ambulance, hospital, and nursing services, if the individual  
 401 receives initial services and care pursuant to subparagraph 1.  
 402 within 14 days after the motor vehicle accident. Medical  
 403 payments coverage provides reimbursement only for:

404 1. Initial services and care that are lawfully provided,  
 405 supervised, ordered, or prescribed by a physician licensed under  
 406 chapter 458 or chapter 459, a dentist licensed under chapter

Page 14 of 132

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



20-01083B-17 20171766\_\_

407 466, or a chiropractic physician licensed under chapter 460; or  
 408 that are provided in a hospital or in a facility that owns, or  
 409 is wholly owned by, a hospital. Initial services and care may  
 410 also be provided by a person or entity licensed under part III  
 411 of chapter 401 which provides emergency transportation and  
 412 treatment.

413 2. Upon referral by a provider described in subparagraph  
 414 1., followup services and care consistent with the underlying  
 415 medical diagnosis rendered pursuant to subparagraph 1. which may  
 416 be provided, supervised, ordered, or prescribed only by a  
 417 physician licensed under chapter 458 or chapter 459; a  
 418 chiropractic physician licensed under chapter 460; a dentist  
 419 licensed under chapter 466; or, to the extent permitted by  
 420 applicable law and under the supervision of such physician,  
 421 osteopathic physician, chiropractic physician, or dentist, by a  
 422 physician assistant licensed under chapter 458 or chapter 459 or  
 423 an advanced registered nurse practitioner licensed under chapter  
 424 464. Followup services and care may also be provided by the  
 425 following persons or entities:

426 a. A hospital or ambulatory surgical center licensed under  
 427 chapter 395.

428 b. An entity wholly owned by one or more physicians  
 429 licensed under chapter 458 or chapter 459, chiropractic  
 430 physicians licensed under chapter 460, or dentists licensed  
 431 under chapter 466, or by such practitioners and the spouse,  
 432 parent, child, or sibling of such practitioners.

433 c. An entity that owns or is wholly owned, directly or  
 434 indirectly, by a hospital or hospitals.

435 d. A physical therapist licensed under chapter 486, based

20-01083B-17 20171766\_\_

436 upon a referral by a provider described in this subparagraph.  
 437 e. A health care clinic licensed under part X of chapter  
 438 400 which is accredited by an accrediting organization whose  
 439 standards incorporate comparable regulations required by this  
 440 state, or which:

441 (I) Has a medical director licensed under chapter 458,  
 442 chapter 459, or chapter 460;

443 (II) Has been continuously licensed for more than 3 years  
 444 or is a publicly traded corporation that issues securities  
 445 traded on an exchange registered with the United States  
 446 Securities and Exchange Commission as a national securities  
 447 exchange; and

448 (III) Provides at least four of the following medical  
 449 specialties:

450 (A) General medicine.  
 451 (B) Radiography.  
 452 (C) Orthopedic medicine.  
 453 (D) Physical medicine.  
 454 (E) Physical therapy.  
 455 (F) Physical rehabilitation.  
 456 (G) Prescribing or dispensing outpatient prescription  
 457 medication.  
 458 (H) Laboratory services.

459 (b) Medical benefits do not include massage as defined in  
 460 s. 480.033 or acupuncture as defined in s. 457.102, regardless  
 461 of the person, entity, or licensee providing massage or  
 462 acupuncture, and a licensed massage therapist or licensed  
 463 acupuncturist may not be reimbursed for medical benefits under  
 464 this section.

20-01083B-17

20171766\_\_

465 (c) The commission shall adopt by rule the form specified  
 466 in sub-subparagraph (a)2.b., sub-subparagraph (a)2.c., or sub-  
 467 subparagraph (a)2.e. which must be used by an insurer and a  
 468 health care provider to document that the health care provider  
 469 meets the criteria of this paragraph. Such rule must include a  
 470 requirement for a sworn statement or affidavit.

471 (5) PAYMENT OF BENEFITS.-

472 (a) Benefits due from an insurer under medical payments  
 473 coverage are primary to any health insurance benefit of a person  
 474 injured in a motor vehicle accident and apply to any coinsurance  
 475 or deductible amount required by the injured person's health  
 476 insurance policy, except that:

477 1. Benefits received under any workers' compensation law  
 478 must be credited against medical payments coverage benefits and  
 479 must be due and payable as loss accrues.

480 2. When the Agency for Health Care Administration provides,  
 481 pays, or becomes liable for medical assistance under the  
 482 Medicaid program related to injury, sickness, disease, or death  
 483 arising out of the ownership, maintenance, or use of a motor  
 484 vehicle, medical payments benefits are subject to the provisions  
 485 of the Medicaid Program, and, within 30 days after receiving  
 486 notice that the Medicaid program paid such benefits, the insurer  
 487 must repay the full amount of the benefits to the Medicaid  
 488 program.

489 (b) Medical payments coverage benefits payable under this  
 490 section are overdue if they are not paid within 30 days after  
 491 the insurer is furnished with written notice of the fact and the  
 492 amount of a covered loss. However:

493 1. If written notice of the entire claim is not furnished

Page 17 of 132

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

20-01083B-17

20171766\_\_

494 to the insurer, any partial amount supported by written notice  
 495 is overdue if it is not paid within 30 days after the notice is  
 496 furnished to the insurer. The remainder of the claim, or any  
 497 part thereof, which is subsequently supported by written notice  
 498 is overdue if not paid within 30 days after the notice is  
 499 furnished to the insurer.

500 2. If an insurer pays only a portion of a claim or rejects  
 501 a claim, the insurer must provide at the time of the partial  
 502 payment or rejection an itemized specification of each item that  
 503 the insurer had reduced, omitted, or declined to pay and any  
 504 information that the insurer desires the claimant to consider  
 505 related to the medical necessity of the denied treatment or any  
 506 information that explains the reasonableness of the reduced  
 507 charge if this does not limit the introduction of evidence at  
 508 trial. The insurer shall also include the name and address of  
 509 the person to whom the claimant should respond and a claim  
 510 number to be referenced in future correspondence.

511 3. If an insurer pays only a portion of a claim or rejects  
 512 a claim due to an alleged error in the claim, the insurer, at  
 513 the time of the partial payment or rejection, must provide an  
 514 itemized specification or explanation of benefits due to the  
 515 specified error. Upon receiving the specification or  
 516 explanation, the person making the claim, at his or her option  
 517 and without waiving any other legal remedy for payment, has 15  
 518 days to submit a revised claim. The submission of a revised  
 519 claim is considered a timely submission of written notice of a  
 520 claim.

521 4. Notwithstanding the fact that written notice has been  
 522 furnished to the insurer, payment is not overdue if the insurer

Page 18 of 132

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

20-01083B-17 20171766\_\_

523 has reasonable proof that the insurer is not responsible for the  
524 payment.

525 5. For the purpose of calculating the extent to which  
526 benefits are overdue, payment is treated as being made on the  
527 date that a draft, or other valid instrument that is equivalent  
528 to payment, was placed in the United States mail in a properly  
529 addressed, postpaid envelope or, if not so posted, on the date  
530 of delivery.

531 6. This paragraph does not preclude or limit the ability of  
532 the insurer to assert that the claim was unrelated, was not  
533 medically necessary, or was unreasonable or that the amount of  
534 the charge was in excess of that permitted under, or is in  
535 violation of, subsection (6). Such assertion may be made at any  
536 time, including after payment of the claim or after the 30-day  
537 period for payment specified in this paragraph.

538 (c) All overdue payments bear simple interest at the rate  
539 established under s. 55.03 or the rate established in the  
540 insurance contract, whichever is greater, for the quarter in  
541 which the payment became overdue, calculated from the date the  
542 insurer was furnished with written notice of the amount of  
543 covered loss. Interest is due at the time payment of the overdue  
544 claim is made.

545 (d) It is a violation of the Florida Insurance Code for an  
546 insurer to fail to timely provide benefits as required by this  
547 section with such frequency as to constitute a general business  
548 practice.

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

20-01083B-17 20171766\_\_

552 subsection (2), and the insurer paying the benefits is entitled  
553 to recover from each of the other insurers an equitable pro rata  
554 share of the benefits paid and expenses incurred in processing  
555 the claim.

556 (f) Benefits are not due or payable to or on behalf of an  
557 insured person if that person has committed, by a material act  
558 or omission, insurance fraud relating to medical payments  
559 coverage under his or her policy if the fraud is admitted to in  
560 a sworn statement by the insured or established in a court of  
561 competent jurisdiction. Any insurance fraud voids all coverage  
562 arising from the claim related to such fraud under the medical  
563 payments coverage of the insured person who committed the fraud,  
564 regardless of whether a portion of the insured person's claim  
565 may be legitimate, and any benefits paid before the discovery of  
566 the fraud is recoverable by the insurer in its entirety from the  
567 person who committed insurance fraud. The prevailing party is  
568 entitled to its costs and attorney fees in any action in which  
569 it prevails in an insurer's action to enforce its right of  
570 recovery under this paragraph.

571 (g) If an insurer has a reasonable belief that a fraudulent  
572 insurance act, for the purposes of s. 626.989 or s. 817.234, has  
573 been committed, the insurer must notify the claimant in writing  
574 and within 30 days after submission of the claim that the claim  
575 is being investigated for suspected fraud. Beginning at the end  
576 of the initial 30-day period, the insurer has an additional 60  
577 days to conduct its fraud investigation. No later than 90 days  
578 after the submission of the claim, the insurer shall deny the  
579 claim or pay the claim with simple interest as provided in  
580 paragraph (c). Interest is assessed from the day the claim is

20-01083B-17 20171766\_\_

581 submitted until the day the claim is paid. All claims denied for  
 582 suspected fraudulent insurance acts shall be reported to the  
 583 Division of Investigative and Forensic Services.

584 (h) An insurer shall create and maintain for each insured a  
 585 log of medical payments benefits paid by the insurer on behalf  
 586 of the insured. The insurer shall provide to the insured a copy  
 587 of the log within 30 days after receiving a request for the log  
 588 from the insured.

589 (6) CHARGES FOR CARE OF INJURED PERSONS.—

590 (a) A physician, hospital, clinic, or other person or  
 591 institution lawfully providing medical care to an injured person  
 592 for a bodily injury covered by medical payments coverage may  
 593 charge the insurer and injured party only a reasonable amount  
 594 pursuant to this section for the medical care provided, and the  
 595 insurer providing such coverage may pay such charges directly to  
 596 such person or institution lawfully providing such medical care  
 597 if the insured receiving such care, or his or her guardian, has  
 598 countersigned the properly completed invoice, bill, or claim  
 599 form approved by the office upon which such charges are to be  
 600 paid for as having actually been provided, to the best knowledge  
 601 of the insured or his or her guardian. However, such charges may  
 602 not exceed the amount the person or institution customarily  
 603 charges for like medical care. In determining whether a charge  
 604 for a particular service, treatment, supply, or prescription is  
 605 reasonable, consideration may be given to evidence of usual and  
 606 customary charges and payments accepted by the provider involved  
 607 in the dispute; reimbursement levels in the community and  
 608 various federal and state medical fee schedules applicable to  
 609 motor vehicle and other insurance coverages; and other

20-01083B-17 20171766\_\_

610 information relevant to the reasonableness of the reimbursement  
 611 for the service, treatment, supply, or prescription.

612 1. The insurer may limit reimbursement to the following  
 613 schedule of maximum charges:

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

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

619 c. For emergency services and care, as defined in s.  
 620 395.002, provided in a facility licensed under chapter 395 and  
 621 rendered by a physician or dentist, and related hospital  
 622 inpatient services rendered by a physician or dentist, the usual  
 623 and customary charges in the community.

624 d. For hospital inpatient services other than emergency  
 625 services and care, 200 percent of the Medicare Part A  
 626 prospective payment applicable to the specific hospital  
 627 providing the inpatient services.

628 e. For hospital outpatient services other than emergency  
 629 services and care, 200 percent of the Medicare Part A Ambulatory  
 630 Payment Classification for the specific hospital providing the  
 631 outpatient services.

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

634 (I) The participating physician's fee schedule of Medicare  
 635 Part B, except as provided in sub-sub-subparagraphs (II) and  
 636 (III).

637 (II) Medicare Part B, in the case of services, supplies,  
 638 and care provided by ambulatory surgical centers and clinical

20-01083B-17 20171766\_\_

639 laboratories.

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

643  
644 However, if such services, supplies, or care is not reimbursable  
645 under Medicare Part B as provided in this sub-subparagraph, the  
646 insurer may limit reimbursement to 80 percent of the maximum  
647 reimbursable allowance under workers' compensation. Services,  
648 supplies, or care that is not reimbursable under Medicare or  
649 workers' compensation is not required to be reimbursed by the  
650 insurer.

651 2. For purposes of subparagraph 1., the applicable fee  
652 schedule or payment limitation under Medicare is the fee  
653 schedule or payment limitation in effect on March 1 of the  
654 service year in which the services, supplies, or care is  
655 rendered and for the area in which such services, supplies, or  
656 care is rendered. The applicable fee schedule or payment  
657 limitation applies to services, supplies, or care rendered  
658 during that service year notwithstanding any subsequent change  
659 made to the fee schedule or payment limitation; however, it may  
660 not be less than the allowable amount under the applicable  
661 schedule of Medicare Part B for 2007 for medical services,  
662 supplies, and care subject to Medicare Part B. For purposes of  
663 this subparagraph, the term "service year" means the period from  
664 March 1 through the end of February of the following year.

665 3. For purposes of subparagraph 1., the applicable fee  
666 schedule or payment limitation under workers' compensation is  
667 determined under s. 440.13 and rules adopted thereunder which

20-01083B-17 20171766\_\_

668 are in effect at the time such services, supplies, or care is  
669 provided.

670 4. Subparagraph 1. does not authorize the insurer to apply  
671 any limitation on the number of treatments or other utilization  
672 limits that apply under Medicare or workers' compensation. An  
673 insurer that applies the allowable payment limitations of  
674 subparagraph 1. must reimburse a provider who lawfully provided  
675 medical care under the scope of his or her license, regardless  
676 of whether the provider is entitled to reimbursement under  
677 Medicare or workers' compensation due to restrictions or  
678 limitations on the types or discipline of health care providers  
679 who may be reimbursed for particular procedures or procedure  
680 codes. However, subparagraph 1. does not prohibit an insurer  
681 from using the Medicare coding policies and payment  
682 methodologies of the federal Centers for Medicare and Medicaid  
683 Services, including applicable modifiers, to determine the  
684 appropriate amount of reimbursement for medical services,  
685 supplies, or care, if the coding policy or payment methodology  
686 does not constitute a utilization limit.

687 5. If an insurer limits payment as authorized by  
688 subparagraph 1., the person providing such medical care may not  
689 bill or attempt to collect from the insured any amount in excess  
690 of such limits, except for amounts that are not covered by the  
691 insured's medical payments coverage due to the maximum policy  
692 limits.

693 6. An insurer may limit payment as authorized by this  
694 paragraph only if the insurance policy includes a notice at the  
695 time of issuance or renewal that the insurer may limit payment  
696 pursuant to the schedule of charges specified in this paragraph.

20-01083B-17 20171766\_\_

697 A policy form approved by the office satisfies this requirement.  
 698 If a provider submits a charge for an amount less than the  
 699 amount allowed under subparagraph 1., the insurer may pay the  
 700 amount of the charge submitted.  
 701 (b)1. An insurer or insured is not required to pay a claim  
 702 or charges:  
 703 a. Made by a broker or by a person making a claim on behalf  
 704 of a broker;  
 705 b. For any service or treatment that was not lawful at the  
 706 time rendered;  
 707 c. To any person who knowingly submits a false or  
 708 misleading statement relating to the claim or charges;  
 709 d. With respect to a bill or statement that does not  
 710 substantially meet the applicable requirements of paragraph (d);  
 711 e. For medical care billed by a physician and not provided  
 712 in a hospital unless such care is rendered by the physician or  
 713 is incident to his or her professional services and is included  
 714 on the physician's bill, including documentation verifying that  
 715 the physician is responsible for the medical care that was  
 716 rendered and billed; or  
 717 f. For any treatment or service that is upcoded or that is  
 718 unbundled when such treatment or services should be bundled. To  
 719 facilitate prompt payment of lawful services, an insurer may  
 720 change codes that it determines have been improperly or  
 721 incorrectly upcoded or unbundled and may make payment based on  
 722 the changed codes, without affecting the right of the provider  
 723 to dispute the change by the insurer, if, before doing so, the  
 724 insurer contacts the health care provider and discusses the  
 725 reasons for the insurer's change and the health care provider's

Page 25 of 132

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

20-01083B-17 20171766\_\_

726 reason for the coding, or makes a reasonable good faith effort  
 727 to do so, as documented in the insurer's file.  
 728 2. The Department of Health, in consultation with the  
 729 appropriate professional licensing boards, shall adopt by rule a  
 730 list of diagnostic tests deemed not to be medically necessary  
 731 for use in the treatment of persons sustaining bodily injury  
 732 covered by medical payments benefits under this section. The  
 733 list must be revised from time to time as determined by the  
 734 Department of Health in consultation with the respective  
 735 professional licensing boards. Inclusion of a test on the list  
 736 must be based on a lack of demonstrated medical value and a  
 737 level of general acceptance by the relevant provider community  
 738 and may not be dependent on results entirely upon subjective  
 739 patient response. Notwithstanding its inclusion on a fee  
 740 schedule in this subsection, an insurer or insured is not  
 741 required to pay any charges or reimburse claims for an invalid  
 742 diagnostic test as determined by the Department of Health.  
 743 (c) With respect to any medical care other than medical  
 744 services billed by a hospital or other provider for emergency  
 745 services and care, as defined in s. 395.002, or inpatient  
 746 services rendered at a hospital-owned facility, the statement of  
 747 charges must be furnished to the insurer by the provider. The  
 748 statement may not include, and the insurer is not required to  
 749 pay, charges for treatment or services rendered more than 35  
 750 days before the postmark date or electronic transmission date of  
 751 the statement, except for past due amounts previously billed on  
 752 a timely basis under this paragraph and except that, if the  
 753 provider submits to the insurer a notice of initiation of  
 754 treatment within 21 days after its first examination or

Page 26 of 132

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

20-01083B-17 20171766\_\_  
 755 treatment of the claimant, the statement may include charges for  
 756 treatment or services rendered up to, but not more than, 75 days  
 757 before the postmark date of the statement. The injured party is  
 758 not liable for, and the provider may not bill the injured party  
 759 for, charges that are unpaid because of the provider's failure  
 760 to comply with this paragraph. Any agreement requiring the  
 761 injured person or insured to pay for such charges is  
 762 unenforceable.

763 1. If the insured fails to furnish the provider with the  
 764 correct name and address of the insured's medical payments  
 765 coverage insurer, the provider has 35 days from the date the  
 766 provider obtains the correct information to furnish the insurer  
 767 with a statement of the charges. The insurer is not required to  
 768 pay for such charges unless the provider includes with the  
 769 statement documentary evidence that was provided by the insured  
 770 during the 35-day period demonstrating that the provider  
 771 reasonably relied on erroneous information from the insured, and  
 772 either:

773 a. A denial letter from the incorrect insurer; or  
 774 b. Proof of mailing, which may include an affidavit under  
 775 penalty of perjury, reflecting timely mailing to the incorrect  
 776 address or insurer.

777 2. For emergency services and care rendered in a hospital  
 778 emergency department or for transport and treatment rendered by  
 779 an ambulance provider licensed pursuant to part III of chapter  
 780 401, the provider is not required to furnish the statement of  
 781 charges within the time periods established by this paragraph,  
 782 and the insurer is not deemed to have been furnished with notice  
 783 of the amount of covered loss for purposes of paragraph (5) (b)

20-01083B-17 20171766\_\_  
 784 until it receives a statement, or a copy thereof, complying with  
 785 paragraph (d) which specifically identifies the place of service  
 786 to be a hospital emergency department or an ambulance in  
 787 accordance with billing standards recognized by the federal  
 788 Centers for Medicare and Medicaid Services.

789 (d) All statements and bills for medical services rendered  
 790 by a physician, hospital, clinic, or other person or institution  
 791 must be submitted to the insurer on a properly completed Centers  
 792 for Medicare and Medicaid Services Form CMS-1500, a UB-92 form,  
 793 or any other standard form approved by the office and adopted by  
 794 the commission for purposes of this paragraph. All billings for  
 795 such services rendered by providers must, to the extent  
 796 applicable, comply with the Form CMS-1500 instructions, the  
 797 codes established by the American Medical Association (AMA)  
 798 Current Procedural Terminology Editorial Panel, and the  
 799 Healthcare Common Procedure Coding System (HCPCS) and must  
 800 follow the Physicians' Current Procedural Terminology (CPT), the  
 801 HCPCS in effect for the year in which services are rendered, and  
 802 the International Classification of Diseases (ICD) adopted by  
 803 the United States Department of Health and Human Services in  
 804 effect for the year in which services are rendered. All  
 805 providers, other than hospitals, must include on the applicable  
 806 claim form the professional license number of the provider in  
 807 the line or space provided for "Signature of Physician or  
 808 Supplier, Including Degrees or Credentials." The guidance for  
 809 determining compliance with applicable CPT and HCPCS coding must  
 810 be provided by the CPT or the HCPCS in effect for the year in  
 811 which services were rendered, the Office of the Inspector  
 812 General, Physicians Compliance Guidelines, and other

20-01083B-17 20171766\_\_  
 813 authoritative treatises designated by rule by the Agency for  
 814 Health Care Administration. A statement of medical services may  
 815 not include charges for medical services of a person or entity  
 816 that performed such services without possessing the valid  
 817 licenses required to perform such services. For purposes of  
 818 paragraph (5) (b), an insurer is not considered to have been  
 819 furnished with notice of the amount of covered loss or medical  
 820 bills due unless the statements or bills comply with this  
 821 paragraph and are properly completed in their entirety as to all  
 822 material provisions, with all relevant information being  
 823 provided therein.

824 (e)1. At the initial treatment or service provided, each  
 825 physician, other licensed professional, clinic, or other medical  
 826 institution providing medical services upon which a claim for  
 827 medical payments coverage benefits is based shall require the  
 828 insured person or his or her guardian to execute a disclosure  
 829 and acknowledgment form that reflects at a minimum that:

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

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

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

838 d. The physician, other licensed professional, clinic, or  
 839 other medical institution rendering services for which payment  
 840 is being claimed explained the services to the insured or his or  
 841 her guardian; and

20-01083B-17 20171766\_\_  
 842 e. If the insured notifies the insurer in writing of a  
 843 billing error, the insured may be entitled to a certain  
 844 percentage of a reduction in the amounts paid by the insured's  
 845 motor vehicle insurer.

846 2. The physician, other licensed professional, clinic, or  
 847 other medical institution rendering services for which payment  
 848 is being claimed has the affirmative duty to explain to the  
 849 insured or to his or her guardian the services rendered, so that  
 850 the insured or his or her guardian countersigns the form with  
 851 informed consent.

852 3. A countersignature by the insured or his or her guardian  
 853 is not required for the reading of diagnostic tests or other  
 854 services that are of such a nature that they are not required to  
 855 be performed in the presence of the insured.

856 4. The licensed medical professional rendering treatment  
 857 for which payment is being claimed shall sign, by his or her own  
 858 hand, the form complying with this paragraph.

859 5. The original completed disclosure and acknowledgment  
 860 form must be furnished to the insurer pursuant to paragraph  
 861 (5) (b) and may not be electronically furnished.

862 6. The disclosure and acknowledgment form is not required  
 863 for emergency services and care as defined in s. 395.002 which  
 864 are billed by a provider and which are rendered in a hospital  
 865 emergency department, or for transport and treatment rendered by  
 866 an ambulance provider licensed pursuant to part III of chapter  
 867 401.

868 7. The commission shall adopt by rule a standard disclosure  
 869 and acknowledgment form to be used to fulfill the requirements  
 870 of this paragraph.



20-01083B-17

20171766\_\_

871 8. As used in this paragraph, the terms "countersign" and  
 872 "countersignature" mean a second or verifying signature, as on a  
 873 previously signed document. The statement "signature on file" or  
 874 any similar statement does not constitute a countersignature.

875 9. The requirements of this paragraph apply only with  
 876 respect to the initial treatment of or service rendered to the  
 877 insured by a provider. For subsequent treatments or service, the  
 878 provider must maintain a patient log signed by the patient, in  
 879 chronological order by date of service, which is consistent with  
 880 the services being rendered to the patient as claimed. The  
 881 requirement to maintain a patient log signed by the patient may  
 882 be met by a hospital that maintains medical records as required  
 883 by s. 395.3025 and applicable rules and that makes such records  
 884 available to the insurer upon request.

885 (f) Upon written notification by any person, an insurer  
 886 shall investigate any claim of improper billing by a physician  
 887 or other medical provider. The insurer shall determine if the  
 888 insured was properly billed for only the medical care that the  
 889 insured actually received. If the insurer determines that the  
 890 insured has been improperly billed, the insurer must notify the  
 891 insured, the person making the written notification, and the  
 892 provider of its findings and reduce the amount of payment to the  
 893 provider by the amount determined to be improperly billed. If a  
 894 reduction is made due to a written notification by any person,  
 895 the insurer must pay to the person 20 percent of the amount of  
 896 the reduction, up to \$500. If the provider is arrested due to  
 897 the improper billing, the insurer must pay to the person 40  
 898 percent of the amount of the reduction, up to \$500.

899 (g) An insurer may not systematically downcode with the

Page 31 of 132

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

20-01083B-17

20171766\_\_

900 intent to deny reimbursement otherwise due. Such action  
 901 constitutes a material misrepresentation under s. 626.9541(1)(i)  
 902 2.

903 (h) An entity excluded from the definition of the term  
 904 "clinic" in s. 400.9905 must be deemed a clinic and must be  
 905 licensed under part X of chapter 400 in order to receive  
 906 reimbursement under medical payments coverage. However, this  
 907 licensing requirement does not apply to:

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

911 2. An entity wholly owned by a dentist licensed under  
 912 chapter 466, or by the dentist and the spouse, parent, child, or  
 913 sibling of the dentist;

914 3. An entity wholly owned by a chiropractic physician  
 915 licensed under chapter 460, or by the chiropractic physician and  
 916 the spouse, parent, child, or sibling of the chiropractic  
 917 physician;

918 4. A hospital or ambulatory surgical center licensed under  
 919 chapter 395;

920 5. An entity that wholly owns or that is wholly owned,  
 921 directly or indirectly, by a hospital or hospitals licensed  
 922 under chapter 395;

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

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

928 8. An entity that is owned by a publicly traded

Page 32 of 132

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

20-01083B-17 20171766\_\_

929 corporation, either directly or indirectly through its  
 930 subsidiaries, which has \$250 million or more in total annual  
 931 sales of health care services provided by licensed health care  
 932 practitioners, if one or more of the persons responsible for the  
 933 operations of the entity are health care practitioners who are  
 934 licensed in this state and who are responsible for supervising  
 935 the business activities of the entity and the entity's  
 936 compliance with state law for purposes of this section.

937 (7) NOTIFICATION TO INSUREDS OF RIGHTS.-  
 938 (a) The commission shall adopt by rule a form for  
 939 notification to an insured of his or her right to receive  
 940 medical payments coverage. Such notice must include:

941 1. A description of the benefits provided by medical  
 942 payments coverage, when payments are due, how benefits are  
 943 coordinated with other insurance benefits that the insured may  
 944 have, penalties and interest that may be imposed on insurers for  
 945 failure to make timely payments of benefits, and rights of  
 946 parties regarding disputes as to benefits.

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

948 BILLING REQUIREMENTS.-Florida law provides that with  
 949 respect to any treatment or services, other than  
 950 certain hospital and emergency services, the statement  
 951 of charges furnished to the insurer by the provider  
 952 may not include, and the insurer and the injured party  
 953 are not required to pay, charges for treatment or  
 954 services rendered more than 35 days before the  
 955 postmark date of the statement, except for past due  
 956 amounts previously billed on a timely basis and except  
 957

20-01083B-17 20171766\_\_

958 that, if the provider submits to the insurer a notice  
 959 of initiation of treatment within 21 days after its  
 960 first examination or treatment of the claimant, the  
 961 statement may include charges for treatment or  
 962 services rendered up to, but not more than, 75 days  
 963 before the postmark date of the statement.

964

965 3. An advisory informing the insured that, pursuant to s.  
 966 626.9892, the department may pay rewards of up to \$25,000 to  
 967 persons providing information leading to the arrest and  
 968 conviction of persons committing crimes investigated by the  
 969 Division of Investigative and Forensic Services arising from  
 970 violations of s. 440.105, s. 624.15, s. 626.9541, s. 626.989, or  
 971 s. 817.234.

972 4. An advisory informing the insured that, pursuant to sub-  
 973 paragraph (6)(e)1.e., if the insured notifies the insurer of  
 974 a billing error, the insured may be entitled to a certain  
 975 percentage of a reduction in the amount paid by the insured's  
 976 motor vehicle insurer.

977 5. A notice that solicitation of a person injured in a  
 978 motor vehicle crash for purposes of filing medical payments  
 979 coverage or tort claims could be a violation of s. 817.234, s.  
 980 817.505, or the rules regulating The Florida Bar and should be  
 981 immediately reported to the Division of Investigative and  
 982 Forensic Services if such conduct has taken place.

983 (b) An insurer issuing a policy in this state providing  
 984 medical payments coverage benefits must mail or deliver the  
 985 notice as specified in paragraph (a) to the named insured within  
 986 21 days after receiving from the insured notice of an automobile

20-01083B-17 20171766\_\_

987 accident or claim involving personal injury to an insured who is  
 988 covered under the policy. The office may allow an insurer  
 989 additional time to provide the notice specified in paragraph  
 990 (a), not to exceed 30 days, upon a showing by the insurer that  
 991 an emergency justifies an extension of time.  
 992 (c) The notice required by this subsection does not alter  
 993 or modify the terms of the insurance contract or other  
 994 requirements of this section.  
 995 (8) DISCOVERY OF FACTS ABOUT AN INJURED PERSON; DISPUTES.—  
 996 (a) A person making a claim under medical payments coverage  
 997 must, if requested by the insurer against whom the claim has  
 998 been made, furnish a written report of the history, condition,  
 999 treatment, dates, and costs of such treatment of the injured  
 1000 person and why the items identified by the insurer were  
 1001 reasonable in amount and medically necessary, together with a  
 1002 sworn statement that the medical care rendered was reasonable  
 1003 and necessary with respect to the bodily injury sustained and  
 1004 identifying which portion of the expenses for such medical care  
 1005 was incurred as a result of such bodily injury. If requested by  
 1006 the insurer, the person making the claim under medical payments  
 1007 coverage must also produce, and allow the inspection and copying  
 1008 of, his, her, or its records regarding the history, condition,  
 1009 treatment, dates, and costs of such treatment of the injured  
 1010 person. Such sworn statement must read as follows: "Under  
 1011 penalty of perjury, I declare that I have read the foregoing,  
 1012 and the facts alleged are true, to the best of my knowledge and  
 1013 belief." A cause of action for violation of the physician-  
 1014 patient privilege or invasion of the right of privacy may not be  
 1015 brought against any physician, hospital, clinic, or other

20-01083B-17 20171766\_\_

1016 medical institution complying with this section. The person  
 1017 requesting such records and such sworn statement shall pay all  
 1018 reasonable costs connected therewith. If an insurer makes a  
 1019 written request for documentation or information under this  
 1020 paragraph within 30 days after having received notice of the  
 1021 amount of a covered loss under paragraph (5) (b), the amount or  
 1022 the partial amount that is the subject of the insurer's inquiry  
 1023 is overdue if the insurer does not pay in accordance with  
 1024 paragraph (5) (b) or within 10 days after the insurer's receipt  
 1025 of the requested documentation or information, whichever occurs  
 1026 later. As used in this paragraph, the term "receipt" includes,  
 1027 but is not limited to, inspection and copying pursuant to this  
 1028 paragraph. An insurer that requests documentation or information  
 1029 pertaining to reasonableness of charges or medical necessity  
 1030 under this paragraph without a reasonable basis for such  
 1031 requests as a general business practice is engaging in an unfair  
 1032 trade practice under the Florida Insurance Code.  
 1033 (b) In the event of a dispute regarding an insurer's right  
 1034 to discovery of facts under this section, the insurer may  
 1035 petition a court of competent jurisdiction to enter an order  
 1036 permitting such discovery. The order may be made only on motion  
 1037 for good cause shown and upon notice to all persons having an  
 1038 interest and must specify the time, place, manner, conditions,  
 1039 and scope of the discovery. In order to protect against  
 1040 annoyance, embarrassment, or oppression, as justice requires,  
 1041 the court may enter an order refusing discovery or specifying  
 1042 conditions of discovery and may order payment of costs and  
 1043 expenses of the proceeding, including reasonable fees for the  
 1044 appearance of attorneys at the proceedings, as justice requires.

20-01083B-17

20171766\_\_

1045 (c) Upon request, the injured person must be furnished a  
 1046 copy of all information obtained by the insurer under this  
 1047 section, and pay a reasonable charge, if required by the  
 1048 insurer.

1049 (d) An insured may not unreasonably withhold notice to an  
 1050 insurer of the existence of a claim.

1051 (e) In a dispute between the insured and the insurer, or  
 1052 between an assignee of the insured's rights and the insurer,  
 1053 upon request, the insurer must notify the insured or the  
 1054 assignee that the policy limits under this section have been  
 1055 reached within 15 days after the limits have been reached.

1056 (f) In any civil action to recover medical payments  
 1057 benefits brought against an insurer by a claimant pursuant to  
 1058 this section, all claims related to the same health care  
 1059 provider for the same injured person must be brought in one  
 1060 action, unless good cause is shown why such claims should be  
 1061 brought separately.

1062 (g) An insured seeking medical payments coverage benefits,  
 1063 including an omnibus insured, must comply with the terms of the  
 1064 policy, which include, but are not limited to, submitting to an  
 1065 examination under oath. The scope of questioning during the  
 1066 examination under oath is limited to relevant information or  
 1067 information that could reasonably be expected to lead to  
 1068 relevant information. Compliance with this paragraph is a  
 1069 condition precedent to receiving benefits. An insurer that, as a  
 1070 general business practice as determined by the office, requests  
 1071 an examination under oath of an insured or an omnibus insured  
 1072 without a reasonable basis is subject to s. 626.9541.

1073 (9) MENTAL AND PHYSICAL EXAMINATION OF INJURED PERSON;

Page 37 of 132

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

20-01083B-17

20171766\_\_

1074 REPORTS.-

1075 (a) Whenever the mental or physical condition of an injured  
 1076 person covered by medical payments coverage is material to any  
 1077 claim that has been or may be made for past or future medical  
 1078 payments coverage benefits, such person must, upon the request  
 1079 of an insurer, submit to a mental or physical examination by a  
 1080 physician or physicians. The costs of any examination requested  
 1081 by an insurer must be borne entirely by the insurer. Such  
 1082 examination must be conducted within the municipality where the  
 1083 insured is receiving treatment; in a location reasonably  
 1084 accessible to the insured, which, for purposes of this  
 1085 paragraph, means any location within the municipality in which  
 1086 the insured resides; or any location within 10 miles by road of  
 1087 the insured's residence, if such location is within the county  
 1088 in which the insured resides. If the examination is to be  
 1089 conducted in a location reasonably accessible to the insured and  
 1090 if there is no qualified physician to conduct the examination in  
 1091 a location reasonably accessible to the insured, such  
 1092 examination must be conducted in an area of the closest  
 1093 proximity to the insured's residence. Insurers may include  
 1094 reasonable provisions in medical payments coverage insurance  
 1095 policies for mental and physical examination of those claiming  
 1096 medical payments coverage insurance benefits. An insurer may not  
 1097 withdraw payment of a treating physician without the consent of  
 1098 the injured person covered by medical payments coverage unless  
 1099 the insurer first obtains a valid report by a Florida physician  
 1100 licensed under the same chapter as the treating physician whose  
 1101 treatment authorization is sought to be withdrawn, stating that  
 1102 treatment was not reasonable, related, or necessary. For

Page 38 of 132

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

20-01083B-17 20171766\_\_

1103 purposes of this paragraph, a valid report is one that is  
 1104 prepared and signed by the physician examining the injured  
 1105 person or reviewing the treatment records of the injured person;  
 1106 that is factually supported by the examination and treatment  
 1107 records, if reviewed; and that has not been modified by anyone  
 1108 other than the physician. The physician preparing the report  
 1109 must be in active practice unless the physician is physically  
 1110 disabled. As used in this paragraph, the term "active practice"  
 1111 means that during the 3 years immediately preceding the date of  
 1112 the physical examination or review of the treatment records, the  
 1113 physician must have devoted professional time to the active  
 1114 clinical practice of evaluation, diagnosis, or treatment of  
 1115 medical conditions, or to the instruction of students in an  
 1116 accredited health professional school or accredited residency  
 1117 program, or a clinical research program that is affiliated with  
 1118 an accredited health professional school, a teaching hospital,  
 1119 or an accredited residency program. The physician preparing a  
 1120 report at the request of an insurer and the physicians rendering  
 1121 expert opinions on behalf of persons claiming medical payments  
 1122 coverage benefits, or on behalf of an insured through an  
 1123 attorney or another entity, shall maintain, for at least 3  
 1124 years, copies of all examination reports as medical records and  
 1125 shall maintain, for at least 3 years, records of all payments  
 1126 for the examinations and reports. An insurer or any person  
 1127 acting at the direction of or on behalf of an insurer may not  
 1128 materially change an opinion in a report prepared under this  
 1129 paragraph or direct the physician preparing the report to change  
 1130 such opinion. The denial of a payment as the result of such a  
 1131 changed opinion constitutes a material misrepresentation under

Page 39 of 132

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

20-01083B-17 20171766\_\_

1132 s. 626.9541(1)(i)2.; however, this provision does not preclude  
 1133 the insurer from calling to the attention of the physician  
 1134 errors of fact in the report based upon information in the claim  
 1135 file.  
 1136 (b) If requested by the person examined, a party causing an  
 1137 examination to be made shall deliver to him or her a copy of  
 1138 every written report concerning the examination rendered by an  
 1139 examining physician, at least one of which reports must set out  
 1140 the examining physician's findings and conclusions in detail.  
 1141 After such request and delivery, the party causing the  
 1142 examination to be made is entitled, upon request, to receive  
 1143 from the person examined every written report available to him  
 1144 or her or his or her representative concerning any examination,  
 1145 previously or thereafter made, of the same mental or physical  
 1146 condition. By requesting and obtaining a report of the  
 1147 examination so ordered, or by taking the deposition of the  
 1148 examiner, the person examined waives any privilege he or she may  
 1149 have, in relation to the claim for benefits, regarding the  
 1150 testimony of every other person who has examined, or may  
 1151 thereafter examine, him or her in respect to the same mental or  
 1152 physical condition. If a person unreasonably refuses to submit  
 1153 to, or fails to appear at, an examination, the personal injury  
 1154 protection carrier is no longer liable for subsequent personal  
 1155 injury protection benefits. An insured's refusal to submit to or  
 1156 failure to appear at two examinations raises a rebuttable  
 1157 presumption that the insured's refusal or failure was  
 1158 unreasonable.  
 1159 (10) APPLICABILITY OF PROVISION REGULATING ATTORNEY FEES.—  
 1160 With respect to any dispute under this section between the

Page 40 of 132

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

20-01083B-17

20171766\_\_

1161 insured and the insurer or between an assignee of an insured's  
 1162 rights and the insurer, ss. 627.428 and 768.79 apply except as  
 1163 provided in subsections (11) and (12) and except that any  
 1164 attorney fees recovered must:

- 1165 (a) Comply with prevailing professional standards;  
 1166 (b) Not overstate or inflate the number of hours reasonably  
 1167 necessary for a case of comparable skill or complexity; and  
 1168 (c) Represent legal services that are reasonable and  
 1169 necessary to achieve the result obtained.

1170  
 1171 Upon request by either party, a judge must make written  
 1172 findings, substantiated by evidence presented at trial or any  
 1173 hearings associated therewith, that any award of attorney fees  
 1174 complies with this subsection. Notwithstanding s. 627.428,  
 1175 attorney fees recovered under this section must be calculated  
 1176 without regard to a contingency risk multiplier.

1177 (11) DEMAND LETTER.—

1178 (a) As a condition precedent to filing any action for  
 1179 benefits under this section, written notice of an intent to  
 1180 initiate litigation must be provided to the insurer. Such notice  
 1181 may not be sent until the claim is overdue, including any  
 1182 additional time the insurer has to pay the claim pursuant to  
 1183 paragraph (5) (b).

1184 (b) The notice must state with specificity:

- 1185 1. "This is a demand letter under s. 627.7265, Florida  
 1186 Statutes."  
 1187 2. The name of the insured for whom such benefits are being  
 1188 sought, including a copy of the assignment giving rights to the  
 1189 claimant if the claimant is not the insured.

Page 41 of 132

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

20-01083B-17

20171766\_\_

1190 3. The claim number or policy number upon which the claim  
 1191 was originally submitted to the insurer.

1192 4. To the extent applicable, the name of any medical  
 1193 provider who rendered to an insured the treatment, services,  
 1194 accommodations, or supplies that form the basis of such claim;  
 1195 and an itemized statement specifying each exact amount, the date  
 1196 of treatment, service, or accommodation, and the type of benefit  
 1197 claimed to be due. To the extent that the demand involves an  
 1198 insurer's withdrawal of payment for future treatment not yet  
 1199 rendered, the claimant shall attach a copy of the insurer's  
 1200 notice withdrawing such payment and an itemized statement of the  
 1201 type, frequency, and duration of future treatment claimed to be  
 1202 reasonable and medically necessary.

1203 (c) Each notice required by this subsection must be  
 1204 delivered to the insurer by certified or registered mail, return  
 1205 receipt requested. Such postal costs must be reimbursed by the  
 1206 insurer, if requested by the claimant in the notice, when the  
 1207 insurer pays the claim. Such notice must be sent to the person  
 1208 and address specified by the insurer for the purposes of  
 1209 receiving notices under this subsection. Each licensed insurer,  
 1210 whether domestic, foreign, or alien, shall file with the office  
 1211 the name and address of the designated person to whom notices  
 1212 must be sent, which the office shall make available on its  
 1213 website. The person whose name and address is on file with the  
 1214 office pursuant to s. 624.422 is deemed the authorized  
 1215 representative to accept notice pursuant to this subsection if  
 1216 no other designation has been made.

1217 (d) If, within 30 days after receipt of notice by the  
 1218 insurer, the overdue claim specified in the notice is paid by

Page 42 of 132

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

20-01083B-17 20171766\_\_

1219 the insurer together with applicable interest and a penalty of  
 1220 10 percent of the overdue amount paid by the insurer, subject to  
 1221 a maximum penalty of \$250, an action may not be brought against  
 1222 the insurer. If the demand involves an insurer's withdrawal of  
 1223 payment for future treatment not yet rendered, an action may not  
 1224 be brought against the insurer if, within 30 days after its  
 1225 receipt of the notice, the insurer mails to the person filing  
 1226 the notice a written statement of the insurer's agreement to pay  
 1227 for such treatment in accordance with the notice and to pay a  
 1228 penalty of 10 percent, subject to a maximum penalty of \$250,  
 1229 when it pays for such future treatment in accordance with the  
 1230 requirements of this section. To the extent the insurer  
 1231 determines not to pay any amount demanded, the penalty is not  
 1232 payable in any subsequent action. For purposes of this  
 1233 subsection, payment or the insurer's agreement must be treated  
 1234 as being made on the date a draft or other valid instrument that  
 1235 is equivalent to payment, or the insurer's written statement of  
 1236 agreement, is placed in the United States mail in a properly  
 1237 addressed, postpaid envelope or, if not so posted, on the date  
 1238 of delivery. The insurer is not obligated to pay any attorney  
 1239 fees if the insurer pays the claim or mails its agreement to pay  
 1240 for future treatment within the time prescribed by this  
 1241 subsection.

1242 (e) The applicable statute of limitation for an action  
 1243 under this section is tolled for 30 business days by the mailing  
 1244 of the notice required by this subsection.

1245 (12) ALL CLAIMS BROUGHT IN A SINGLE ACTION.—In any civil  
 1246 action to recover medical payments coverage benefits brought by  
 1247 a claimant pursuant to this section against an insurer, all

20-01083B-17 20171766\_\_

1248 claims related to the same health care provider for the same  
 1249 injured person must be brought in one action unless good cause  
 1250 is shown why such claims should be brought separately. If the  
 1251 court determines that a civil action is filed for a claim that  
 1252 should have been brought in a prior civil action, the court may  
 1253 not award attorney fees to the claimant.

1254 (13) FAILURE TO PAY VALID CLAIMS; UNFAIR OR DECEPTIVE  
 1255 PRACTICE.—

1256 (a) An insurer is engaging in a prohibited unfair or  
 1257 deceptive practice that is subject to the penalties provided in  
 1258 s. 626.9521, and the office has the powers and duties specified  
 1259 in ss. 626.9561-626.9601, if the insurer, with such frequency so  
 1260 as to indicate a general business practice, fails to pay valid  
 1261 claims for medical payments coverage or fails to pay valid  
 1262 claims until receipt of the notice required under subsection  
 1263 (11).

1264 (b) Notwithstanding s. 501.212, the Department of Legal  
 1265 Affairs may investigate and initiate actions for a violation of  
 1266 this subsection, including, but not limited to, the powers and  
 1267 duties specified in part II of chapter 501.

1268 (14) CIVIL ACTION FOR INSURANCE FRAUD.—An insurer has a  
 1269 cause of action against any person convicted of, or who,  
 1270 regardless of adjudication of guilt, pleads guilty or nolo  
 1271 contendere to, insurance fraud under s. 817.234, patient  
 1272 brokering under s. 817.505, or kickbacks under s. 456.054,  
 1273 associated with a claim for medical payments coverage benefits  
 1274 in accordance with this section. An insurer prevailing in an  
 1275 action brought under this subsection may recover compensatory,  
 1276 consequential, and punitive damages subject to the requirements

20-01083B-17 20171766\_\_

1277 and limitations of part II of chapter 768 and attorney fees and  
 1278 costs incurred in litigating a cause of action against any  
 1279 person convicted of, or who, regardless of adjudication of  
 1280 guilt, pleads guilty or nolo contendere to, insurance fraud  
 1281 under s. 817.234, patient brokering under s. 817.505, or  
 1282 kickbacks under s. 456.054, associated with a claim for medical  
 1283 payments coverage benefits in accordance with this section.

1284 (15) FRAUD ADVISORY NOTICE.—Upon receiving notice of a  
 1285 claim under this section, an insurer shall provide a notice to  
 1286 the insured or to a person for whom a claim for reimbursement  
 1287 for diagnosis or treatment of injuries has been filed, advising  
 1288 that:

1289 (a) Pursuant to s. 626.9892, the department may pay rewards  
 1290 of up to \$25,000 to persons who provide information leading to  
 1291 the arrest and conviction of persons committing crimes  
 1292 investigated by the Division of Investigative and Forensic  
 1293 Services arising from violations of s. 440.105, s. 624.15, s.  
 1294 626.9541, s. 626.989, or s. 817.234.

1295 (b) Solicitation of a person injured in a motor vehicle  
 1296 crash for purposes of filing medical payments coverage or tort  
 1297 claims could be a violation of s. 817.234, s. 817.505, or the  
 1298 rules regulating The Florida Bar and should be immediately  
 1299 reported to the Division of Investigative and Forensic Services  
 1300 if such conduct has taken place.

1301 (16) NONREIMBURSABLE CLAIMS.—Claims generated as a result  
 1302 of activities that are unlawful pursuant to s. 817.505 are not  
 1303 reimbursable.

1304 (17) SECURE ELECTRONIC DATA TRANSFER.—Except as otherwise  
 1305 provided in subparagraph (6)(e)5., a notice, documentation,

20-01083B-17 20171766\_\_

1306 transmission, or communication of any kind required or  
 1307 authorized under this section may be transmitted electronically  
 1308 if it is transmitted by secure electronic data transfer that is  
 1309 consistent with state and federal privacy and security laws.

1310 (18) INSURER'S RIGHT OF SUBROGATION.—

1311 (a) A medical payments insurer may include a provision in  
 1312 its policy which permits subrogation for medical payments  
 1313 benefits it paid if the expenses giving rise to the payments  
 1314 were caused by the wrongful act or omission of another. However,  
 1315 this subrogation right is inferior to the rights of the injured  
 1316 insured, and is available only after all the insured's damages  
 1317 have been recovered and the insured has been made whole. An  
 1318 insured who obtains a recovery from a third party of the full  
 1319 amount of the damages sustained and delivers a release or  
 1320 satisfaction that impairs a medical payments insurer's  
 1321 subrogation right is liable to the insurer for repayment of  
 1322 medical payments benefits, less any expenses of acquiring the  
 1323 recovery, including a prorated share of attorney fees and costs,  
 1324 and shall hold that net recovery in trust to be delivered to the  
 1325 medical payments insurer.

1326 (b) The insurer does not have a right of subrogation for  
 1327 medical payments coverage benefits paid for the insured if the  
 1328 tortfeasor who caused the motor vehicle accident is also an  
 1329 insured under the policy that paid the medical payments  
 1330 benefits.

1331 Section 4. Subsection (1) of section 316.646, Florida  
 1332 Statutes, is amended to read:

1333 316.646 Security required; proof of security and display  
 1334 thereof.—



20-01083B-17

20171766\_\_

1335 (1) An owner of a motor vehicle required to be registered  
 1336 in this state and an operator of a motor vehicle licensed in  
 1337 this state Any person required by s. 324.022 to maintain  
 1338 ~~property damage liability security, required by s. 324.023 to~~  
 1339 ~~maintain liability security for bodily injury or death, or~~  
 1340 ~~required by s. 627.733 to maintain personal injury protection~~  
 1341 ~~security on a motor vehicle~~ shall have in his or her immediate  
 1342 possession at all times while operating such motor vehicle  
 1343 proper proof of maintenance of the ~~required~~ security required  
 1344 under s. 324.021(7).

1345 (a) Such proof must ~~shall~~ be in a uniform paper or  
 1346 electronic format, as prescribed by the department, a valid  
 1347 insurance policy, an insurance policy binder, a certificate of  
 1348 insurance, or such other proof as may be prescribed by the  
 1349 department.

1350 (b)1. The act of presenting to a law enforcement officer an  
 1351 electronic device displaying proof of insurance in an electronic  
 1352 format does not constitute consent for the officer to access any  
 1353 information on the device other than the displayed proof of  
 1354 insurance.

1355 2. The person who presents the device to the officer  
 1356 assumes the liability for any resulting damage to the device.

1357 Section 5. Paragraphs (a) and (d) of subsection (5) of  
 1358 section 320.02, Florida Statutes, are amended to read:

1359 320.02 Registration required; application for registration;  
 1360 forms.-

1361 (5) (a) Proof that bodily injury liability coverage and  
 1362 property damage liability coverage ~~personal injury protection~~  
 1363 ~~benefits~~ have been purchased if required under s. 324.022, s.

20-01083B-17

20171766\_\_

1364 324.032, or s. 627.742, that medical payments coverage has been  
 1365 purchased if required under s. 627.7265 ~~s. 627.733, that~~  
 1366 ~~property damage liability coverage has been purchased as~~  
 1367 ~~required under s. 324.022, that bodily injury liability or death~~  
 1368 coverage has been purchased if required under s. 324.023, and  
 1369 that combined bodily liability insurance and property damage  
 1370 liability insurance have been purchased if required under s.  
 1371 627.7415 must ~~shall~~ be provided in the manner prescribed by law  
 1372 by the applicant at the time of application for registration of  
 1373 any motor vehicle that is subject to such requirements. The  
 1374 issuing agent may not ~~shall refuse to~~ issue registration if such  
 1375 proof of purchase is not provided. Insurers shall furnish  
 1376 uniform proof-of-purchase cards in a paper or electronic format  
 1377 in a form prescribed by the department and include the name of  
 1378 the insured's insurance company, the coverage identification  
 1379 number, and the make, year, and vehicle identification number of  
 1380 the vehicle insured. The card must contain a statement notifying  
 1381 the applicant of the penalty specified under s. 316.646(4). The  
 1382 card or insurance policy, insurance policy binder, or  
 1383 certificate of insurance or a photocopy of any of these; an  
 1384 affidavit containing the name of the insured's insurance  
 1385 company, the insured's policy number, and the make and year of  
 1386 the vehicle insured; or such other proof as may be prescribed by  
 1387 the department constitutes ~~shall constitute~~ sufficient proof of  
 1388 purchase. If an affidavit is provided as proof, it must be in  
 1389 substantially the following form:

1390  
 1391 Under penalty of perjury, I ... (Name of insured)... do hereby  
 1392 certify that I have ... (bodily injury liability and Personal

20-01083B-17 20171766\_\_

1393 ~~Injury Protection~~, property damage liability coverage, and  
 1394 medical payments coverage, and, if required, Bodily Injury  
 1395 Liability)... Insurance currently in effect with ...(Name of  
 1396 insurance company)... under ...(policy number)... covering  
 1397 ...(make, year, and vehicle identification number of  
 1398 vehicle).... ...(Signature of Insured)...

1399

1400 Such affidavit must include the following warning:

1401

1402 WARNING: GIVING FALSE INFORMATION IN ORDER TO OBTAIN A VEHICLE  
 1403 REGISTRATION CERTIFICATE IS A CRIMINAL OFFENSE UNDER FLORIDA  
 1404 LAW. ANYONE GIVING FALSE INFORMATION ON THIS AFFIDAVIT IS  
 1405 SUBJECT TO PROSECUTION.

1406

1407 If an application is made through a licensed motor vehicle  
 1408 dealer as required under s. 319.23, the original or a  
 1409 photostatic copy of such card, insurance policy, insurance  
 1410 policy binder, or certificate of insurance or the original  
 1411 affidavit from the insured must shall be forwarded by the dealer  
 1412 to the tax collector of the county or the Department of Highway  
 1413 Safety and Motor Vehicles for processing. By executing the  
 1414 ~~afesaid~~ affidavit, a no licensed motor vehicle dealer is not  
 1415 will be liable in damages for any inadequacy, insufficiency, or  
 1416 falsification of any statement contained therein. ~~A card must~~  
 1417 ~~also indicate the existence of any bodily injury liability~~  
 1418 ~~insurance voluntarily purchased.~~

1419 (d) The verifying of ~~proof of personal injury protection~~  
 1420 ~~insurance, proof of property damage liability insurance, proof~~  
 1421 ~~of combined bodily liability insurance and property damage~~

20-01083B-17 20171766\_\_

1422 ~~liability insurance, or~~ proof of financial responsibility  
 1423 ~~insurance and the issuance or failure to issue the motor vehicle~~  
 1424 ~~registration under the provisions of this chapter may not be~~  
 1425 ~~construed in any court as a warranty of the reliability or~~  
 1426 ~~accuracy of the evidence of such proof, or that the provisions~~  
 1427 ~~of any insurance policy furnished as proof of financial~~  
 1428 ~~responsibility comply with state law. Neither~~ The department or  
 1429 ~~nor~~ any tax collector is not liable in damages for any  
 1430 inadequacy, insufficiency, falsification, or unauthorized  
 1431 modification of any item of the ~~proof of personal injury~~  
 1432 ~~protection insurance, proof of property damage liability~~  
 1433 ~~insurance, proof of combined bodily liability insurance and~~  
 1434 ~~property damage liability insurance, or~~ proof of financial  
 1435 responsibility before insurance ~~prior to~~, during, or subsequent  
 1436 to the verification of the proof. The issuance of a motor  
 1437 vehicle registration does not constitute prima facie evidence or  
 1438 a presumption of insurance coverage.

1439 Section 6. Subsection (3) of section 320.27, Florida  
 1440 Statutes, is amended to read:

1441 320.27 Motor vehicle dealers.-

1442 (3) APPLICATION AND FEE.-The ~~application for the license~~  
 1443 application must shall be in such form as may be prescribed by  
 1444 the department and is shall be subject to such rules with  
 1445 ~~respect thereto~~ as may be so prescribed by the department it.  
 1446 Such application must shall be verified by oath or affirmation  
 1447 and must shall contain a full statement of the name and birth  
 1448 date of the person or persons applying for the license therefor;  
 1449 the name of the firm or copartnership, with the names and places  
 1450 of residence of all members ~~thereof~~, if such applicant is a firm

20-01083B-17

20171766\_\_

1451 or copartnership; the names and places of residence of the  
 1452 principal officers, if the applicant is a body corporate or  
 1453 other artificial body; the name of the state under whose laws  
 1454 the corporation is organized; the present and former place or  
 1455 places of residence of the applicant; and the prior business in  
 1456 which the applicant has been engaged and its the location  
 1457 thereof. ~~The Such~~ application ~~must shall~~ describe the exact  
 1458 location of the place of business and ~~must shall~~ state whether  
 1459 the place of business is owned by the applicant and when  
 1460 acquired, or, if leased, a true copy of the lease ~~must shall~~ be  
 1461 attached to the application. The applicant shall certify that  
 1462 the location provides an adequately equipped office and is not a  
 1463 residence; that the location affords sufficient unoccupied space  
 1464 upon and within which adequately to store all motor vehicles  
 1465 offered and displayed for sale; and that the location is a  
 1466 suitable place where the applicant can in good faith carry on  
 1467 such business and keep and maintain books, records, and files  
 1468 necessary to conduct such business, which ~~must shall~~ be  
 1469 available at all reasonable hours to inspection by the  
 1470 department or any of its inspectors or other employees. The  
 1471 applicant shall certify that the business of a motor vehicle  
 1472 dealer is the principal business that will ~~which shall~~ be  
 1473 conducted at that location. The application ~~must shall~~ contain a  
 1474 statement that the applicant is either franchised by a  
 1475 manufacturer of motor vehicles, in which case the name of each  
 1476 motor vehicle that the applicant is franchised to sell ~~must~~  
 1477 ~~shall~~ be included, or an independent (nonfranchised) motor  
 1478 vehicle dealer. The application ~~must shall~~ contain other  
 1479 relevant information as may be required by the department. The

Page 51 of 132

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

20-01083B-17

20171766\_\_

1480 applicant must furnish, including evidence, in a form approved  
 1481 by the department, that the applicant is insured under a garage  
 1482 liability insurance policy or a general liability insurance  
 1483 policy coupled with a business automobile policy with the  
 1484 liability coverage required by this subsection, ~~which shall~~  
 1485 ~~include, at a minimum, \$25,000 combined single-limit liability~~  
 1486 ~~coverage including bodily injury and property damage protection~~  
 1487 ~~and \$10,000 personal injury protection.~~ However, a salvage motor  
 1488 vehicle dealer as defined in subparagraph (1)(c)5. is exempt  
 1489 from the requirements for garage liability insurance and medical  
 1490 payments coverage insurance and personal injury protection  
 1491 insurance on those vehicles that cannot be legally operated on  
 1492 roads, highways, or streets in this state. Franchise dealers  
 1493 must submit a garage liability insurance policy, and all other  
 1494 dealers must submit a garage liability insurance policy or a  
 1495 general liability insurance policy coupled with a business  
 1496 automobile policy. Such policy ~~must shall~~ be for the license  
 1497 period and must include, at a minimum, \$70,000 combined single-  
 1498 limit bodily injury and property damage liability coverage that  
 1499 conforms to the requirements of s. 324.151., ~~and~~ Evidence of a  
 1500 new or continued policy ~~must shall~~ be delivered to the  
 1501 department at the beginning of each license period. Upon making  
 1502 an initial application, the applicant shall pay to the  
 1503 department a fee of \$300 in addition to any other fees required  
 1504 by law. Applicants may choose to extend the licensure period for  
 1505 1 additional year for a total of 2 years. An initial applicant  
 1506 shall pay to the department a fee of \$300 for the first year and  
 1507 \$75 for the second year, in addition to any other fees required  
 1508 by law. An applicant for renewal shall pay to the department \$75

Page 52 of 132

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

20-01083B-17 20171766\_\_

1509 for a 1-year renewal or \$150 for a 2-year renewal, in addition  
 1510 to any other fees required by law. Upon making an application  
 1511 for a change of location, the applicant person shall pay a fee  
 1512 of \$50 in addition to any other fees now required by law. The  
 1513 department shall, in the case of every application for initial  
 1514 licensure, verify whether certain facts set forth in the  
 1515 application are true. Each applicant, general partner in the  
 1516 case of a partnership, or corporate officer and director in the  
 1517 case of a corporate applicant, shall ~~must~~ file a set of  
 1518 fingerprints with the department for the purpose of determining  
 1519 any prior criminal record or any outstanding warrants. The  
 1520 department shall submit the fingerprints to the Department of  
 1521 Law Enforcement for state processing and forwarding to the  
 1522 Federal Bureau of Investigation for federal processing. The  
 1523 actual cost of state and federal processing must ~~shall~~ be borne  
 1524 by the applicant and is in addition to the fee for licensure.  
 1525 The department may issue a license to an applicant pending the  
 1526 results of the fingerprint investigation, which license is fully  
 1527 revocable if the department subsequently determines that any  
 1528 facts set forth in the application are not true or correctly  
 1529 represented.

1530 Section 7. Paragraph (j) of subsection (3) of section  
 1531 320.771, Florida Statutes, is amended to read:

1532 320.771 License required of recreational vehicle dealers.—

1533 (3) APPLICATION.—The application for such license shall be  
 1534 in the form prescribed by the department and subject to such  
 1535 rules as may be prescribed by it. The application shall be  
 1536 verified by oath or affirmation and shall contain:

1537 (j) A statement that the applicant is insured under a

20-01083B-17 20171766\_\_

1538 garage liability insurance policy, which must ~~shall~~ include, at  
 1539 a minimum, \$70,000 ~~\$25,000~~ combined single-limit bodily injury  
 1540 and property liability coverage, ~~including bodily injury and~~  
 1541 ~~property damage protection, and \$10,000 personal injury~~  
 1542 ~~protection~~, if the applicant is to be licensed as a dealer in,  
 1543 or intends to sell, recreational vehicles.  
 1544

1545 The department shall, if it deems necessary, cause an  
 1546 investigation to be made to ascertain if the facts set forth in  
 1547 the application are true and shall not issue a license to the  
 1548 applicant until it is satisfied that the facts set forth in the  
 1549 application are true.

1550 Section 8. Section 324.011, Florida Statutes, is amended to  
 1551 read:

1552 324.011 Legislative intent and purpose of chapter.—It is  
 1553 the intent of this chapter to ensure that the privilege of  
 1554 owning or operating a motor vehicle in this state be exercised  
 1555 ~~recognize the existing privilege to own or operate a motor~~  
 1556 ~~vehicle on the public streets and highways of this state when~~  
 1557 ~~such vehicles are used with due consideration for others' safety~~  
 1558 ~~others~~ and their property, ~~and~~ to promote safety, and to provide  
 1559 financial security requirements for ~~such~~ owners and ~~or~~ operators  
 1560 whose responsibility it is to recompense others for injury to  
 1561 person or property caused by the operation of a motor vehicle.  
 1562 Therefore, this chapter requires that owners and operators of  
 1563 motor vehicles establish, maintain, and it is required herein  
 1564 ~~that the operator of a motor vehicle involved in a crash or~~  
 1565 ~~convicted of certain traffic offenses meeting the operative~~  
 1566 ~~provisions of s. 324.051(2) shall respond for such damages and~~

20-01083B-17 20171766\_\_  
 1567 show proof of financial ability to respond for damages arising  
 1568 out of the ownership, maintenance, or use of a motor vehicle ~~in~~  
 1569 ~~future accidents~~ as a requisite to owning or operating a motor  
 1570 vehicle in this state his or her future exercise of such  
 1571 privileges.

1572 Section 9. Subsections (1) and (7) and paragraph (c) of  
 1573 subsection (9) of section 324.021, Florida Statutes, are  
 1574 amended, and subsection (12) is added to that section, to read:

1575 324.021 Definitions; minimum insurance required.—The  
 1576 following words and phrases when used in this chapter shall, for  
 1577 the purpose of this chapter, have the meanings respectively  
 1578 ascribed to them in this section, except in those instances  
 1579 where the context clearly indicates a different meaning:

1580 (1) MOTOR VEHICLE.—Every self-propelled vehicle that which  
 1581 is designed and required to be licensed for use upon a highway,  
 1582 including trailers and semitrailers designed for use with such  
 1583 vehicles, except traction engines, road rollers, farm tractors,  
 1584 power shovels, and well drillers, and every vehicle that which  
 1585 is propelled by electric power obtained from overhead wires but  
 1586 not operated upon rails, but not including any bicycle or moped.  
 1587 ~~However, the term "motor vehicle" shall not include any motor~~  
 1588 ~~vehicle as defined in s. 627.732(3) when the owner of such~~  
 1589 ~~vehicle has complied with the requirements of ss. 627.730-~~  
 1590 ~~627.7405, inclusive, unless the provisions of s. 324.051 apply,~~  
 1591 ~~and, in such case, the applicable proof of insurance provisions~~  
 1592 ~~of s. 320.02 apply.~~

1593 (7) PROOF OF FINANCIAL RESPONSIBILITY.—~~That~~ Proof of  
 1594 ability to respond in damages for liability on account of  
 1595 crashes arising out of the ownership, maintenance, or use of a

20-01083B-17 20171766\_\_  
 1596 motor vehicle:

1597 (a) With respect to a motor vehicle that is not a  
 1598 commercial motor vehicle, nonpublic sector bus, or for-hire  
 1599 passenger transportation vehicle:

1600 1. Beginning on the effective date of this act, and  
 1601 continuing through December 31, 2019, in the amount of:

1602 a. Twenty thousand dollars for ~~\$10,000 because of~~ bodily  
 1603 injury to, or the death of, one person in any one crash and,  
 1604 ~~(b)~~ subject to such limits for one person, in the amount of  
 1605 \$40,000 for ~~\$20,000 because of~~ bodily injury to, or the death  
 1606 of, two or more persons in any one crash; and

1607 b. Ten thousand dollars for damage to, or destruction of,  
 1608 property of others in any one crash.

1609 2. Beginning January 1, 2020, and continuing through  
 1610 December 31, 2021, in the amount of:

1611 a. Twenty-five thousand dollars for bodily injury to, or  
 1612 the death of, one person in any one crash and, subject to such  
 1613 limits for one person, in the amount of \$50,000 for bodily  
 1614 injury to, or the death of, two or more persons in any one  
 1615 crash; and

1616 b. Ten thousand dollars for damage to, or destruction of,  
 1617 property of others in any one crash.

1618 3. Beginning January 1, 2022, and continuing thereafter, in  
 1619 the amount of:

1620 a. Thirty thousand dollars for bodily injury to, or the  
 1621 death of, one person in any one crash and, subject to such  
 1622 limits for one person, in the amount of \$60,000 for bodily  
 1623 injury to, or the death of, two or more persons in any one  
 1624 crash; and

20-01083B-17

20171766\_\_

1625 ~~b.(e) Ten thousand dollars for damage in the amount of~~  
 1626 ~~\$10,000 because of injury to, or destruction of, property of~~  
 1627 ~~others in any one crash, and~~

1628 ~~(b)(d) With respect to commercial motor vehicles and~~  
 1629 ~~nonpublic sector buses, in the amounts specified in s. 627.7415~~  
 1630 ~~ss. 627.7415 and 627.742, respectively.~~

1631 (c) With respect to nonpublic sector buses, in the amounts  
 1632 specified in s. 627.742.

1633 (d) With respect to for-hire passenger transportation  
 1634 vehicles, in the amounts specified in s. 324.032.

1635 (9) OWNER; OWNER/LESSOR.—

1636 (c) *Application.*—

1637 1. The limits on liability in subparagraphs (b)2. and 3. do  
 1638 not apply to an owner of motor vehicles that are used for  
 1639 commercial activity in the owner's ordinary course of business,  
 1640 other than a rental company that rents or leases motor vehicles.  
 1641 For purposes of this paragraph, the term "rental company"  
 1642 includes only an entity that is engaged in the business of  
 1643 renting or leasing motor vehicles to the general public and that  
 1644 rents or leases a majority of its motor vehicles to persons with  
 1645 no direct or indirect affiliation with the rental company. The  
 1646 term also includes a motor vehicle dealer that provides  
 1647 temporary replacement vehicles to its customers for up to 10  
 1648 days. The term "rental company" also includes:

1649 a. A related rental or leasing company that is a subsidiary  
 1650 of the same parent company as that of the renting or leasing  
 1651 company that rented or leased the vehicle.

1652 b. The holder of a motor vehicle title or an equity  
 1653 interest in a motor vehicle title if the title or equity

Page 57 of 132

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

20-01083B-17

20171766\_\_

1654 interest is held pursuant to or to facilitate an asset-backed  
 1655 securitization of a fleet of motor vehicles used solely in the  
 1656 business of renting or leasing motor vehicles to the general  
 1657 public and under the dominion and control of a rental company,  
 1658 as described in this subparagraph, in the operation of such  
 1659 rental company's business.

1660 2. Furthermore, with respect to commercial motor vehicles  
 1661 as defined in s. 207.002 or s. 320.01 ~~s. 627.732~~, the limits on  
 1662 liability in subparagraphs (b)2. and 3. do not apply if, at the  
 1663 time of the incident, the commercial motor vehicle is being used  
 1664 in the transportation of materials found to be hazardous for the  
 1665 purposes of the Hazardous Materials Transportation Authorization  
 1666 Act of 1994, as amended, 49 U.S.C. ss. 5101 et seq., and that is  
 1667 required pursuant to such act to carry placards warning others  
 1668 of the hazardous cargo, unless at the time of lease or rental  
 1669 either:

1670 a. The lessee indicates in writing that the vehicle will  
 1671 not be used to transport materials found to be hazardous for the  
 1672 purposes of the Hazardous Materials Transportation Authorization  
 1673 Act of 1994, as amended, 49 U.S.C. ss. 5101 et seq.; or

1674 b. The lessee or other operator of the commercial motor  
 1675 vehicle has in effect insurance with limits of at least  
 1676 \$5,000,000 combined property damage and bodily injury liability.

1677 (12) FOR-HIRE PASSENGER TRANSPORTATION VEHICLE.—Every "for-  
 1678 hire vehicle" as defined in s. 320.01(15) which is offered or  
 1679 used to provide transportation for persons, including taxicabs,  
 1680 limousines, and jitneys.

1681 Section 10. Section 324.022, Florida Statutes, is amended  
 1682 to read:

Page 58 of 132

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

20-01083B-17 20171766\_\_

1683 324.022 Financial responsibility requirements for property  
1684 damage.—

1685 (1) ~~(a) Every owner or operator~~ of a motor vehicle required  
1686 to be registered in this state and every operator of a motor  
1687 vehicle who is licensed in this state shall establish and  
1688 continuously maintain the ability to respond in damages for  
1689 liability on account of accidents arising out of the ownership,  
1690 maintenance, or use of the motor vehicle in the amount of:

1691 1. Beginning on the effective date of this act, and  
1692 continuing through December 31, 2019:

1693 a. Twenty thousand dollars for bodily injury to, or the  
1694 death of, one person in any one crash and, subject to such  
1695 limits for one person, in the amount of \$40,000 for bodily  
1696 injury to, or the death of, two or more persons in any one  
1697 crash; and

1698 b. Ten thousand dollars for damage to, or destruction of,  
1699 property of others in any one crash.

1700 2. Beginning January 1, 2020, and continuing through  
1701 December 31, 2021:

1702 a. Twenty-five thousand dollars for bodily injury to, or  
1703 the death of, one person in any one crash and, subject to such  
1704 limits for one person, in the amount of \$50,000 for bodily  
1705 injury to, or the death of, two or more persons in any one  
1706 crash; and

1707 b. Ten thousand dollars for damage to, or destruction of,  
1708 property of others in any one crash.

1709 3. Beginning January 1, 2022, and continuing thereafter:

1710 a. Thirty thousand dollars for bodily injury to, or the  
1711 death of, one person in any one crash and, subject to such

20-01083B-17 20171766\_\_

1712 limits for one person, in the amount of \$60,000 for bodily  
1713 injury to, or the death of, two or more persons in any one  
1714 crash; and

1715 b. Ten thousand dollars for \$10,000 because of damage to,  
1716 or destruction of, property of others in any one crash.

1717 (b) The requirements of paragraph (a) ~~this section~~ may be  
1718 met by one of the methods established in s. 324.031; by self-  
1719 insuring as authorized by s. 768.28(16); or by maintaining  
1720 medical payments coverage under s. 627.7265 and a motor vehicle  
1721 liability insurance policy that an insurance policy providing  
1722 coverage for property damage liability in the amount of at least  
1723 \$10,000 because of damage to, or destruction of, property of  
1724 others in any one accident arising out of the use of the motor  
1725 vehicle. The requirements of this section may also be met by  
1726 having a policy which provides combined property damage  
1727 liability and bodily injury liability coverage for any one crash  
1728 arising out of the ownership, maintenance, or use of a motor  
1729 vehicle which conforms to the requirements of s. 324.151 in the  
1730 amount of:

1731 1. At least \$50,000 for every owner and operator subject to  
1732 the financial responsibility required in subparagraph (1) (a)1.

1733 2. At least \$60,000 for every owner and operator subject to  
1734 the financial responsibility required in subparagraph (1) (a)2.

1735 3. At least \$70,000 for every owner and operator subject to  
1736 the financial responsibility required in subparagraph (1) (a)3.  
1737 \$30,000 for combined property damage liability and bodily injury  
1738 liability for any one crash arising out of the use of the motor  
1739 vehicle. The policy, with respect to coverage for property  
1740 damage liability, must meet the applicable requirements of s.

20-01083B-17 20171766\_\_

1741 ~~324.151, subject to the usual policy exclusions that have been~~  
 1742 ~~approved in policy forms by the Office of Insurance Regulation.~~  
 1743 ~~No insurer shall have any duty to defend uncovered claims~~  
 1744 ~~irrespective of their joinder with covered claims.~~

1745 (2) As used in this section, the term~~+~~

1746 ~~(a)~~ "motor vehicle" means any self-propelled vehicle that  
 1747 has four or more wheels and that is of a type designed and  
 1748 required to be licensed for use on the highways of this state,  
 1749 and any trailer or semitrailer designed for use with such  
 1750 vehicle. The term does not include the following:

1751 (a)1- A mobile home as defined in s. 320.01.

1752 (b)2- A motor vehicle that is used in mass transit and  
 1753 designed to transport more than five passengers, exclusive of  
 1754 the operator of the motor vehicle, and that is owned by a  
 1755 municipality, transit authority, or political subdivision of the  
 1756 state.

1757 (c)3- A school bus as defined in s. 1006.25, which shall  
 1758 maintain security as required under s. 316.615.

1759 (d) A commercial motor vehicle as defined in s. 207.002 or  
 1760 s. 320.01, which shall maintain security as required under ss.  
 1761 324.031 and 627.7415.

1762 (e) A nonpublic sector bus, which shall maintain security  
 1763 as required under ss. 324.031 and 627.742.

1764 (f)4- A ~~vehicle providing~~ for-hire passenger transportation  
 1765 vehicle, which that is subject to the provisions of s. 324.031-  
 1766 A taxicab shall maintain security as required under s. 324.032  
 1767 s. 324.032(1).

1768 ~~(b) "Owner" means the person who holds legal title to a~~  
 1769 ~~motor vehicle or the debtor or lessee who has the right to~~

20-01083B-17 20171766\_\_

1770 possession of a motor vehicle that is the subject of a security  
 1771 agreement or lease with an option to purchase.

1772 (3) Each nonresident owner or registrant of a motor vehicle  
 1773 that, whether operated or not, has been physically present  
 1774 within this state for more than 90 days during the preceding 365  
 1775 days shall maintain security as required by subsection (1),  
 1776 which must be that is in effect continuously throughout the  
 1777 period the motor vehicle remains within this state.

1778 (4) An ~~The~~ owner or registrant of a motor vehicle who is  
 1779 ~~exempt from the requirements of this section if she or he is a~~  
 1780 ~~member of the United States Armed Forces and is called to or on~~  
 1781 ~~active duty outside the United States in an emergency situation~~  
 1782 is exempt from this section while he or she. ~~The exemption~~  
 1783 ~~provided by this subsection applies only as long as the member~~  
 1784 ~~of the Armed Forces is on such active duty. This exemption~~  
 1785 ~~outside the United States and applies only while the vehicle~~  
 1786 ~~covered by the security is not operated by any person. Upon~~  
 1787 ~~receipt of a written request by the insured to whom the~~  
 1788 ~~exemption provided in this subsection applies, the insurer shall~~  
 1789 ~~cancel the coverages and return any unearned premium or suspend~~  
 1790 ~~the security required by this section. Notwithstanding s.~~  
 1791 324.0221(2) ~~s. 324.0221(3),~~ the department may not suspend the  
 1792 registration or operator's license of an any owner or registrant  
 1793 of a motor vehicle during the time she or he qualifies for the  
 1794 ~~an~~ exemption under this subsection. An Any owner or registrant  
 1795 of a motor vehicle who qualifies for the an exemption under this  
 1796 subsection shall immediately notify the department before prior  
 1797 ~~to~~ and at the end of the expiration of the exemption.

1798 Section 11. Section 324.031, Florida Statutes, is amended



20-01083B-17

20171766\_\_

1799 to read:

1800 324.031 Manner of proving financial responsibility.-

1801 ~~(1) The owner or operator of a taxicab, limousine, jitney,~~  
 1802 ~~or any other for-hire passenger transportation vehicle may prove~~  
 1803 ~~financial responsibility by providing satisfactory evidence of~~  
 1804 ~~holding a motor vehicle liability policy as defined in s.~~  
 1805 ~~324.021(8) or s. 324.151, which policy is issued by an insurance~~  
 1806 ~~carrier which is a member of the Florida Insurance Guaranty~~  
 1807 ~~Association. The operator or owner of a motor vehicle other than~~  
 1808 ~~a for-hire passenger transportation vehicle any other vehicle~~  
 1809 ~~may prove his or her financial responsibility by:~~

1810 (a)(1) Furnishing satisfactory evidence of holding a motor  
 1811 vehicle liability policy as defined in ss. 324.021(8) and  
 1812 324.151;

1813 (b)(2) Furnishing a certificate of self-insurance showing a  
 1814 deposit of cash in accordance with s. 324.161; or

1815 (c)(3) Furnishing a certificate of self-insurance issued by  
 1816 the department in accordance with s. 324.171.

1817 (2) (a) Any person, including any firm, partnership,  
 1818 association, corporation, or other person, other than a natural  
 1819 person, electing to use the method of proof specified in  
 1820 paragraph (1) (b) subsection (2) shall furnish a certificate of  
 1821 deposit equal to the number of vehicles owned times:

1822 1. Fifty thousand dollars, to a maximum of \$200,000, from  
 1823 January 1, 2018, through December 31, 2019.

1824 2. Sixty thousand dollars, to a maximum of \$240,000, from  
 1825 January 1, 2020, through December 31, 2021.

1826 3. Seventy thousand dollars, ~~\$30,000,~~ to a maximum of  
 1827 \$280,000, from January 1, 2022, and thereafter. ~~\$120,000;~~

Page 63 of 132

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

20-01083B-17

20171766\_\_

1828 (b) In addition, any such person, other than a natural  
 1829 person, shall maintain insurance providing coverage conforming  
 1830 to the requirements of s. 324.151 in excess of the amount of the  
 1831 certificate of deposit, with limits of at least:

1832 1. One hundred twenty-five thousand dollars for bodily  
 1833 injury to, or the death of, one person in any one crash and,  
 1834 subject to such limits for one person, in the amount of \$250,000  
 1835 for bodily injury to, or the death of, two or more persons in  
 1836 any one crash, and \$50,000 for damage to, or destruction of,  
 1837 property of others in any one crash; or \$10,000/20,000/10,000 or  
 1838 \$30,000 combined single limits, and such excess insurance shall  
 1839 provide minimum limits of \$125,000/250,000/50,000 or \$300,000  
 1840 combined single limits. These increased limits shall not affect  
 1841 the requirements for proving financial responsibility under s.  
 1842 324.032(1).

1843 2. Three hundred thousand dollars for combined bodily  
 1844 injury liability and property damage liability for any one  
 1845 crash.

1846 Section 12. Section 324.032, Florida Statutes, is amended  
 1847 to read:

1848 324.032 ~~Manner of proving~~ Financial responsibility ~~for~~  
 1849 ~~for-hire passenger transportation vehicles. Notwithstanding the~~  
 1850 ~~provisions of s. 324.031.~~

1851 (1) An owner, lessee, or operator of a for-hire passenger  
 1852 transportation vehicle that is required to be registered in this  
 1853 state shall establish and continuously maintain the ability to  
 1854 respond in damages for liability on account of accidents arising  
 1855 out of the ownership, maintenance, or use of the for-hire  
 1856 passenger transportation vehicle, in the amount of:

Page 64 of 132

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

20-01083B-17

20171766\_\_

1857 (a) One hundred twenty-five thousand dollars for bodily  
 1858 injury to, or the death of, one person in any one crash and,  
 1859 subject to such limits for one person, in the amount of \$250,000  
 1860 for bodily injury to, or the death of, two or more persons in  
 1861 any one crash; and A person who is either the owner or a lessee  
 1862 required to maintain insurance under s. 627.733(1)(b) and who  
 1863 operates one or more taxicabs, limousines, jitneys, or any other  
 1864 for-hire passenger transportation vehicles may prove financial  
 1865 responsibility by furnishing satisfactory evidence of holding a  
 1866 motor vehicle liability policy, but with minimum limits of  
 1867 \$125,000/250,000/50,000.

1868 (b) Fifty thousand dollars for damage to, or destruction  
 1869 of, property of others in any one crash A person who is either  
 1870 the owner or a lessee required to maintain insurance under s.  
 1871 324.021(9)(b) and who operates limousines, jitneys, or any other  
 1872 for-hire passenger vehicles, other than taxicabs, may prove  
 1873 financial responsibility by furnishing satisfactory evidence of  
 1874 holding a motor vehicle liability policy as defined in s.  
 1875 324.031.

1876 (2) Except as provided in subsection (3), the requirements  
 1877 of this section must be met by providing satisfactory evidence  
 1878 of holding a motor vehicle liability policy conforming to the  
 1879 requirements of s. 324.151 which is issued by an insurance  
 1880 carrier that is a member of the Florida Insurance Guaranty  
 1881 Association.

1882 (3)(2) An owner or a lessee who is required to maintain  
 1883 insurance under s. 324.021(9)(b) and who operates at least 300  
 1884 taxicabs, limousines, jitneys, or any other for-hire passenger  
 1885 transportation vehicles may provide financial responsibility by

Page 65 of 132

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

20-01083B-17

20171766\_\_

1886 complying with the provisions of s. 324.171, such compliance to  
 1887 be demonstrated by maintaining at its principal place of  
 1888 business an audited financial statement, prepared in accordance  
 1889 with generally accepted accounting principles, and providing to  
 1890 the department a certification issued by a certified public  
 1891 accountant that the applicant's net worth is at least equal to  
 1892 the requirements of s. 324.171 as determined by the Office of  
 1893 Insurance Regulation of the Financial Services Commission,  
 1894 including claims liabilities in an amount certified as adequate  
 1895 by a Fellow of the Casualty Actuarial Society.

1896  
 1897 Upon request by the department, the applicant ~~shall~~ must provide  
 1898 the department at the applicant's principal place of business in  
 1899 this state access to the applicant's underlying financial  
 1900 information and financial statements that provide the basis of  
 1901 the certified public accountant's certification. The applicant  
 1902 shall reimburse the requesting department for all reasonable  
 1903 costs incurred by it in reviewing the supporting information.  
 1904 The maximum amount of self-insurance permissible under this  
 1905 subsection is \$300,000 and must be stated on a per-occurrence  
 1906 basis, and the applicant shall maintain adequate excess  
 1907 insurance issued by an authorized or eligible insurer licensed  
 1908 or approved by the Office of Insurance Regulation. All risks  
 1909 self-insured shall remain with the owner or lessee providing it,  
 1910 and the risks are not transferable to any other person, unless a  
 1911 policy complying with subsections (1) and (2) ~~subsection (1)~~ is  
 1912 obtained.

1913 Section 13. Section 324.071, Florida Statutes, is amended  
 1914 to read:

Page 66 of 132

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

20-01083B-17

20171766\_\_

1915 324.071 Reinstatement; renewal of license; reinstatement  
 1916 fee.—~~An~~ Any operator or owner whose license or registration has  
 1917 been suspended pursuant to s. 324.051(2), s. 324.072, s.  
 1918 324.081, or s. 324.121 may effect its reinstatement upon  
 1919 compliance with ~~the provisions of~~ s. 324.051(2)(a)3. or 4., or  
 1920 s. 324.081(2) and (3), as the case may be, and with one of the  
 1921 provisions of s. 324.031 and upon payment to the department of a  
 1922 nonrefundable reinstatement fee as specified in s. 324.0221 ~~of~~  
 1923 ~~\$15~~. Only one such fee may shall be paid by any one person  
 1924 regardless irrespective of the number of licenses and  
 1925 registrations to be then reinstated or issued to such person.  
 1926 ~~All~~ Such fees must shall be deposited to a department trust  
 1927 fund. ~~If~~ ~~When~~ the reinstatement of any license or registration  
 1928 is effected by compliance with s. 324.051(2)(a)3. or 4., the  
 1929 department may shall not renew the license or registration  
 1930 within ~~a period of~~ 3 years after from such reinstatement, nor  
 1931 may shall any other license or registration be issued in the  
 1932 name of such person, unless the operator continues is continuing  
 1933 to comply with ~~one of the provisions of~~ s. 324.031.

1934 Section 14. Section 324.151, Florida Statutes, is amended  
 1935 to read:

1936 324.151 Motor vehicle liability policies; required  
 1937 provisions.—

1938 (1) A motor vehicle liability policy that serves as to be  
 1939 proof of financial responsibility under s. 324.031(1) ~~must~~  
 1940 ~~shall~~ be issued to owners and or operators of motor vehicles  
 1941 under the following provisions:

1942 (a) A motor vehicle An owner's liability insurance policy  
 1943 issued to an owner of a motor vehicle registered in this state

Page 67 of 132

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

20-01083B-17

20171766\_\_

1944 ~~must shall~~ designate by explicit description or by appropriate  
 1945 reference all motor vehicles with respect to which coverage is  
 1946 thereby granted. The policy must and shall insure the person or  
 1947 persons owner named therein and any resident relative of a named  
 1948 insured other person as operator using such motor vehicle or  
 1949 motor vehicles with the express or implied permission of such  
 1950 owner against loss from the liability imposed by law for damage  
 1951 arising out of the ownership, maintenance, or use of any such  
 1952 motor vehicle except as otherwise provided in this section. The  
 1953 policy must also insure any person operating an insured motor  
 1954 vehicle with the express or implied permission of a named  
 1955 insured against loss from the liability imposed by law for  
 1956 damage arising out of the use of such vehicle. However, the  
 1957 insurer may include provisions in its policy excluding liability  
 1958 coverage for a motor vehicle not designated as an insured  
 1959 vehicle on the policy, if such motor vehicle does not qualify as  
 1960 a newly acquired vehicle, does not qualify as a temporary  
 1961 substitute vehicle, and was owned by an insured or was furnished  
 1962 for an insured's regular use for more than 30 consecutive days  
 1963 before the event giving rise to the claim or motor vehicles  
 1964 within the United States or the Dominion of Canada, subject to  
 1965 limits, exclusive of interest and costs with respect to each  
 1966 such motor vehicle as is provided for under s. 324.021(7).  
 1967 Insurers may make available, with respect to property damage  
 1968 liability coverage, a deductible amount not to exceed \$500. In  
 1969 the event of a property damage loss covered by a policy  
 1970 containing a property damage deductible provision, the insurer  
 1971 shall pay to the third-party claimant the amount of any property  
 1972 damage liability settlement or judgment, subject to policy

Page 68 of 132

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

20-01083B-17

20171766\_\_

1973 limits, as if no deductible existed.

1974 (b) A motor vehicle liability insurance policy issued to a  
 1975 person who does not own a motor vehicle registered in this state  
 1976 and who is not already insured under a policy described in  
 1977 paragraph (a) must ~~An operator's motor vehicle liability policy~~  
 1978 ~~of insurance shall~~ insure the person or persons named therein  
 1979 against loss from the liability imposed ~~upon him or her~~ by law  
 1980 for damages arising out of the use ~~by the person~~ of any motor  
 1981 vehicle not owned by him or her, unless the vehicle was  
 1982 furnished for the named insured's regular use and was used by  
 1983 the named insured for more than 30 consecutive days before the  
 1984 event giving rise to the claim with the same territorial limits  
 1985 and subject to the same limits of liability as referred to above  
 1986 with respect to an owner's policy of liability insurance.

1987 (c) All such motor vehicle liability policies must shall  
 1988 state the name and address of the named insured, the coverage  
 1989 afforded by the policy, the premium charged therefor, the policy  
 1990 period, the limits of liability, and must shall contain an  
 1991 agreement or be endorsed that insurance is provided in  
 1992 accordance with the coverage defined in this chapter ~~as respects~~  
 1993 ~~bodily injury and death or property damage or both~~ and is  
 1994 subject to all provisions of this chapter. The policies must  
 1995 insure all persons covered under the liability coverage against  
 1996 loss from the liability imposed by law for any litigation costs  
 1997 or attorney fees in any civil action defended by the insurer  
 1998 which arises out of the ownership, maintenance, or use of a  
 1999 motor vehicle for which there is liability coverage under the  
 2000 policy. The said policies must shall also contain a provision  
 2001 that the satisfaction by an insured of a judgment for such

Page 69 of 132

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

20-01083B-17

20171766\_\_

2002 injury or damage may shall not be a condition precedent to the  
 2003 right or duty of the insurance carrier to make payment on  
 2004 account of such injury or damage, and must shall also contain a  
 2005 provision that bankruptcy or insolvency of the insured or of the  
 2006 insured's estate may shall not relieve the insurance carrier of  
 2007 any of its obligations under the said policy. However, the  
 2008 policies may contain provisions excluding liability coverage for  
 2009 a vehicle being used outside of the United States or Canada at  
 2010 the time of the accident.

2011 (2) ~~The provisions of~~ This section is shall not be  
 2012 applicable to any automobile liability policy unless and until  
 2013 it is furnished as proof of financial responsibility for the  
 2014 future pursuant to s. 324.031, and then only from and after the  
 2015 date said policy is so furnished.

2016 (3) As used in this section, the term:

2017 (a) "Newly acquired vehicle" means a vehicle owned by a  
 2018 named insured or resident relative of the named insured which  
 2019 was acquired within 30 days before an accident.

2020 (b) "Resident relative" means a person related to a named  
 2021 insured by any degree by blood, marriage, or adoption, including  
 2022 a ward or foster child, who usually makes his or her home in the  
 2023 same family unit as the named insured, whether or not he or she  
 2024 temporarily lives elsewhere.

2025 (c) "Temporary substitute vehicle" means any motor vehicle  
 2026 as defined in s. 320.01(1) not owned by the named insured which  
 2027 is temporarily used with the permission of the owner as a  
 2028 substitute for the owned motor vehicle designated on the policy,  
 2029 when the owned vehicle is withdrawn from normal use because of  
 2030 breakdown, repair, servicing, loss, or destruction.

Page 70 of 132

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

20-01083B-17

20171766\_\_

2031 Section 15. Section 324.161, Florida Statutes, is amended  
2032 to read:

2033 324.161 Proof of financial responsibility; deposit.—If a  
2034 person elects to prove his or her financial responsibility under  
2035 the method of proof specified in s. 324.031(1)(b), such person  
2036 must obtain proof of a certificate of deposit annually, in the  
2037 amount required under s. 324.031(2), from a financial  
2038 institution insured by the Federal Deposit Insurance Corporation  
2039 or the National Credit Union Administration. Proof of such  
2040 certificate of deposit Annually, before any certificate of  
2041 insurance may be issued to a person, including any firm,  
2042 partnership, association, corporation, or other person, other  
2043 than a natural person, proof of a certificate of deposit of  
2044 \$30,000 issued and held by a financial institution must be  
2045 submitted to the department annually. A power of attorney will  
2046 be issued to and held by the department and may be executed upon  
2047 a judgment issued against such person making the deposit, for  
2048 damages for because of bodily injury to or death of any person  
2049 or for damages for because of injury to or destruction of  
2050 property resulting from the use or operation of any motor  
2051 vehicle occurring after such deposit was made. Money so  
2052 deposited is shall not be subject to attachment or execution  
2053 unless such attachment or execution arises shall arise out of a  
2054 lawsuit suit for such damages as aforesaid.

2055 Section 16. Subsections (1) and (2) of section 324.171,  
2056 Florida Statutes, are amended to read:

2057 324.171 Self-insurer.—

2058 (1) A Any person may qualify as a self-insurer by obtaining  
2059 a certificate of self-insurance from the department, which may,

Page 71 of 132

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

20-01083B-17

20171766\_\_

2060 ~~in its discretion and~~ Upon application of such a person, the  
2061 department may issue a said certificate of self-insurance if the  
2062 applicant when such person has satisfied the requirements of  
2063 this section ~~to qualify as a self-insurer under this section:~~

2064 (a) A private individual with private passenger vehicles  
2065 must shall possess a net unencumbered worth: ~~of~~

2066 1. Beginning January 1, 2018, through December 31, 2019, of  
2067 at least \$80,000.

2068 2. Beginning January 1, 2020, through December 31, 2021, of  
2069 at least \$100,000.

2070 3. Beginning January 1, 2022, and thereafter, of at least  
2071 \$120,000 \$40,000.

2072 (b) A person, including any firm, partnership, association,  
2073 corporation, or other person, other than a natural person, must  
2074 ~~shall~~:

2075 1. Possess a net unencumbered worth: ~~of~~

2076 a. Beginning January 1, 2018, through December 31, 2019, of  
2077 at least \$80,000 for the first motor vehicle and \$40,000 for  
2078 each additional motor vehicle.

2079 b. Beginning January 1, 2020, through December 31, 2021, of  
2080 at least \$100,000 for the first motor vehicle and \$50,000 for  
2081 each additional motor vehicle.

2082 c. Beginning January 1, 2022, and thereafter, of at least  
2083 \$120,000 \$40,000 for the first motor vehicle and \$60,000 \$20,000  
2084 for each additional motor vehicle; or

2085 2. Maintain sufficient net worth, in an amount determined  
2086 by the department, to be financially responsible for potential  
2087 losses. The department shall annually determine the minimum net  
2088 worth sufficient to satisfy this subparagraph as determined

Page 72 of 132

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

20-01083B-17

20171766\_\_

2089 ~~annually by the department,~~ pursuant to rules adopted  
 2090 ~~promulgated~~ by the department, with the assistance of the Office  
 2091 of Insurance Regulation of the Financial Services Commission, ~~to~~  
 2092 ~~be financially responsible for potential losses.~~ The rules must  
 2093 ~~consider any shall take into consideration~~ excess insurance  
 2094 carried by the applicant. The department's determination must  
 2095 ~~shall~~ be based upon reasonable actuarial principles considering  
 2096 the frequency, severity, and loss development of claims incurred  
 2097 by casualty insurers writing coverage on the type of motor  
 2098 vehicles for which a certificate of self-insurance is desired.

2099 (c) The owner of a commercial motor vehicle, as defined in  
 2100 s. 207.002 or s. 320.01, may qualify as a self-insurer subject  
 2101 to the standards provided ~~for~~ in subparagraph (b)2.

2102 (2) The self-insurance certificate must shall provide  
 2103 limits of liability insurance in the amounts specified under s.  
 2104 324.021(7) ~~or s. 627.7415 and shall provide personal injury~~  
 2105 ~~protection coverage under s. 627.733(3)(b).~~

2106 Section 17. Section 324.251, Florida Statutes, is amended  
 2107 to read:

2108 324.251 Short title.—This chapter may be cited as the  
 2109 "Financial Responsibility Law of 2017 1955" and is shall become  
 2110 effective at 12:01 a.m., January 1, 2018 ~~October 1, 1955~~.

2111 Section 18. Subsection (4) of section 400.9905, Florida  
 2112 Statutes, is amended to read:

2113 400.9905 Definitions.—

2114 (4) "Clinic" means an entity where health care services are  
 2115 provided to individuals and which tenders charges for  
 2116 reimbursement for such services, including a mobile clinic and a  
 2117 portable equipment provider. As used in this part, the term does

20-01083B-17

20171766\_\_

2118 not include and the licensure requirements of this part do not  
 2119 apply to:

2120 (a) Entities licensed or registered by the state under  
 2121 chapter 395; entities licensed or registered by the state and  
 2122 providing only health care services within the scope of services  
 2123 authorized under their respective licenses under ss. 383.30-  
 2124 383.335, chapter 390, chapter 394, chapter 397, this chapter  
 2125 except part X, chapter 429, chapter 463, chapter 465, chapter  
 2126 466, chapter 478, part I of chapter 483, chapter 484, or chapter  
 2127 651; end-stage renal disease providers authorized under 42  
 2128 C.F.R. part 405, subpart U; providers certified under 42 C.F.R.  
 2129 part 485, subpart B or subpart H; or any entity that provides  
 2130 neonatal or pediatric hospital-based health care services or  
 2131 other health care services by licensed practitioners solely  
 2132 within a hospital licensed under chapter 395.

2133 (b) Entities that own, directly or indirectly, entities  
 2134 licensed or registered by the state pursuant to chapter 395;  
 2135 entities that own, directly or indirectly, entities licensed or  
 2136 registered by the state and providing only health care services  
 2137 within the scope of services authorized pursuant to their  
 2138 respective licenses under ss. 383.30-383.335, chapter 390,  
 2139 chapter 394, chapter 397, this chapter except part X, chapter  
 2140 429, chapter 463, chapter 465, chapter 466, chapter 478, part I  
 2141 of chapter 483, chapter 484, or chapter 651; end-stage renal  
 2142 disease providers authorized under 42 C.F.R. part 405, subpart  
 2143 U; providers certified under 42 C.F.R. part 485, subpart B or  
 2144 subpart H; or any entity that provides neonatal or pediatric  
 2145 hospital-based health care services by licensed practitioners  
 2146 solely within a hospital licensed under chapter 395.

20-01083B-17

20171766\_\_

2147 (c) Entities that are owned, directly or indirectly, by an  
 2148 entity licensed or registered by the state pursuant to chapter  
 2149 395; entities that are owned, directly or indirectly, by an  
 2150 entity licensed or registered by the state and providing only  
 2151 health care services within the scope of services authorized  
 2152 pursuant to their respective licenses under ss. 383.30-383.335,  
 2153 chapter 390, chapter 394, chapter 397, this chapter except part  
 2154 X, chapter 429, chapter 463, chapter 465, chapter 466, chapter  
 2155 478, part I of chapter 483, chapter 484, or chapter 651; end-  
 2156 stage renal disease providers authorized under 42 C.F.R. part  
 2157 405, subpart U; providers certified under 42 C.F.R. part 485,  
 2158 subpart B or subpart H; or any entity that provides neonatal or  
 2159 pediatric hospital-based health care services by licensed  
 2160 practitioners solely within a hospital under chapter 395.

2161 (d) Entities that are under common ownership, directly or  
 2162 indirectly, with an entity licensed or registered by the state  
 2163 pursuant to chapter 395; entities that are under common  
 2164 ownership, directly or indirectly, with an entity licensed or  
 2165 registered by the state and providing only health care services  
 2166 within the scope of services authorized pursuant to their  
 2167 respective licenses under ss. 383.30-383.335, chapter 390,  
 2168 chapter 394, chapter 397, this chapter except part X, chapter  
 2169 429, chapter 463, chapter 465, chapter 466, chapter 478, part I  
 2170 of chapter 483, chapter 484, or chapter 651; end-stage renal  
 2171 disease providers authorized under 42 C.F.R. part 405, subpart  
 2172 U; providers certified under 42 C.F.R. part 485, subpart B or  
 2173 subpart H; or any entity that provides neonatal or pediatric  
 2174 hospital-based health care services by licensed practitioners  
 2175 solely within a hospital licensed under chapter 395.

Page 75 of 132

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

20-01083B-17

20171766\_\_

2176 (e) An entity that is exempt from federal taxation under 26  
 2177 U.S.C. s. 501(c)(3) or (4), an employee stock ownership plan  
 2178 under 26 U.S.C. s. 409 that has a board of trustees at least  
 2179 two-thirds of which are Florida-licensed health care  
 2180 practitioners and provides only physical therapy services under  
 2181 physician orders, any community college or university clinic,  
 2182 and any entity owned or operated by the federal or state  
 2183 government, including agencies, subdivisions, or municipalities  
 2184 thereof.

2185 (f) A sole proprietorship, group practice, partnership, or  
 2186 corporation that provides health care services by physicians  
 2187 covered by s. 627.419, that is directly supervised by one or  
 2188 more of such physicians, and that is wholly owned by one or more  
 2189 of those physicians or by a physician and the spouse, parent,  
 2190 child, or sibling of that physician.

2191 (g) A sole proprietorship, group practice, partnership, or  
 2192 corporation that provides health care services by licensed  
 2193 health care practitioners under chapter 457, chapter 458,  
 2194 chapter 459, chapter 460, chapter 461, chapter 462, chapter 463,  
 2195 chapter 466, chapter 467, chapter 480, chapter 484, chapter 486,  
 2196 chapter 490, chapter 491, or part I, part III, part X, part  
 2197 XIII, or part XIV of chapter 468, or s. 464.012, and that is  
 2198 wholly owned by one or more licensed health care practitioners,  
 2199 or the licensed health care practitioners set forth in this  
 2200 paragraph and the spouse, parent, child, or sibling of a  
 2201 licensed health care practitioner if one of the owners who is a  
 2202 licensed health care practitioner is supervising the business  
 2203 activities and is legally responsible for the entity's  
 2204 compliance with all federal and state laws. However, a health

Page 76 of 132

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

20-01083B-17 20171766\_\_

2205 care practitioner may not supervise services beyond the scope of  
 2206 the practitioner's license, except that, for the purposes of  
 2207 this part, a clinic owned by a licensee in s. 456.053(3)(b)  
 2208 which provides only services authorized pursuant to s.  
 2209 456.053(3)(b) may be supervised by a licensee specified in s.  
 2210 456.053(3)(b).

2211 (h) Clinical facilities affiliated with an accredited  
 2212 medical school at which training is provided for medical  
 2213 students, residents, or fellows.

2214 (i) Entities that provide only oncology or radiation  
 2215 therapy services by physicians licensed under chapter 458 or  
 2216 chapter 459 or entities that provide oncology or radiation  
 2217 therapy services by physicians licensed under chapter 458 or  
 2218 chapter 459 which are owned by a corporation whose shares are  
 2219 publicly traded on a recognized stock exchange.

2220 (j) Clinical facilities affiliated with a college of  
 2221 chiropractic accredited by the Council on Chiropractic Education  
 2222 at which training is provided for chiropractic students.

2223 (k) Entities that provide licensed practitioners to staff  
 2224 emergency departments or to deliver anesthesia services in  
 2225 facilities licensed under chapter 395 and that derive at least  
 2226 90 percent of their gross annual revenues from the provision of  
 2227 such services. Entities claiming an exemption from licensure  
 2228 under this paragraph must provide documentation demonstrating  
 2229 compliance.

2230 (l) Orthotic, prosthetic, pediatric cardiology, or  
 2231 perinatology clinical facilities or anesthesia clinical  
 2232 facilities that are not otherwise exempt under paragraph (a) or  
 2233 paragraph (k) and that are a publicly traded corporation or are

20-01083B-17 20171766\_\_

2234 wholly owned, directly or indirectly, by a publicly traded  
 2235 corporation. As used in this paragraph, a publicly traded  
 2236 corporation is a corporation that issues securities traded on an  
 2237 exchange registered with the United States Securities and  
 2238 Exchange Commission as a national securities exchange.

2239 (m) Entities that are owned by a corporation that has \$250  
 2240 million or more in total annual sales of health care services  
 2241 provided by licensed health care practitioners where one or more  
 2242 of the persons responsible for the operations of the entity is a  
 2243 health care practitioner who is licensed in this state and who  
 2244 is responsible for supervising the business activities of the  
 2245 entity and is responsible for the entity's compliance with state  
 2246 law for purposes of this part.

2247 (n) Entities that employ 50 or more licensed health care  
 2248 practitioners licensed under chapter 458 or chapter 459 where  
 2249 the billing for medical services is under a single tax  
 2250 identification number. The application for exemption under this  
 2251 subsection must include ~~shall contain information that includes:~~  
 2252 the name, residence, and business address and telephone ~~phone~~  
 2253 number of the entity that owns the practice; a complete list of  
 2254 the names and contact information of all the officers and  
 2255 directors of the corporation; the name, residence address,  
 2256 business address, and medical license number of each licensed  
 2257 Florida health care practitioner employed by the entity; the  
 2258 corporate tax identification number of the entity seeking an  
 2259 exemption; a listing of health care services to be provided by  
 2260 the entity at the health care clinics owned or operated by the  
 2261 entity; and a certified statement prepared by an independent  
 2262 certified public accountant which states that the entity and the



20-01083B-17

20171766\_\_

2263 health care clinics owned or operated by the entity have not  
 2264 received payment for health care services under medical payments  
 2265 ~~personal injury protection~~ insurance coverage for the preceding  
 2266 year. If the agency determines that an entity ~~that which~~ is  
 2267 exempt under this subsection has received payments for medical  
 2268 services under medical payments ~~personal injury protection~~  
 2269 insurance coverage, the agency may deny or revoke the exemption  
 2270 from licensure under this subsection.

2271

2272 Notwithstanding this subsection, an entity shall be deemed a  
 2273 clinic and must be licensed under this part in order to receive  
 2274 medical payments coverage reimbursement under s. 627.7265 ~~the~~  
 2275 ~~Florida Motor Vehicle No Fault Law, ss. 627.730-627.7405~~, unless  
 2276 exempted under s. 627.7265(6)(h) ~~s. 627.736(5)(h)~~.

2277

2278 Section 19. Subsection (28) of section 409.901, Florida  
 2279 Statutes, is amended to read:

2280

2281 409.901 Definitions; ss. 409.901-409.920.—As used in ss.  
 2282 409.901-409.920, except as otherwise specifically provided, the  
 2283 term:

2284

2285 (28) "Third-party benefit" means any benefit that is or may  
 2286 be available at any time through contract, court award,  
 2287 judgment, settlement, agreement, or any arrangement between a  
 2288 third party and any person or entity, including, without  
 2289 limitation, a Medicaid recipient, a provider, another third  
 2290 party, an insurer, or the agency, for any Medicaid-covered  
 2291 injury, illness, goods, or services, including costs of medical  
 2292 services related thereto, for bodily personal ~~personal~~ injury or for  
 2293 death of the recipient, but specifically excluding ~~policies of~~  
 2294 life insurance policies on the recipient, unless available under

Page 79 of 132

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

20-01083B-17

20171766\_\_

2292 terms of the policy to pay medical expenses before ~~prior to~~  
 2293 death. The term includes, without limitation, collateral, as  
 2294 defined in this section, health insurance, any benefit under a  
 2295 health maintenance organization, a preferred provider  
 2296 arrangement, a prepaid health clinic, liability insurance,  
 2297 uninsured motorist insurance, medical payments coverage ~~or~~  
 2298 ~~personal injury protection coverage~~, medical benefits under  
 2299 workers' compensation, and any obligation under law or equity to  
 2300 provide medical support.

2301

2302 Section 20. Paragraph (f) of subsection (11) of section  
 2303 409.910, Florida Statutes, is amended to read:

2304

2305 409.910 Responsibility for payments on behalf of Medicaid-  
 2306 eligible persons when other parties are liable.—

2307

2308 (11) The agency may, as a matter of right, in order to  
 2309 enforce its rights under this section, institute, intervene in,  
 2310 or join any legal or administrative proceeding in its own name  
 2311 in one or more of the following capacities: individually, as  
 2312 subrogee of the recipient, as assignee of the recipient, or as  
 2313 lienholder of the collateral.

2314

2315 (f) Notwithstanding any provision in this section to the  
 2316 contrary, in the event of an action in tort against a third  
 2317 party in which the recipient or his or her legal representative  
 2318 is a party which results in a judgment, award, or settlement  
 2319 from a third party, the amount recovered shall be distributed as  
 2320 follows:

2321

2322 1. After attorney's fees and taxable costs as defined by  
 2323 the Florida Rules of Civil Procedure, one-half of the remaining  
 2324 recovery shall be paid to the agency up to the total amount of  
 2325 medical assistance provided by Medicaid.

Page 80 of 132

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

20-01083B-17 20171766\_\_

2321 2. The remaining amount of the recovery shall be paid to  
2322 the recipient.

2323 3. For purposes of calculating the agency's recovery of  
2324 medical assistance benefits paid, the fee for services of an  
2325 attorney retained by the recipient or his or her legal  
2326 representative shall be calculated at 25 percent of the  
2327 judgment, award, or settlement.

2328 4. Notwithstanding any other provision of this section to  
2329 the contrary, the agency shall be entitled to all medical  
2330 coverage benefits up to the total amount of medical assistance  
2331 provided by Medicaid. For purposes of this paragraph, the term  
2332 "medical coverage" means any benefits under health insurance, a  
2333 health maintenance organization, a preferred provider  
2334 arrangement, or a prepaid health clinic, and the portion of  
2335 benefits designated for medical payments under ~~coverage for~~  
2336 workers' compensation coverage, motor vehicle insurance  
2337 coverage, personal injury protection, and casualty coverage.

2338 Section 21. Paragraphs (ee) and (ff) of subsection (1) of  
2339 section 456.072, Florida Statutes, are amended to read:

2340 456.072 Grounds for discipline; penalties; enforcement.—

2341 (1) The following acts shall constitute grounds for which  
2342 the disciplinary actions specified in subsection (2) may be  
2343 taken:

2344 (ee) With respect to making a medical payments coverage  
2345 ~~personal injury protection claim under s. 627.7265 as required~~  
2346 ~~by s. 627.736~~, intentionally submitting a claim, statement, or  
2347 bill that has been "upcoded" as defined in that section ~~or~~  
2348 ~~627.732~~.

2349 (ff) With respect to making a medical payments coverage

Page 81 of 132

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

20-01083B-17 20171766\_\_

2350 ~~personal injury protection~~ claim as required under s. 627.7265  
2351 ~~by s. 627.736~~, intentionally submitting a claim, statement, or  
2352 bill for payment of services that were not rendered.

2353 Section 22. Paragraphs (i) and (o) of subsection (1) of  
2354 section 626.9541, Florida Statutes, are amended to read:

2355 626.9541 Unfair methods of competition and unfair or  
2356 deceptive acts or practices defined.—

2357 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE  
2358 ACTS.—The following are defined as unfair methods of competition  
2359 and unfair or deceptive acts or practices:

2360 (i) Unfair claim settlement practices.—

2361 1. Attempting to settle claims on the basis of an  
2362 application, when serving as a binder or intended to become a  
2363 part of the policy, or any other material document which was  
2364 altered without notice to, or knowledge or consent of, the  
2365 insured;

2366 2. A material misrepresentation made to an insured or any  
2367 other person having an interest in the proceeds payable under  
2368 such contract or policy, for the purpose and with the intent of  
2369 effecting settlement of such claims, loss, or damage under such  
2370 contract or policy on less favorable terms than those provided  
2371 in, and contemplated by, such contract or policy; ~~or~~

2372 3. Committing or performing with such frequency as to  
2373 indicate a general business practice any of the following:

2374 a. Failing to adopt and implement standards for the proper  
2375 investigation of claims;

2376 b. Misrepresenting pertinent facts or insurance policy  
2377 provisions relating to coverages at issue;

2378 c. Failing to acknowledge and act promptly upon

Page 82 of 132

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

20-01083B-17

20171766\_\_

2379 communications with respect to claims;

2380 d. Denying claims without conducting reasonable

2381 investigations based upon available information;

2382 e. Failing to affirm or deny full or partial coverage of

2383 claims, and, as to partial coverage, the dollar amount or extent

2384 of coverage, or failing to provide a written statement that the

2385 claim is being investigated, upon the written request of the

2386 insured within 30 days after proof-of-loss statements have been

2387 completed;

2388 f. Failing to promptly provide a reasonable explanation in

2389 writing to the insured of the basis in the insurance policy, in

2390 relation to the facts or applicable law, for denial of a claim

2391 or for the offer of a compromise settlement;

2392 g. Failing to promptly notify the insured of any additional

2393 information necessary for the processing of a claim; ~~or~~

2394 h. Failing to clearly explain the nature of the requested

2395 information and the reasons why such information is necessary;

2396 ~~or-~~

2397 i. Failing to pay ~~personal injury protection insurance~~

2398 claims for benefits under medical payments coverage within the

2399 time periods required by s. 627.7265(5)(b) ~~s. 627.736(4)(b)~~. The

2400 office may order the insurer to pay restitution to a

2401 policyholder, medical provider, or other claimant, including

2402 interest at a rate consistent with the amount set forth in s.

2403 55.03(1), for the time period within which an insurer fails to

2404 pay claims as required by law. Restitution is in addition to any

2405 other penalties allowed by law, including, but not limited to,

2406 the suspension of the insurer's certificate of authority.

2407 4. Failing to pay undisputed amounts of partial or full

Page 83 of 132

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

20-01083B-17

20171766\_\_

2408 benefits owed under first-party property insurance policies

2409 within 90 days after an insurer receives notice of a residential

2410 property insurance claim, determines the amounts of partial or

2411 full benefits, and agrees to coverage, unless payment of the

2412 undisputed benefits is prevented by an act of God, prevented by

2413 the impossibility of performance, or due to actions by the

2414 insured or claimant that constitute fraud, lack of cooperation,

2415 or intentional misrepresentation regarding the claim for which

2416 benefits are owed.

2417 (o) *Illegal dealings in premiums; excess or reduced charges*

2418 *for insurance.-*

2419 1. Knowingly collecting any sum as a premium or charge for

2420 insurance, which is not then provided, or is not in due course

2421 to be provided, subject to acceptance of the risk by the

2422 insurer, by an insurance policy issued by an insurer as

2423 permitted by this code.

2424 2. Knowingly collecting as a premium or charge for

2425 insurance any sum in excess of or less than the premium or

2426 charge applicable to such insurance, in accordance with the

2427 applicable classifications and rates as filed with and approved

2428 by the office, and as specified in the policy; or, in cases when

2429 classifications, premiums, or rates are not required by this

2430 code to be so filed and approved, premiums and charges collected

2431 from a Florida resident in excess of or less than those

2432 specified in the policy and as fixed by the insurer.

2433 Notwithstanding any other provision of law, this provision shall

2434 not be deemed to prohibit the charging and collection, by

2435 surplus lines agents licensed under part VIII of this chapter,

2436 of the amount of applicable state and federal taxes, or fees as

Page 84 of 132

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

20-01083B-17

20171766\_\_

2437 authorized by s. 626.916(4), in addition to the premium required  
 2438 by the insurer or the charging and collection, by licensed  
 2439 agents, of the exact amount of any discount or other such fee  
 2440 charged by a credit card facility in connection with the use of  
 2441 a credit card, as authorized by subparagraph (q)3., in addition  
 2442 to the premium required by the insurer. This subparagraph shall  
 2443 not be construed to prohibit collection of a premium for a  
 2444 universal life or a variable or indeterminate value insurance  
 2445 policy made in accordance with the terms of the contract.

2446 3.a. Imposing or requesting an additional premium for  
 2447 bodily injury liability coverage, property damage liability  
 2448 coverage ~~a policy of motor vehicle liability, personal injury~~  
 2449 ~~protection, medical payment coverage, or collision coverage in a~~  
 2450 motor vehicle liability insurance policy, insurance or any  
 2451 ~~combination thereof~~ or refusing to renew the policy solely  
 2452 because the insured was involved in a motor vehicle accident  
 2453 unless the insurer's file contains information from which the  
 2454 insurer in good faith determines that the insured was  
 2455 substantially at fault in the accident.

2456 b. An insurer which imposes and collects such a surcharge  
 2457 or which refuses to renew such policy shall, in conjunction with  
 2458 the notice of premium due or notice of nonrenewal, notify the  
 2459 named insured that he or she is entitled to reimbursement of  
 2460 such amount or renewal of the policy under the conditions listed  
 2461 below and will subsequently reimburse him or her or renew the  
 2462 policy, if the named insured demonstrates that the operator  
 2463 involved in the accident was:

- 2464 (I) Lawfully parked;
- 2465 (II) Reimbursed by, or on behalf of, a person responsible

Page 85 of 132

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

20-01083B-17

20171766\_\_

2466 for the accident or has a judgment against such person;

2467 (III) Struck in the rear by another vehicle headed in the  
 2468 same direction and was not convicted of a moving traffic  
 2469 violation in connection with the accident;

2470 (IV) Hit by a "hit-and-run" driver, if the accident was  
 2471 reported to the proper authorities within 24 hours after  
 2472 discovering the accident;

2473 (V) Not convicted of a moving traffic violation in  
 2474 connection with the accident, but the operator of the other  
 2475 automobile involved in such accident was convicted of a moving  
 2476 traffic violation;

2477 (VI) Finally adjudicated not to be liable by a court of  
 2478 competent jurisdiction;

2479 (VII) In receipt of a traffic citation which was dismissed  
 2480 or nolle prossed; or

2481 (VIII) Not at fault as evidenced by a written statement  
 2482 from the insured establishing facts demonstrating lack of fault  
 2483 which are not rebutted by information in the insurer's file from  
 2484 which the insurer in good faith determines that the insured was  
 2485 substantially at fault.

2486 c. In addition to the other provisions of this  
 2487 subparagraph, an insurer may not fail to renew a policy if the  
 2488 insured has had only one accident in which he or she was at  
 2489 fault within the current 3-year period. However, an insurer may  
 2490 nonrenew a policy for reasons other than accidents in accordance  
 2491 with s. 627.728. This subparagraph does not prohibit nonrenewal  
 2492 of a policy under which the insured has had three or more  
 2493 accidents, regardless of fault, during the most recent 3-year  
 2494 period.

Page 86 of 132

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

20-01083B-17

20171766\_\_

2495 4. Imposing or requesting an additional premium for, or  
 2496 refusing to renew, a policy for motor vehicle insurance solely  
 2497 because the insured committed a noncriminal traffic infraction  
 2498 as described in s. 318.14 unless the infraction is:

2499 a. A second infraction committed within an 18-month period,  
 2500 or a third or subsequent infraction committed within a 36-month  
 2501 period.

2502 b. A violation of s. 316.183, when such violation is a  
 2503 result of exceeding the lawful speed limit by more than 15 miles  
 2504 per hour.

2505 5. Upon the request of the insured, the insurer and  
 2506 licensed agent shall supply to the insured the complete proof of  
 2507 fault or other criteria which justifies the additional charge or  
 2508 cancellation.

2509 6. No insurer shall impose or request an additional premium  
 2510 for motor vehicle insurance, cancel or refuse to issue a policy,  
 2511 or refuse to renew a policy because the insured or the applicant  
 2512 is a handicapped or physically disabled person, so long as such  
 2513 handicap or physical disability does not substantially impair  
 2514 such person's mechanically assisted driving ability.

2515 7. No insurer may cancel or otherwise terminate any  
 2516 insurance contract or coverage, or require execution of a  
 2517 consent to rate endorsement, during the stated policy term for  
 2518 the purpose of offering to issue, or issuing, a similar or  
 2519 identical contract or coverage to the same insured with the same  
 2520 exposure at a higher premium rate or continuing an existing  
 2521 contract or coverage with the same exposure at an increased  
 2522 premium.

2523 8. No insurer may issue a nonrenewal notice on any

Page 87 of 132

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

20-01083B-17

20171766\_\_

2524 insurance contract or coverage, or require execution of a  
 2525 consent to rate endorsement, for the purpose of offering to  
 2526 issue, or issuing, a similar or identical contract or coverage  
 2527 to the same insured at a higher premium rate or continuing an  
 2528 existing contract or coverage at an increased premium without  
 2529 meeting any applicable notice requirements.

2530 9. No insurer shall, with respect to premiums charged for  
 2531 motor vehicle insurance, unfairly discriminate solely on the  
 2532 basis of age, sex, marital status, or scholastic achievement.

2533 10. Imposing or requesting an additional premium for motor  
 2534 vehicle comprehensive or uninsured motorist coverage solely  
 2535 because the insured was involved in a motor vehicle accident or  
 2536 was convicted of a moving traffic violation.

2537 11. No insurer shall cancel or issue a nonrenewal notice on  
 2538 any insurance policy or contract without complying with any  
 2539 applicable cancellation or nonrenewal provision required under  
 2540 the Florida Insurance Code.

2541 12. No insurer shall impose or request an additional  
 2542 premium, cancel a policy, or issue a nonrenewal notice on any  
 2543 insurance policy or contract because of any traffic infraction  
 2544 when adjudication has been withheld and no points have been  
 2545 assessed pursuant to s. 318.14(9) and (10). However, this  
 2546 subparagraph does not apply to traffic infractions involving  
 2547 accidents in which the insurer has incurred a loss due to the  
 2548 fault of the insured.

2549 Section 23. Paragraph (a) of subsection (1) of section  
 2550 626.989, Florida Statutes, is amended to read:

2551 626.989 Investigation by department or Division of  
 2552 Investigative and Forensic Services; compliance; immunity;

Page 88 of 132

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

20-01083B-17

20171766\_\_

2553 confidential information; reports to division; division  
 2554 investigator's power of arrest.-

2555 (1) For the purposes of this section:

2556 (a) A person commits a "fraudulent insurance act" if the  
 2557 person:

2558 1. Knowingly and with intent to defraud presents, causes to  
 2559 be presented, or prepares with knowledge or belief that it will  
 2560 be presented, to or by an insurer, self-insurer, self-insurance  
 2561 fund, servicing corporation, purported insurer, broker, or any  
 2562 agent thereof, any written statement as part of, or in support  
 2563 of, an application for the issuance of, or the rating of, any  
 2564 insurance policy, or a claim for payment or other benefit  
 2565 pursuant to any insurance policy, which the person knows to  
 2566 contain materially false information concerning any fact  
 2567 material thereto or if the person conceals, for the purpose of  
 2568 misleading another, information concerning any fact material  
 2569 thereto.

2570 2. Knowingly submits:

2571 a. A false, misleading, or fraudulent application or other  
 2572 document when applying for licensure as a health care clinic,  
 2573 seeking an exemption from licensure as a health care clinic, or  
 2574 demonstrating compliance with part X of chapter 400 with an  
 2575 intent to use the license, exemption from licensure, or  
 2576 demonstration of compliance to provide services or seek  
 2577 reimbursement under a motor vehicle liability insurance policy's  
 2578 medical payments coverage ~~the Florida Motor Vehicle No-Fault~~  
 2579 ~~law.~~

2580 b. A claim for payment or other benefit under medical  
 2581 payments coverage ~~pursuant to a personal injury protection~~

Page 89 of 132

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

20-01083B-17

20171766\_\_

2582 ~~insurance policy under the Florida Motor Vehicle No-Fault Law if~~  
 2583 the person knows that the payee knowingly submitted a false,  
 2584 misleading, or fraudulent application or other document when  
 2585 applying for licensure as a health care clinic, seeking an  
 2586 exemption from licensure as a health care clinic, or  
 2587 demonstrating compliance with part X of chapter 400.

2588 Section 24. Subsection (1) of section 627.0652, Florida  
 2589 Statutes, is amended to read:

2590 627.0652 Insurance discounts for certain persons completing  
 2591 safety course.-

2592 (1) Any rates, rating schedules, or rating manuals for the  
 2593 liability, medical payments ~~personal injury protection~~, and  
 2594 collision coverages of a motor vehicle insurance policy filed  
 2595 with the office must ~~shall~~ provide for an appropriate reduction  
 2596 in premium charges as to such coverages if ~~when~~ the principal  
 2597 operator on the covered vehicle is an insured 55 years of age or  
 2598 older who has successfully completed a motor vehicle accident  
 2599 prevention course approved by the Department of Highway Safety  
 2600 and Motor Vehicles. Any discount used by an insurer is presumed  
 2601 to be appropriate unless credible data demonstrates otherwise.

2602 Section 25. Subsections (1), (3), and (6) of section  
 2603 627.0653, Florida Statutes, are amended to read:

2604 627.0653 Insurance discounts for specified motor vehicle  
 2605 equipment.-

2606 (1) Any rates, rating schedules, or rating manuals for the  
 2607 liability, medical payments ~~personal injury protection~~, and  
 2608 collision coverages of a motor vehicle insurance policy filed  
 2609 with the office must ~~shall~~ provide a premium discount if the  
 2610 insured vehicle is equipped with factory-installed, four-wheel

Page 90 of 132

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

20-01083B-17 20171766\_\_

2611 antilock brakes.

2612 (3) Any rates, rating schedules, or rating manuals for  
2613 ~~personal injury protection coverage and~~ medical payments  
2614 ~~coverage, if offered,~~ of a motor vehicle insurance policy filed  
2615 with the office ~~must shall~~ provide a premium discount if the  
2616 insured vehicle is equipped with one or more air bags which are  
2617 factory installed.

2618 (6) The Office of Insurance Regulation may approve a  
2619 premium discount to any rates, rating schedules, or rating  
2620 manuals for the liability, medical payments ~~personal injury~~  
2621 ~~protection,~~ and collision coverages of a motor vehicle insurance  
2622 policy filed with the office if the insured vehicle is equipped  
2623 with autonomous driving technology or electronic vehicle  
2624 collision avoidance technology that is factory installed or a  
2625 retrofitted system and that complies with National Highway  
2626 Traffic Safety Administration standards.

2627 Section 26. Section 627.4132, Florida Statutes, is amended  
2628 to read:

2629 627.4132 Stacking of coverages prohibited.—If an insured or  
2630 named insured is protected by any type of motor vehicle  
2631 insurance policy for bodily injury and property damage  
2632 ~~liability, personal injury protection, or other coverage,~~ the  
2633 policy ~~must shall~~ provide that the insured or named insured is  
2634 protected only to the extent of the coverage she or he has on  
2635 the vehicle involved in the accident. However, if none of the  
2636 insured's or named insured's vehicles are ~~is~~ involved in the  
2637 accident, coverage is available only to the extent of coverage  
2638 on any one of the vehicles with applicable coverage. Coverage on  
2639 any other vehicles may shall not be added to or stacked upon

Page 91 of 132

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

20-01083B-17 20171766\_\_

2640 that coverage. This section does not apply:

2641 (1) To uninsured motorist coverage that ~~which~~ is separately  
2642 governed by s. 627.727.

2643 (2) To reduce the coverage available by reason of insurance  
2644 policies insuring different named insureds.

2645 Section 27. Subsections (1) and (7) of section 627.727,  
2646 Florida Statutes, are amended to read:

2647 627.727 Motor vehicle insurance; uninsured and underinsured  
2648 vehicle coverage; insolvent insurer protection.—

2649 (1) A ~~No~~ motor vehicle liability insurance policy that  
2650 ~~which~~ provides bodily injury liability coverage may not shall be  
2651 delivered or issued for delivery in this state with respect to  
2652 any specifically insured or identified motor vehicle registered  
2653 or principally garaged in this state, unless uninsured motor  
2654 vehicle coverage is provided therein or supplemental thereto for  
2655 the protection of persons insured thereunder who are legally  
2656 entitled to recover damages from owners or operators of  
2657 uninsured motor vehicles because of bodily injury, sickness, or  
2658 disease, including death, resulting therefrom. However, the  
2659 coverage required under this section is not applicable if when,  
2660 or to the extent that, an insured named in the policy makes a  
2661 written rejection of the coverage on behalf of all insureds  
2662 under the policy. If when a motor vehicle is leased for a ~~period~~  
2663 ~~of~~ 1 year or longer and the lessor of such vehicle, by the terms  
2664 of the lease contract, provides liability coverage on the leased  
2665 vehicle, the lessee of such vehicle has shall have the sole  
2666 privilege to reject uninsured motorist coverage or to select  
2667 lower limits than the bodily injury liability limits, regardless  
2668 of whether the lessor is qualified as a self-insurer pursuant to

Page 92 of 132

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

20-01083B-17 20171766\_\_

2669 s. 324.171. Unless an insured, or lessee having the privilege of  
 2670 rejecting uninsured motorist coverage, requests such coverage or  
 2671 requests higher uninsured motorist limits in writing, the  
 2672 coverage or such higher uninsured motorist limits need not be  
 2673 provided in or supplemental to any other policy which renews,  
 2674 extends, changes, supersedes, or replaces an existing policy  
 2675 with the same bodily injury liability limits when an insured or  
 2676 lessee had rejected the coverage. When an insured or lessee has  
 2677 initially selected limits of uninsured motorist coverage lower  
 2678 than her or his bodily injury liability limits, higher limits of  
 2679 uninsured motorist coverage need not be provided in or  
 2680 supplemental to any other policy that ~~which~~ renews, extends,  
 2681 changes, supersedes, or replaces an existing policy with the  
 2682 same bodily injury liability limits unless an insured requests  
 2683 higher uninsured motorist coverage in writing. The rejection or  
 2684 selection of lower limits must ~~shall~~ be made on a form approved  
 2685 by the office. The form must ~~shall~~ fully advise the applicant of  
 2686 the nature of the coverage and must ~~shall~~ state that the  
 2687 coverage is equal to bodily injury liability limits unless lower  
 2688 limits are requested or the coverage is rejected. The heading of  
 2689 the form must ~~shall~~ be in 12-point bold type and must ~~shall~~  
 2690 state: "You are electing not to purchase certain valuable  
 2691 coverage that ~~which~~ protects you and your family or you are  
 2692 purchasing uninsured motorist limits less than your bodily  
 2693 injury liability limits when you sign this form. Please read  
 2694 carefully." If this form is signed by a named insured, it will  
 2695 be conclusively presumed that there was an informed, knowing  
 2696 rejection of coverage or election of lower limits on behalf of  
 2697 all insureds. The insurer shall notify the named insured at

20-01083B-17 20171766\_\_

2698 least annually of her or his options as to the coverage required  
 2699 by this section. Such notice must ~~shall~~ be part of, and attached  
 2700 to, the notice of premium, must ~~shall~~ provide for a means to  
 2701 allow the insured to request such coverage, and must ~~shall~~ be  
 2702 given in a manner approved by the office. Receipt of this notice  
 2703 does not constitute an affirmative waiver of the insured's right  
 2704 to uninsured motorist coverage if ~~where~~ the insured has not  
 2705 signed a selection or rejection form. The coverage described  
 2706 under this section must ~~shall~~ be over and above, but may ~~shall~~  
 2707 not duplicate, the benefits available to an insured under any  
 2708 workers' compensation law, ~~personal injury protection benefits,~~  
 2709 disability benefits law, or similar law; under any automobile  
 2710 medical payments ~~expense~~ coverage; under any motor vehicle  
 2711 liability insurance coverage; or from the owner or operator of  
 2712 the uninsured motor vehicle or any other person or organization  
 2713 jointly or severally liable together with such owner or operator  
 2714 for the accident; and such coverage must ~~shall~~ cover the  
 2715 difference, if any, between the sum of such benefits and the  
 2716 damages sustained, up to the maximum amount of such coverage  
 2717 provided under this section. The amount of coverage available  
 2718 under this section may ~~shall~~ not be reduced by a setoff against  
 2719 any coverage, including liability insurance. Such coverage does  
 2720 ~~shall~~ not inure directly or indirectly to the benefit of any  
 2721 workers' compensation or disability benefits carrier or any  
 2722 person or organization qualifying as a self-insurer under any  
 2723 workers' compensation or disability benefits law or similar law.  
 2724 (7) The legal liability of an uninsured motorist coverage  
 2725 insurer includes ~~does not include~~ damages in tort for pain,  
 2726 suffering, disability or physical impairment, disfigurement,



20-01083B-17 20171766\_\_  
 2727 mental anguish, ~~and inconvenience, and the loss of capacity for~~  
 2728 ~~the enjoyment of life experienced in the past and to be~~  
 2729 ~~experienced in the future unless the injury or disease is~~  
 2730 ~~described in one or more of paragraphs (a) - (d) of s. 627.737(2).~~

2731 Section 28. Subsection (1) and paragraphs (a) and (b) of  
 2732 subsection (2) of section 627.7275, Florida Statutes, are  
 2733 amended to read:

2734 627.7275 Motor vehicle liability.—

2735 (1) A motor vehicle insurance policy ~~providing personal~~  
 2736 ~~injury protection as set forth in s. 627.736~~ may not be  
 2737 ~~delivered or issued for delivery in this state for a with~~  
 2738 ~~respect to any~~ specifically insured or identified motor vehicle  
 2739 registered or principally garaged in this state must provide  
 2740 bodily injury liability coverage and ~~unless the policy also~~  
 2741 ~~provides coverage for~~ property damage liability coverage as  
 2742 required under ~~by~~ s. 324.022, and medical payments coverage as  
 2743 required under s. 627.7265.

2744 (2) (a) Insurers writing motor vehicle insurance in this  
 2745 state shall make available, subject to the insurers' usual  
 2746 underwriting restrictions:

2747 1. Coverage under policies as described in subsection (1)  
 2748 to an applicant for private passenger motor vehicle insurance  
 2749 coverage who is seeking the coverage in order to reinstate the  
 2750 applicant's driving privileges in this state if the driving  
 2751 privileges were revoked or suspended pursuant to s. 316.646 or  
 2752 s. 324.0221 due to the failure of the applicant to maintain  
 2753 required security.

2754 2. Coverage under policies as described in subsection (1),  
 2755 which includes bodily injury ~~also provides~~ liability coverage

20-01083B-17 20171766\_\_  
 2756 and property damage liability coverage for bodily injury, death,  
 2757 ~~and property damage arising out of the ownership, maintenance,~~  
 2758 ~~or use of the motor vehicle~~ in an amount not less than the  
 2759 minimum limits required under ~~described in s. 324.021(7) or s.~~  
 2760 324.023 and which conforms to the requirements of s. 324.151, to  
 2761 an applicant for private passenger motor vehicle insurance  
 2762 coverage who is seeking the coverage in order to reinstate the  
 2763 applicant's driving privileges in this state after such  
 2764 privileges were revoked or suspended under s. 316.193 or s.  
 2765 322.26(2) for driving under the influence.

2766 (b) The policies described in paragraph (a) ~~must~~ shall be  
 2767 issued for at least 6 months and, as to the minimum coverages  
 2768 required under this section, may not be canceled by the insured  
 2769 for any reason or by the insurer after 60 days, during which  
 2770 period the insurer is completing the underwriting of the policy.  
 2771 After the insurer has completed underwriting the policy, the  
 2772 insurer shall notify the Department of Highway Safety and Motor  
 2773 Vehicles that the policy is in full force and effect and is not  
 2774 cancelable for the remainder of the policy period. A premium  
 2775 ~~must~~ shall be collected and the coverage is in effect for the  
 2776 60-day period during which the insurer is completing the  
 2777 underwriting of the policy, whether or not the person's driver  
 2778 license, motor vehicle tag, and motor vehicle registration are  
 2779 in effect. Once the noncancelable provisions of the policy  
 2780 become effective, the bodily injury liability and property  
 2781 damage liability ~~coverages for bodily injury, property damage,~~  
 2782 ~~and personal injury protection~~ may not be reduced below the  
 2783 minimum limits required under s. 324.021 or s. 324.023 during  
 2784 the policy period, and the medical payments coverage may not be

20-01083B-17

20171766\_\_

2785 reduced below the minimum limit required under s. 627.7265.

2786 Section 29. Subsection (1), paragraph (a) of subsection  
2787 (5), and subsections (6) and (7) of section 627.7295, Florida  
2788 Statutes, are amended to read:

2789 627.7295 Motor vehicle insurance contracts.—

2790 (1) As used in this section, the term:

2791 (a) "Policy" means a motor vehicle insurance policy that  
2792 provides bodily injury liability ~~personal injury protection~~  
2793 coverage, property damage liability coverage, and medical  
2794 payments coverage ~~or both~~.

2795 (b) "Binder" means a binder that provides motor vehicle  
2796 bodily injury liability coverage, ~~personal injury protection and~~  
2797 property damage liability coverage, and medical payments  
2798 coverage.

2799 (5) (a) A licensed general lines agent may charge a per-  
2800 policy fee up to not to exceed \$10 to cover the administrative  
2801 costs of the agent associated with selling the motor vehicle  
2802 insurance policy if the policy covers only bodily injury  
2803 liability coverage, ~~personal injury protection coverage as~~  
2804 ~~provided by s. 627.736 and property damage liability coverage,~~  
2805 and medical payments coverage as provided by s. 627.7275 and if  
2806 no other insurance is sold or issued in conjunction with or  
2807 collateral to the policy. The fee is not ~~considered~~ part of the  
2808 premium.

2809 (6) If a motor vehicle owner's driver license, license  
2810 plate, and registration have previously been suspended pursuant  
2811 to s. 316.646 ~~or s. 627.733~~, an insurer may cancel a new policy  
2812 only as provided in s. 627.7275.

2813 (7) A policy of private passenger motor vehicle insurance

Page 97 of 132

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

20-01083B-17

20171766\_\_

2814 or a binder for such a policy may be initially issued in this  
2815 state only if, before the effective date of such binder or  
2816 policy, the insurer or agent has collected ~~from the insured an~~  
2817 ~~amount equal to~~ 2 months' premium from the insured. An insurer,  
2818 agent, or premium finance company may not, directly or  
2819 indirectly, take any action that results ~~resulting~~ in the  
2820 insured paying ~~having paid~~ from the insured's own funds an  
2821 amount less than the 2 months' premium required by this  
2822 subsection. This subsection applies without regard to whether  
2823 the premium is financed by a premium finance company or is paid  
2824 pursuant to a periodic payment plan of an insurer or an  
2825 insurance agent.

2826 (a) This subsection does not apply:

2827 1. If an insured or member of the insured's family is  
2828 renewing or replacing a policy or a binder for such policy  
2829 written by the same insurer or a member of the same insurer  
2830 group. ~~This subsection does not apply~~

2831 2. To an insurer that issues private passenger motor  
2832 vehicle coverage primarily to active duty or former military  
2833 personnel or their dependents. ~~This subsection does not apply~~

2834 3. If all policy payments are paid pursuant to a payroll  
2835 deduction plan, an automatic electronic funds transfer payment  
2836 plan from the policyholder, or a recurring credit card or debit  
2837 card agreement with the insurer.

2838 (b) This subsection and subsection (4) do not apply if:

2839 1. All policy payments to an insurer are paid pursuant to  
2840 an automatic electronic funds transfer payment plan from an  
2841 agent, a managing general agent, or a premium finance company  
2842 and if the policy includes, at a minimum, bodily injury

Page 98 of 132

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

20-01083B-17 20171766\_\_

2843 ~~liability coverage, personal injury protection pursuant to ss.~~  
 2844 ~~627.730-627.7405; motor vehicle property damage liability~~  
 2845 ~~coverage, and medical payments coverage pursuant to s. 627.7275;~~  
 2846 ~~or and bodily injury liability in at least the amount of \$10,000~~  
 2847 ~~because of bodily injury to, or death of, one person in any one~~  
 2848 ~~accident and in the amount of \$20,000 because of bodily injury~~  
 2849 ~~to, or death of, two or more persons in any one accident. This~~  
 2850 ~~subsection and subsection (4) do not apply if~~

2851 2. An insured has had a policy in effect for at least 6  
 2852 months, the insured's agent is terminated by the insurer that  
 2853 issued the policy, and the insured obtains coverage on the  
 2854 policy's renewal date with a new company through the terminated  
 2855 agent.

2856 Section 30. Subsections (1) and (2) of section 627.7415,  
 2857 Florida Statutes, are amended to read:

2858 627.7415 Commercial motor vehicles; additional liability  
 2859 insurance coverage.—Commercial motor vehicles, as defined in s.  
 2860 207.002 or s. 320.01, operated upon the roads and highways of  
 2861 this state shall be insured with the ~~following~~ minimum levels of  
 2862 combined bodily liability insurance and property damage  
 2863 liability insurance under subsections (1) and (2) in addition to  
 2864 any other insurance requirements\_+.

2865 (1) ~~Fifty thousand dollars per occurrence~~ For a commercial  
 2866 motor vehicle with a gross vehicle weight of 26,000 pounds or  
 2867 more, but less than 35,000 pounds:

2868 (a) Beginning January 1, 2018, through December 31, 2019,  
 2869 no less than \$50,000 per occurrence.

2870 (b) Beginning January 1, 2020, through December 31, 2021,  
 2871 no less than \$60,000 per occurrence.

20-01083B-17 20171766\_\_

2872 (c) Beginning January 1, 2022, and thereafter, no less than  
 2873 \$70,000 per occurrence.

2874 (2) ~~One hundred thousand dollars per occurrence~~ For a  
 2875 commercial motor vehicle with a gross vehicle weight of 35,000  
 2876 pounds or more, but less than 44,000 pounds:

2877 (a) Beginning January 1, 2018, through December 31, 2019,  
 2878 no less than \$100,000 per occurrence.

2879 (b) Beginning January 1, 2020, through December 31, 2021,  
 2880 no less than \$120,000 per occurrence.

2881 (c) Beginning January 1, 2022, and thereafter, no less than  
 2882 \$140,000 per occurrence.

2883  
 2884 A violation of this section is a noncriminal traffic infraction,  
 2885 punishable as a nonmoving violation as provided in chapter 318.

2886 Section 31. Section 627.8405, Florida Statutes, is amended  
 2887 to read:

2888 627.8405 Prohibited acts; financing companies.—~~A~~ No premium  
 2889 finance company ~~shall~~, in a premium finance agreement or other  
 2890 agreement, may not finance the cost of or otherwise provide for  
 2891 the collection or remittance of dues, assessments, fees, or  
 2892 other periodic payments of money for the cost of:

2893 (1) A membership in an automobile club. The term  
 2894 "automobile club" means a legal entity ~~that which~~, in  
 2895 consideration of dues, assessments, or periodic payments of  
 2896 money, promises its members or subscribers to assist them in  
 2897 matters relating to the ownership, operation, use, or  
 2898 maintenance of a motor vehicle; however, the term this  
 2899 definition of "automobile club" does not include persons,  
 2900 associations, or corporations which are organized and operated

20-01083B-17 20171766\_\_  
 2901 solely for the purpose of conducting, sponsoring, or sanctioning  
 2902 motor vehicle races, exhibitions, or contests upon racetracks,  
 2903 or upon racecourses established and marked as such for the  
 2904 duration of such particular events. The ~~term words~~ "motor  
 2905 vehicle" used herein ~~has have~~ the same meaning as defined in  
 2906 chapter 320.

2907 (2) An accidental death and dismemberment policy sold in  
 2908 combination with a policy providing only medical payments  
 2909 coverage, bodily injury liability coverage, personal injury  
 2910 ~~protection~~ and property damage liability coverage only policy.

2911 (3) Any product not regulated under the provisions of this  
 2912 insurance code.

2913  
 2914 This section also applies to premium financing by any insurance  
 2915 agent or insurance company under part XVI. The commission shall  
 2916 adopt rules to assure disclosure, at the time of sale, of  
 2917 coverages financed with ~~personal injury protection~~ and shall  
 2918 prescribe the form of such disclosure.

2919 Section 32. Paragraph (a) of subsection (1), paragraph (c)  
 2920 of subsection (7), paragraphs (a), (b), and (c) of subsection  
 2921 (8), and subsections (9) and (10) of section 817.234, Florida  
 2922 Statutes, are amended to read:

2923 817.234 False and fraudulent insurance claims.—

2924 (1)(a) A person commits insurance fraud punishable as  
 2925 provided in subsection (11) if that person, with the intent to  
 2926 injure, defraud, or deceive any insurer:

2927 1. Presents or causes to be presented any written or oral  
 2928 statement as part of, or in support of, a claim for payment or  
 2929 other benefit pursuant to an insurance policy or a health

20-01083B-17 20171766\_\_  
 2930 maintenance organization subscriber or provider contract,  
 2931 knowing that such statement contains ~~any~~ false, incomplete, or  
 2932 misleading information concerning any fact or thing material to  
 2933 such claim;

2934 2. Prepares or makes any written or oral statement that is  
 2935 intended to be presented to an ~~any~~ insurer in connection with,  
 2936 or in support of, any claim for payment or other benefit  
 2937 pursuant to an insurance policy or a health maintenance  
 2938 organization subscriber or provider contract, knowing that such  
 2939 statement contains any false, incomplete, or misleading  
 2940 information concerning any fact or thing material to such claim;

2941 3.a. Knowingly presents, causes to be presented, or  
 2942 prepares or makes with knowledge or belief that it will be  
 2943 presented to an ~~any~~ insurer, purported insurer, servicing  
 2944 corporation, insurance broker, or insurance agent, or any  
 2945 employee or agent thereof, ~~any~~ false, incomplete, or misleading  
 2946 information or a written or oral statement as part of, or in  
 2947 support of, an application for the issuance of, or the rating  
 2948 of, any insurance policy, or a health maintenance organization  
 2949 subscriber or provider contract; or

2950 b. Knowingly conceals information concerning any fact  
 2951 material to such application; or

2952 4. Knowingly presents, causes to be presented, or prepares  
 2953 or makes with knowledge or belief that it will be presented to  
 2954 any insurer a claim for payment or other benefit under medical  
 2955 payments coverage in a motor vehicle ~~a personal injury~~  
 2956 ~~protection~~ insurance policy if the person knows that the payee  
 2957 knowingly submitted a false, misleading, or fraudulent  
 2958 application or other document when applying for licensure as a

20-01083B-17

20171766\_\_

2959 health care clinic, seeking an exemption from licensure as a  
 2960 health care clinic, or demonstrating compliance with part X of  
 2961 chapter 400.

2962 (7)

2963 (c) An insurer, or any person acting at the direction of or  
 2964 on behalf of an insurer, may not change an opinion in a mental  
 2965 or physical report prepared under s. 627.7265(9) ~~s. 627.736(7)~~  
 2966 or direct the physician preparing the report to change such  
 2967 opinion; however, this provision does not preclude the insurer  
 2968 from calling to the attention of the physician errors of fact in  
 2969 the report based upon information in the claim file. Any person  
 2970 who violates this paragraph commits a felony of the third  
 2971 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
 2972 775.084.

2973 (8) (a) It is unlawful for any person intending to defraud  
 2974 any other person to solicit or cause to be solicited any  
 2975 business from a person involved in a motor vehicle accident for  
 2976 the purpose of making, adjusting, or settling motor vehicle tort  
 2977 claims or claims for benefits under medical payments coverage in  
 2978 a motor vehicle insurance policy personal injury protection  
 2979 ~~benefits required by s. 627.736~~. Any person who violates the  
 2980 provisions of this paragraph commits a felony of the second  
 2981 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
 2982 775.084. A person who is convicted of a violation of this  
 2983 subsection shall be sentenced to a minimum term of imprisonment  
 2984 of 2 years.

2985 (b) A person may not solicit or cause to be solicited any  
 2986 business from a person involved in a motor vehicle accident by  
 2987 any means of communication other than advertising directed to

Page 103 of 132

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

20-01083B-17

20171766\_\_

2988 the public for the purpose of making motor vehicle tort claims  
 2989 or claims for benefits under medical payments coverage in a  
 2990 motor vehicle insurance policy personal injury protection  
 2991 ~~benefits required by s. 627.736~~, within 60 days after the  
 2992 occurrence of the motor vehicle accident. Any person who  
 2993 violates this paragraph commits a felony of the third degree,  
 2994 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2995 (c) A lawyer, health care practitioner as defined in s.  
 2996 456.001, or owner or medical director of a clinic required to be  
 2997 licensed pursuant to s. 400.9905 may not, at any time after 60  
 2998 days have elapsed from the occurrence of a motor vehicle  
 2999 accident, solicit or cause to be solicited any business from a  
 3000 person involved in a motor vehicle accident by means of in  
 3001 person or telephone contact at the person's residence, for the  
 3002 purpose of making motor vehicle tort claims or claims for  
 3003 benefits under medical payments coverage in a motor vehicle  
 3004 insurance policy personal injury protection benefits required by  
 3005 ~~s. 627.736~~. Any person who violates this paragraph commits a  
 3006 felony of the third degree, punishable as provided in s.  
 3007 775.082, s. 775.083, or s. 775.084.

3008 (9) A person may not organize, plan, or knowingly  
 3009 participate in an intentional motor vehicle crash or a scheme to  
 3010 create documentation of a motor vehicle crash that did not occur  
 3011 for the purpose of making motor vehicle tort claims or claims  
 3012 for benefits under medical payments coverage in a motor vehicle  
 3013 insurance policy personal injury protection benefits as required  
 3014 ~~by s. 627.736~~. Any person who violates this subsection commits a  
 3015 felony of the second degree, punishable as provided in s.  
 3016 775.082, s. 775.083, or s. 775.084. A person who is convicted of

Page 104 of 132

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

20-01083B-17 20171766\_\_

3017 a violation of this subsection shall be sentenced to a minimum  
3018 term of imprisonment of 2 years.

3019 (10) A licensed health care practitioner who is found  
3020 guilty of insurance fraud under this section for an act relating  
3021 to a motor vehicle personal injury protection insurance policy  
3022 loses his or her license to practice for 5 years and may not  
3023 receive reimbursement under medical payments coverage in a motor  
3024 vehicle insurance policy for personal injury protection benefits  
3025 for 10 years.

3026 Section 33. Paragraph (b) of subsection (2) of section  
3027 318.18, Florida Statutes, is amended to read:

3028 318.18 Amount of penalties.—The penalties required for a  
3029 noncriminal disposition pursuant to s. 318.14 or a criminal  
3030 offense listed in s. 318.17 are as follows:

3031 (2) Thirty dollars for all nonmoving traffic violations  
3032 and:

3033 (b) For all violations of ss. 320.0605, 320.07(1), 322.065,  
3034 and 322.15(1). A Any person who is cited for a violation of s.  
3035 320.07(1) shall be charged a delinquent fee pursuant to s.  
3036 320.07(4).

3037 1. If a person who is cited for a violation of s. 320.0605  
3038 or s. 320.07 can show proof of having a valid registration at  
3039 the time of arrest, the clerk of the court may dismiss the case  
3040 and may assess a dismissal fee of up to \$10. A person who finds  
3041 it impossible or impractical to obtain a valid registration  
3042 certificate must submit an affidavit detailing the reasons for  
3043 the impossibility or impracticality. The reasons may include,  
3044 but are not limited to, the fact that the vehicle was sold,  
3045 stolen, or destroyed; that the state in which the vehicle is

Page 105 of 132

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

20-01083B-17 20171766\_\_

3046 registered does not issue a certificate of registration; or that  
3047 the vehicle is owned by another person.

3048 2. If a person who is cited for a violation of s. 322.03,  
3049 s. 322.065, or s. 322.15 can show a driver license issued to him  
3050 or her and valid at the time of arrest, the clerk of the court  
3051 may dismiss the case and may assess a dismissal fee of up to  
3052 \$10.

3053 3. If a person who is cited for a violation of s. 316.646  
3054 can show proof of security as required by s. 324.021(7) ~~s.~~  
3055 ~~627.733~~, issued to the person and valid at the time of arrest,  
3056 the clerk of the court may dismiss the case and may assess a  
3057 dismissal fee of up to \$10. A person who finds it impossible or  
3058 impractical to obtain proof of security must submit an affidavit  
3059 detailing the reasons for the impracticality. The reasons may  
3060 include, but are not limited to, the fact that the vehicle has  
3061 since been sold, stolen, or destroyed, ~~that the owner or~~  
3062 ~~registrant of the vehicle is not required by s. 627.733 to~~  
3063 ~~maintain personal injury protection insurance~~; or that the  
3064 vehicle is owned by another person.

3065 Section 34. Paragraph (b) of subsection (1) of section  
3066 320.0609, Florida Statutes, is amended to read:

3067 320.0609 Transfer and exchange of registration license  
3068 plates; transfer fee.—

3069 (1)

3070 (b) The transfer of a license plate from a vehicle disposed  
3071 of to a newly acquired vehicle does not constitute a new  
3072 registration. The application for transfer shall be accepted  
3073 without requiring proof of ~~personal injury protection or~~  
3074 liability insurance.

Page 106 of 132

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

20-01083B-17

20171766\_\_

3075 Section 35. Subsections (1) and (2) of section 322.251,  
 3076 Florida Statutes, are amended to read:  
 3077 322.251 Notice of cancellation, suspension, revocation, or  
 3078 disqualification of license.—  
 3079 (1) All orders of cancellation, suspension, revocation, or  
 3080 disqualification issued under ~~the provisions of this chapter,~~  
 3081 chapter 318, or chapter 324 must, or ss. 627.732-627.734 shall  
 3082 be given either by personal delivery thereof to the licensee  
 3083 whose license is being canceled, suspended, revoked, or  
 3084 disqualified or by deposit in the United States mail in an  
 3085 envelope, first class, postage prepaid, addressed to the  
 3086 licensee at his or her last known mailing address furnished to  
 3087 the department. Such mailing by the department constitutes  
 3088 notification, and any failure by the person to receive the  
 3089 mailed order will not affect or stay the effective date or term  
 3090 of the cancellation, suspension, revocation, or disqualification  
 3091 of the licensee's driving privilege.  
 3092 (2) The giving of notice and an order of cancellation,  
 3093 suspension, revocation, or disqualification by mail is complete  
 3094 upon expiration of 20 days after deposit in the United States  
 3095 mail for all notices except those issued under chapter 324 ~~or~~  
 3096 ~~ss. 627.732-627.734~~, which are complete 15 days after deposit in  
 3097 the United States mail. Proof of the giving of notice and an  
 3098 order of cancellation, suspension, revocation, or  
 3099 disqualification in either manner must shall be made by entry in  
 3100 the records of the department that such notice was given. The  
 3101 entry is admissible in the courts of this state and constitutes  
 3102 sufficient proof that such notice was given.  
 3103 Section 36. Paragraph (a) of subsection (8) of section

Page 107 of 132

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

20-01083B-17

20171766\_\_

3104 322.34, Florida Statutes, is amended to read:  
 3105 322.34 Driving while license suspended, revoked, canceled,  
 3106 or disqualified.—  
 3107 (8) (a) Upon the arrest of a person for the offense of  
 3108 driving while the person's driver license or driving privilege  
 3109 is suspended or revoked, the arresting officer shall determine:  
 3110 1. Whether the person's driver license is suspended or  
 3111 revoked.  
 3112 2. Whether the person's driver license has remained  
 3113 suspended or revoked since a conviction for the offense of  
 3114 driving with a suspended or revoked license.  
 3115 3. Whether the suspension or revocation was made under s.  
 3116 316.646 ~~or s. 627.733~~, relating to failure to maintain required  
 3117 security, or under s. 322.264, relating to habitual traffic  
 3118 offenders.  
 3119 4. Whether the driver is the registered owner or coowner of  
 3120 the vehicle.  
 3121 Section 37. Subsections (1) and (2) of section 324.0221,  
 3122 Florida Statutes, are amended to read:  
 3123 324.0221 Reports by insurers to the department; suspension  
 3124 of driver license and vehicle registrations; reinstatement.—  
 3125 (1) (a) Each insurer that has issued a policy providing  
 3126 ~~personal injury protection coverage or property damage~~ liability  
 3127 coverage shall report the cancellation or nonrenewal thereof to  
 3128 the department within 10 days after the processing date or  
 3129 effective date of each cancellation or nonrenewal. Upon the  
 3130 issuance of a policy providing ~~personal injury protection~~  
 3131 ~~coverage or property damage~~ liability coverage to a named  
 3132 insured not previously insured by the insurer during that

Page 108 of 132

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

20-01083B-17 20171766\_\_

3133 calendar year, the insurer shall report the issuance of the new  
 3134 policy to the department within 10 days. The report must shall  
 3135 be in the form ~~and format~~ and contain any information required  
 3136 by the department and must be provided in a format that is  
 3137 compatible with the data processing capabilities of the  
 3138 department. Failure by an insurer to file proper reports with  
 3139 the department as required by this subsection constitutes a  
 3140 violation of the Florida Insurance Code. These records may shall  
 3141 be used by the department only for enforcement and regulatory  
 3142 purposes, including the generation by the department of data  
 3143 regarding compliance by owners of motor vehicles with the  
 3144 requirements for financial responsibility coverage.

(b) With respect to an insurance policy providing medical  
 3145 payments coverage or ~~personal injury protection coverage or~~  
 3146 ~~property damage~~ liability coverage, each insurer shall notify  
 3147 the named insured, or the first-named insured in the case of a  
 3148 commercial fleet policy, in writing that any cancellation or  
 3149 nonrenewal of the policy will be reported by the insurer to the  
 3150 department. The notice must also inform the named insured that  
 3151 failure to maintain medical payments coverage, bodily injury  
 3152 liability ~~personal injury protection coverage,~~ and property  
 3153 damage liability coverage on a motor vehicle when required by  
 3154 law may result in the loss of registration and driving  
 3155 privileges in this state and inform the named insured of the  
 3156 amount of the reinstatement fees required by this section. This  
 3157 notice is for informational purposes only, and an insurer is not  
 3158 civilly liable for failing to provide this notice.

(2) The department shall suspend, after due notice and an  
 3160 opportunity to be heard, the registration and driver license of  
 3161

20-01083B-17 20171766\_\_

3162 any owner or operator registrant of a motor vehicle with respect  
 3163 to which security is required under s. 324.022, s. 324.032, s.  
 3164 627.7415, or s. 627.742 ~~ss. 324.022 and 627.733~~ upon:  
 3165 (a) The department's records showing that the owner or  
 3166 operator registrant of such motor vehicle did not have the in  
 3167 ~~full force and effect when~~ required security in full force and  
 3168 ~~effect that complies with the requirements of ss. 324.022 and~~  
 3169 ~~627.733~~; or  
 3170 (b) Notification by the insurer to the department, in a  
 3171 form approved by the department, of cancellation or termination  
 3172 of the required security.

Section 38. Subsection (6) of section 400.991, Florida  
 3173 Statutes, is amended to read:  
 3174 400.991 License requirements; background screenings;  
 3175 prohibitions.-  
 3176 (6) All agency forms for licensure application or exemption  
 3177 from licensure under this part must contain the following  
 3178 statement:  
 3179  
 3180 INSURANCE FRAUD NOTICE.—A person commits a fraudulent  
 3181 insurance act, as defined in s. 626.989, Florida  
 3182 Statutes, if such person who knowingly submits a  
 3183 false, misleading, or fraudulent application or other  
 3184 document when applying for licensure as a health care  
 3185 clinic, seeking an exemption from licensure as a  
 3186 health care clinic, or demonstrating compliance with  
 3187 part X of chapter 400, Florida Statutes, with the  
 3188 intent to use the license, exemption from licensure,  
 3189 or demonstration of compliance to provide services or  
 3190



20-01083B-17

20171766\_\_

3191 seek reimbursement under a motor vehicle liability  
 3192 insurance policy's medical payments coverage ~~the~~  
 3193 ~~Florida Motor Vehicle No-Fault Law, commits a~~  
 3194 ~~fraudulent insurance act, as defined in s. 626.989,~~  
 3195 ~~Florida Statutes.~~ A person who presents a claim for  
 3196 benefits under medical payments coverage ~~personal~~  
 3197 ~~injury protection benefits~~ knowing that the payee  
 3198 knowingly submitted such health care clinic  
 3199 application or document, commits insurance fraud, as  
 3200 defined in s. 817.234, Florida Statutes.  
 3201 Section 39. Paragraph (g) of subsection (1) of section  
 3202 400.9935, Florida Statutes, is amended to read:  
 3203 400.9935 Clinic responsibilities.—  
 3204 (1) Each clinic shall appoint a medical director or clinic  
 3205 director who shall agree in writing to accept legal  
 3206 responsibility for the following activities on behalf of the  
 3207 clinic. The medical director or the clinic director shall:  
 3208 (g) Conduct systematic reviews of clinic billings to ensure  
 3209 that the billings are not fraudulent or unlawful. Upon discovery  
 3210 of an unlawful charge, the medical director or clinic director  
 3211 shall take immediate corrective action. If the clinic performs  
 3212 only the technical component of magnetic resonance imaging,  
 3213 static radiographs, computed tomography, or positron emission  
 3214 tomography, and provides the professional interpretation of such  
 3215 services, in a fixed facility that is accredited by a national  
 3216 accrediting organization that is approved by the Centers for  
 3217 Medicare and Medicaid Services for magnetic resonance imaging  
 3218 and advanced diagnostic imaging services and if, in the  
 3219 preceding quarter, the percentage of scans performed by that

Page 111 of 132

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

20-01083B-17

20171766\_\_

3220 clinic which was billed to automobile ~~all personal injury~~  
 3221 ~~protection~~ insurance carriers under medical payments coverage  
 3222 was less than 15 percent, the chief financial officer of the  
 3223 clinic may, in a written acknowledgment provided to the agency,  
 3224 assume the responsibility for the conduct of the systematic  
 3225 reviews of clinic billings to ensure that the billings are not  
 3226 fraudulent or unlawful.  
 3227 Section 40. Paragraph (k) of subsection (2) of section  
 3228 456.057, Florida Statutes, is amended to read:  
 3229 456.057 Ownership and control of patient records; report or  
 3230 copies of records to be furnished; disclosure of information.—  
 3231 (2) As used in this section, the terms "records owner,"  
 3232 "health care practitioner," and "health care practitioner's  
 3233 employer" do not include any of the following persons or  
 3234 entities; furthermore, the following persons or entities are not  
 3235 authorized to acquire or own medical records, but are authorized  
 3236 under the confidentiality and disclosure requirements of this  
 3237 section to maintain those documents required by the part or  
 3238 chapter under which they are licensed or regulated:  
 3239 (k) Persons or entities practicing under s. 627.7265(9) ~~or~~  
 3240 ~~627.736(7)~~.  
 3241 Section 41. Subsection (1) of section 627.06501, Florida  
 3242 Statutes, is amended to read:  
 3243 627.06501 Insurance discounts for certain persons  
 3244 completing driver improvement course.—  
 3245 (1) Any rate, rating schedule, or rating manual for the  
 3246 liability, medical payments ~~personal injury protection~~, and  
 3247 collision coverages of a motor vehicle insurance policy filed  
 3248 with the office may provide for an appropriate reduction in

Page 112 of 132

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

20-01083B-17

20171766\_\_

3249 premium charges as to such coverages ~~if when~~ the principal  
 3250 operator on the covered vehicle has successfully completed a  
 3251 driver improvement course approved and certified by the  
 3252 Department of Highway Safety and Motor Vehicles which is  
 3253 effective in reducing crash or violation rates, or both, as  
 3254 determined pursuant to s. 318.1451(5). Any discount, not to  
 3255 exceed 10 percent, used by an insurer is presumed to be  
 3256 appropriate unless credible data demonstrates otherwise.

3257 Section 42. Section 627.7263, Florida Statutes, is amended  
 3258 to read:

3259 627.7263 Rental and leasing driver's insurance to be  
 3260 primary; exception.-

3261 (1) The valid and collectible liability insurance and  
 3262 medical payments coverage ~~or personal injury protection~~  
 3263 ~~insurance providing coverage~~ for the lessor of a motor vehicle  
 3264 for rent or lease is primary unless otherwise stated in at least  
 3265 10-point type on the face of the rental or lease agreement. Such  
 3266 insurance is primary for the limits of liability ~~and personal~~  
 3267 ~~injury protection~~ coverage as required by s. 324.021(7) and  
 3268 medical payments coverage as required under s. 627.7265 ~~ss-~~  
 3269 ~~324.021(7) and 627.736.~~

3270 (2) If the lessee's coverage is to be primary, the rental  
 3271 or lease agreement must contain the following language, in at  
 3272 least 10-point type:

3273  
 3274 "The valid and collectible liability insurance and  
 3275 medical payments coverage ~~personal injury protection~~  
 3276 ~~insurance~~ of an any authorized rental or leasing  
 3277 driver is primary for the limits of liability ~~and~~

Page 113 of 132

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

20-01083B-17

20171766\_\_

3278 ~~personal injury protection~~ coverage and medical  
 3279 payments coverage required under ss. 324.021(7) and  
 3280 627.7265 ~~by ss. 324.021(7) and 627.736~~, Florida  
 3281 Statutes."

3282 Section 43. Paragraph (a) of subsection (1) of section  
 3283 627.728, Florida Statutes, is amended to read:

3284 627.728 Cancellations; nonrenewals.-

3285 (1) As used in this section, the term:

3286 (a) "Policy" means the bodily injury and property damage  
 3287 liability, ~~personal injury protection~~, medical payments,  
 3288 comprehensive, collision, and uninsured motorist coverage  
 3289 portions of a policy of motor vehicle insurance delivered or  
 3290 issued for delivery in this state:

3291 1. Insuring a natural person as named insured or one or  
 3292 more related individuals who are residents ~~resident~~ of the same  
 3293 household; and

3294 2. Insuring only a motor vehicle of the private passenger  
 3295 type or station wagon type which is not used as a public or  
 3296 livery conveyance for passengers or rented to others; or  
 3297 insuring any other four-wheel motor vehicle having a load  
 3298 capacity of 1,500 pounds or less which is not used in the  
 3299 occupation, profession, or business of the insured other than  
 3300 farming; other than any policy issued under an automobile  
 3301 insurance assigned risk plan or covering garage, automobile  
 3302 sales agency, repair shop, service station, or public parking  
 3303 place operation hazards.

3304  
 3305 The term "policy" does not include a binder as defined in s.  
 3306 627.420 unless the duration of the binder period exceeds 60

Page 114 of 132

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

20-01083B-17 20171766\_\_

3307 days.

3308 Section 44. Subsection (1) of section 627.915, Florida

3309 Statutes, is amended to read:

3310 627.915 Insurer experience reporting.—

3311 (1) Each insurer transacting private passenger automobile

3312 insurance in this state shall report certain information

3313 annually to the office. The information will be due on or before

3314 July 1 of each year. The information must ~~shall~~ be divided into

3315 the following categories: bodily injury liability; property

3316 damage liability; uninsured motorist; ~~personal injury protection~~

3317 ~~benefits~~; medical payments; and comprehensive and collision. The

3318 information given must ~~shall~~ be on direct insurance writings in

3319 the state alone and ~~shall~~ represent total limits data. The

3320 information set forth in paragraphs (a)-(f) is applicable to

3321 voluntary private passenger and Joint Underwriting Association

3322 private passenger writings and must ~~shall~~ be reported for each

3323 of the latest 3 calendar-accident years, with an evaluation date

3324 of March 31 of the current year. The information set forth in

3325 paragraphs (g)-(j) is applicable to voluntary private passenger

3326 writings and must ~~shall~~ be reported on a calendar-accident year

3327 basis ultimately seven times at seven different stages of

3328 development.

3329 (a) Premiums earned for the latest 3 calendar-accident

3330 years.

3331 (b) Loss development factors and the historic development

3332 of those factors.

3333 (c) Policyholder dividends incurred.

3334 (d) Expenses for other acquisition and general expense.

3335 (e) Expenses for agents' commissions and taxes, licenses,

20-01083B-17 20171766\_\_

3336 and fees.

3337 (f) Profit and contingency factors as utilized in the

3338 insurer's automobile rate filings for the applicable years.

3339 (g) Losses paid.

3340 (h) Losses unpaid.

3341 (i) Loss adjustment expenses paid.

3342 (j) Loss adjustment expenses unpaid.

3343 Section 45. Subsections (2) and (3) of section 628.909,

3344 Florida Statutes, are amended to read:

3345 628.909 Applicability of other laws.—

3346 (2) The following provisions of the Florida Insurance Code

3347 apply to captive insurance companies who are not industrial

3348 insured captive insurance companies to the extent that such

3349 provisions are not inconsistent with this part:

3350 (a) Chapter 624, except for ss. 624.407, 624.408, 624.4085,

3351 624.40851, 624.4095, 624.411, 624.425, and 624.426.

3352 (b) Chapter 625, part II.

3353 (c) Chapter 626, part IX.

3354 (d) ~~Sections 627.730-627.7405, when no fault coverage is~~

3355 ~~provided.~~

3356 ~~(e)~~ Chapter 628.

3357 (3) The following provisions of the Florida Insurance Code

3358 ~~shall~~ apply to industrial insured captive insurance companies to

3359 the extent that such provisions are not inconsistent with this

3360 part:

3361 (a) Chapter 624, except for ss. 624.407, 624.408, 624.4085,

3362 624.40851, 624.4095, 624.411, 624.425, 624.426, and 624.609(1).

3363 (b) Chapter 625, part II, if the industrial insured captive

3364 insurance company is incorporated in this state.

20-01083B-17

20171766\_\_

3365 (c) Chapter 626, part IX.

3366 (d) ~~Sections 627.730-627.7405 when no-fault coverage is~~  
 3367 ~~provided.~~

3368 ~~(e)~~ Chapter 628, except for ss. 628.341, 628.351, and  
 3369 628.6018.

3370 Section 46. Subsections (2), (6), and (7) of section  
 3371 705.184, Florida Statutes, are amended to read:

3372 705.184 Derelict or abandoned motor vehicles on the  
 3373 premises of public-use airports.—

3374 (2) The airport director or the director's designee shall  
 3375 contact the Department of Highway Safety and Motor Vehicles to  
 3376 notify that department that the airport has possession of the  
 3377 abandoned or derelict motor vehicle and to determine the name  
 3378 and address of the owner of the motor vehicle, the insurance  
 3379 company insuring the motor vehicle, ~~notwithstanding the~~  
 3380 ~~provisions of s. 627.736~~, and any person who has filed a lien on  
 3381 the motor vehicle. Within 7 business days after receipt of the  
 3382 information, the director or the director's designee shall send  
 3383 notice by certified mail, return receipt requested, to the owner  
 3384 of the motor vehicle, the insurance company insuring the motor  
 3385 vehicle, ~~notwithstanding the provisions of s. 627.736~~, and all  
 3386 persons of record claiming a lien against the motor vehicle. The  
 3387 notice must ~~shall~~ state the fact of possession of the motor  
 3388 vehicle, that charges for reasonable towing, storage, and  
 3389 parking fees, if any, have accrued and the amount thereof, that  
 3390 a lien as provided in subsection (6) will be claimed, that the  
 3391 lien is subject to enforcement pursuant to law, that the owner  
 3392 or lienholder, if any, has the right to a hearing as set forth  
 3393 in subsection (4), and that any motor vehicle which, at the end

Page 117 of 132

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

20-01083B-17

20171766\_\_

3394 of 30 calendar days after receipt of the notice, has not been  
 3395 removed from the airport upon payment in full of all accrued  
 3396 charges for reasonable towing, storage, and parking fees, if  
 3397 any, may be disposed of as provided in s. 705.182(2) (a), (b),  
 3398 (d), or (e), including, but not limited to, the motor vehicle  
 3399 being sold free of all prior liens after 35 calendar days after  
 3400 the time the motor vehicle is stored if any prior liens on the  
 3401 motor vehicle are more than 5 years of age or after 50 calendar  
 3402 days after the time the motor vehicle is stored if any prior  
 3403 liens on the motor vehicle are 5 years of age or less.

3404 (6) The airport pursuant to this section or, if used, a  
 3405 licensed independent wrecker company pursuant to s. 713.78 shall  
 3406 have a lien on an abandoned or derelict motor vehicle for all  
 3407 reasonable towing, storage, and accrued parking fees, if any,  
 3408 except that no storage fee may ~~shall~~ be charged if the motor  
 3409 vehicle is stored less than 6 hours. As a prerequisite to  
 3410 perfecting a lien under this section, the airport director or  
 3411 the director's designee must serve a notice in accordance with  
 3412 subsection (2) on the owner of the motor vehicle, the insurance  
 3413 company insuring the motor vehicle, ~~notwithstanding the~~  
 3414 ~~provisions of s. 627.736~~, and all persons of record claiming a  
 3415 lien against the motor vehicle. If attempts to notify the owner,  
 3416 the insurance company insuring the motor vehicle,  
 3417 ~~notwithstanding the provisions of s. 627.736~~, or lienholders are  
 3418 not successful, the requirement of notice by mail shall be  
 3419 considered met. Serving of the notice does not dispense with  
 3420 recording the claim of lien.

3421 (7) (a) For the purpose of perfecting its lien under this  
 3422 section, the airport shall record a claim of lien which states

Page 118 of 132

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

20-01083B-17 20171766\_\_

3423 ~~shall state:~~  
 3424 1. The name and address of the airport.  
 3425 2. The name of the owner of the motor vehicle, the  
 3426 insurance company insuring the motor vehicle, ~~notwithstanding~~  
 3427 ~~the provisions of s. 627.736,~~ and all persons of record claiming  
 3428 a lien against the motor vehicle.  
 3429 3. The costs incurred from reasonable towing, storage, and  
 3430 parking fees, if any.  
 3431 4. A description of the motor vehicle sufficient for  
 3432 identification.  
 3433 (b) The claim of lien must ~~shall~~ be signed and sworn to or  
 3434 affirmed by the airport director or the director's designee.  
 3435 (c) The claim of lien is ~~shall be~~ sufficient if it is in  
 3436 substantially the following form:

CLAIM OF LIEN

3437 State of .....  
 3438 County of .....  
 3439 Before me, the undersigned notary public, personally appeared  
 3440 ....., who was duly sworn and says that he/she is the  
 3441 ..... of ....., whose address is.....; and that the  
 3442 following described motor vehicle:  
 3443 ...(Description of motor vehicle)...  
 3444 owned by ....., whose address is ....., has accrued  
 3445 \$..... in fees for a reasonable tow, for storage, and for  
 3446 parking, if applicable; that the lienor served its notice to the  
 3447 owner, the insurance company insuring the motor vehicle  
 3448 ~~notwithstanding the provisions of s. 627.736, Florida Statutes,~~  
 3449 and all persons of record claiming a lien against the motor  
 3450  
 3451

20-01083B-17 20171766\_\_

3452 vehicle on ....., ...(year)..., by.....  
 3453 ...(Signature)...  
 3454 Sworn to (or affirmed) and subscribed before me this .... day of  
 3455 ....., ...(year)..., by ...(name of person making statement)...  
 3456 ...(Signature of Notary Public)... ...(Print, Type, or Stamp  
 3457 Commissioned name of Notary Public)...  
 3458 Personally Known....OR Produced....as identification.  
 3459  
 3460 However, the negligent inclusion or omission of any information  
 3461 in this claim of lien which does not prejudice the owner does  
 3462 not constitute a default that operates to defeat an otherwise  
 3463 valid lien.  
 3464 (d) The claim of lien must ~~shall~~ be served on the owner of  
 3465 the motor vehicle, the insurance company insuring the motor  
 3466 vehicle, ~~notwithstanding the provisions of s. 627.736,~~ and all  
 3467 persons of record claiming a lien against the motor vehicle. If  
 3468 attempts to notify the owner, the insurance company insuring the  
 3469 motor vehicle ~~notwithstanding the provisions of s. 627.736,~~ or  
 3470 lienholders are not successful, the requirement of notice by  
 3471 mail shall be considered met. The claim of lien must ~~shall~~ be so  
 3472 served before recordation.  
 3473 (e) The claim of lien must ~~shall~~ be recorded with the clerk  
 3474 of court in the county where the airport is located. The  
 3475 recording of the claim of lien shall be constructive notice to  
 3476 all persons of the contents and effect of such claim. The lien  
 3477 attaches ~~shall attach~~ at the time of recordation and takes ~~shall~~  
 3478 ~~take~~ priority as of that time.  
 3479 Section 47. Subsection (4) of section 713.78, Florida  
 3480 Statutes, is amended to read:

20-01083B-17

20171766\_\_

3481 713.78 Liens for recovering, towing, or storing vehicles  
3482 and vessels.-

3483 (4) (a) Any person regularly engaged in the business of  
3484 recovering, towing, or storing vehicles or vessels who comes  
3485 into possession of a vehicle or vessel pursuant to subsection  
3486 (2), and who claims a lien for recovery, towing, or storage  
3487 services, shall give notice to the registered owner, the  
3488 insurance company insuring the vehicle ~~notwithstanding the~~  
3489 ~~provisions of s. 627.736~~, and to all persons claiming a lien  
3490 thereon, as disclosed by the records in the Department of  
3491 Highway Safety and Motor Vehicles or as disclosed by the records  
3492 of any corresponding agency in any other state in which the  
3493 vehicle is identified through a records check of the National  
3494 Motor Vehicle Title Information System or an equivalent  
3495 commercially available system as being titled or registered.

3496 (b) ~~If a~~ Whenever any law enforcement agency authorizes the  
3497 removal of a vehicle or vessel or if a ~~whenever any~~ towing  
3498 service, garage, repair shop, or automotive service, storage, or  
3499 parking place notifies the law enforcement agency of possession  
3500 of a vehicle or vessel pursuant to s. 715.07(2)(a)2., the law  
3501 enforcement agency of the jurisdiction where the vehicle or  
3502 vessel is stored shall contact the Department of Highway Safety  
3503 and Motor Vehicles, or the appropriate agency of the state of  
3504 registration, if known, within 24 hours through the medium of  
3505 electronic communications, giving the full description of the  
3506 vehicle or vessel. Upon receipt of the full description of the  
3507 vehicle or vessel, the department shall search its files to  
3508 determine the owner's name, the insurance company insuring the  
3509 vehicle or vessel, and whether any person has filed a lien upon

Page 121 of 132

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

20-01083B-17

20171766\_\_

3510 the vehicle or vessel as provided in s. 319.27(2) and (3) and  
3511 notify the applicable law enforcement agency within 72 hours.  
3512 The person in charge of the towing service, garage, repair shop,  
3513 or automotive service, storage, or parking place shall obtain  
3514 such information from the applicable law enforcement agency  
3515 within 5 days after the date of storage and shall give notice  
3516 pursuant to paragraph (a). The department may release the  
3517 insurance company information to the requestor ~~notwithstanding~~  
3518 ~~the provisions of s. 627.736~~.

3519 (c) Notice by certified mail must ~~shall~~ be sent within 7  
3520 business days after the date of storage of the vehicle or vessel  
3521 to the registered owner, the insurance company insuring the  
3522 vehicle ~~notwithstanding the provisions of s. 627.736~~, and all  
3523 persons of record claiming a lien against the vehicle or vessel.  
3524 The notice must ~~It shall~~ state the fact of possession of the  
3525 vehicle or vessel, that a lien as provided in subsection (2) is  
3526 claimed, that charges have accrued and the amount thereof, that  
3527 the lien is subject to enforcement pursuant to law, ~~and~~ that the  
3528 owner or lienholder, if any, has the right to a hearing as set  
3529 forth in subsection (5), and that any vehicle or vessel which  
3530 remains unclaimed, or for which the charges for recovery,  
3531 towing, or storage services remain unpaid, may be sold free of  
3532 all prior liens after 35 days if the vehicle or vessel is more  
3533 than 3 years of age or after 50 days if the vehicle or vessel is  
3534 3 years of age or less.

3535 (d) If attempts to locate the name and address of the owner  
3536 or lienholder prove unsuccessful, the towing-storage operator  
3537 must ~~shall~~, after 7 working days, excluding Saturday and Sunday,  
3538 of the initial tow or storage, notify the public agency of

Page 122 of 132

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

20-01083B-17 20171766\_\_

3539 jurisdiction where the vehicle or vessel is stored in writing by  
 3540 certified mail or acknowledged hand delivery that the towing-  
 3541 storage company has been unable to locate the name and address  
 3542 of the owner or lienholder and a physical search of the vehicle  
 3543 or vessel has disclosed no ownership information and a good  
 3544 faith effort has been made, including records checks of the  
 3545 Department of Highway Safety and Motor Vehicles database and the  
 3546 National Motor Vehicle Title Information System or an equivalent  
 3547 commercially available system. As used in ~~For purposes of~~ this  
 3548 paragraph and subsection (9), the term "good faith effort" means  
 3549 that the following checks have been performed by the company to  
 3550 establish prior state of registration and for title:

- 3551 1. Check of the Department of Highway Safety and Motor  
 3552 Vehicles database for the owner and any lienholder.
- 3553 2. Check of the electronic National Motor Vehicle Title  
 3554 Information System or an equivalent commercially available  
 3555 system to determine the state of registration when there is not  
 3556 a current registration record for the vehicle on file with the  
 3557 Department of Highway Safety and Motor Vehicles.
- 3558 3. Check of vehicle or vessel for any type of tag, tag  
 3559 record, temporary tag, or regular tag.
- 3560 4. Check of law enforcement report for tag number or other  
 3561 information identifying the vehicle or vessel, if the vehicle or  
 3562 vessel was towed at the request of a law enforcement officer.
- 3563 5. Check of trip sheet or tow ticket of tow truck operator  
 3564 to see if a tag was on vehicle or vessel at beginning of tow, if  
 3565 private tow.
- 3566 6. If there is no address of the owner on the impound  
 3567 report, check of law enforcement report to see if an out-of-

Page 123 of 132

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

20-01083B-17 20171766\_\_

3568 state address is indicated from driver license information.

- 3569 7. Check of vehicle or vessel for inspection sticker or  
 3570 other stickers and decals that may indicate a state of possible  
 3571 registration.
- 3572 8. Check of the interior of the vehicle or vessel for any  
 3573 papers that may be in the glove box, trunk, or other areas for a  
 3574 state of registration.
- 3575 9. Check of vehicle for vehicle identification number.
- 3576 10. Check of vessel for vessel registration number.
- 3577 11. Check of vessel hull for a hull identification number  
 3578 which should be carved, burned, stamped, embossed, or otherwise  
 3579 permanently affixed to the outboard side of the transom or, if  
 3580 there is no transom, to the outmost seaboard side at the end of  
 3581 the hull that bears the rudder or other steering mechanism.

3582 Section 48. Paragraph (b) of subsection (2) of section  
 3583 324.051, Florida Statutes, is amended to read:

3584 324.051 Reports of crashes; suspensions of licenses and  
 3585 registrations.—

- 3586 (2)
- 3587 (b) This subsection does shall not apply:
  - 3588 1. To such operator or owner if such operator or owner had  
 3589 in effect at the time of such crash or traffic conviction a  
 3590 motor vehicle ~~an automobile~~ liability policy with respect to all  
 3591 of the registered motor vehicles owned by such operator or  
 3592 owner.
  - 3593 2. To such operator, if not the owner of such motor  
 3594 vehicle, if there was in effect at the time of such crash or  
 3595 traffic conviction a motor vehicle ~~an automobile~~ liability  
 3596 policy or bond with respect to his or her operation of motor

Page 124 of 132

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

20-01083B-17

20171766\_\_

3597 vehicles not owned by him or her.

3598 3. To such operator or owner if the liability of such  
3599 operator or owner for damages resulting from such crash is, in  
3600 the judgment of the department, covered by any other form of  
3601 liability insurance or bond.

3602 4. To any person who has obtained from the department a  
3603 certificate of self-insurance, in accordance with s. 324.171, or  
3604 to any person operating a motor vehicle for such self-insurer.  
3605

3606 No such policy or bond shall be effective under this subsection  
3607 unless it contains limits of not less than those specified in s.  
3608 324.021(7).

3609 Section 49. Subsection (1) of section 324.091, Florida  
3610 Statutes, is amended to read:

3611 324.091 Notice to department; notice to insurer.—

3612 (1) Each owner and operator involved in a crash or  
3613 conviction case within the purview of this chapter shall furnish  
3614 evidence of automobile liability insurance or motor vehicle  
3615 liability insurance within 14 days after the date of the mailing  
3616 of notice of crash by the department in the form and manner as  
3617 it may designate. Upon receipt of evidence that a ~~an automobile~~  
3618 ~~liability policy or~~ motor vehicle liability policy was in effect  
3619 at the time of the crash or conviction case, the department  
3620 shall forward to the insurer such information for verification  
3621 in a method as determined by the department. The insurer shall  
3622 respond to the department within 20 days after the notice  
3623 whether or not such information is valid. If the department  
3624 determines that a ~~an automobile liability policy or~~ motor  
3625 vehicle liability policy was not in effect and did not provide

Page 125 of 132

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

20-01083B-17

20171766\_\_

3626 coverage for both the owner and the operator, it must ~~shall~~ take  
3627 action as it is authorized to do under this chapter.

3628 Section 50. Section 324.023, Florida Statutes, is amended  
3629 to read:

3630 324.023 Financial responsibility for bodily injury or  
3631 death.—In addition to any other financial responsibility  
3632 required by law, every owner or operator of a motor vehicle that  
3633 is required to be registered in this state, or that is located  
3634 within this state, and who, regardless of adjudication of guilt,  
3635 has been found guilty of or entered a plea of guilty or nolo  
3636 contendere to a charge of driving under the influence under s.  
3637 316.193 after October 1, 2007, shall, by one of the methods  
3638 established in s. 324.031(1) (a) or (b) ~~s. 324.031(1) or (2)~~,  
3639 establish and maintain the ability to respond in damages for  
3640 liability on account of accidents arising out of the use of a  
3641 motor vehicle in the amount of \$100,000 because of bodily injury  
3642 to, or death of, one person in any one crash and, subject to  
3643 such limits for one person, in the amount of \$300,000 because of  
3644 bodily injury to, or death of, two or more persons in any one  
3645 crash and in the amount of \$50,000 because of property damage in  
3646 any one crash. If the owner or operator chooses to establish and  
3647 maintain such ability by furnishing a certificate of deposit  
3648 pursuant to s. 324.031(1) (b) ~~s. 324.031(2)~~, such certificate of  
3649 deposit must be at least \$350,000. Such higher limits must be  
3650 carried for a minimum period of 3 years. If the owner or  
3651 operator has not been convicted of driving under the influence  
3652 or a felony traffic offense for a period of 3 years from the  
3653 date of reinstatement of driving privileges for a violation of  
3654 s. 316.193, the owner or operator shall be exempt from this

Page 126 of 132

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



20-01083B-17 20171766\_\_  
 3655 section.  
 3656 Section 51. Applicability and construction; notice to  
 3657 policyholders.-  
 3658 (1) As used in this section, the term "minimum security  
 3659 requirements" means security that enables a person to respond in  
 3660 damages for liability on account of crashes arising out of the  
 3661 ownership, maintenance, or use of a motor vehicle in the amounts  
 3662 required by s. 324.021(7), Florida Statutes.  
 3663 (2) Effective January 1, 2018:  
 3664 (a) Motor vehicle insurance policies issued or renewed on  
 3665 or after that date may not include personal injury protection.  
 3666 (b) All persons subject to s. 324.022, s. 324.032, s.  
 3667 627.7415, or s. 627.742, Florida Statutes, must maintain at  
 3668 least minimum security requirements.  
 3669 (c) Any new or renewal motor vehicle insurance policy  
 3670 delivered or issued for delivery in this state must provide  
 3671 coverage that complies with minimum security requirements.  
 3672 (d) Any new or renewal motor vehicle insurance policy  
 3673 furnished to an owner or operator of a motor vehicle as proof of  
 3674 financial responsibility pursuant to s. 324.022 or s. 324.031,  
 3675 Florida Statutes, must provide medical payments coverage that  
 3676 complies with s. 627.7265, Florida Statutes.  
 3677 (e) An existing motor vehicle insurance policy issued  
 3678 before that date which provides personal injury protection and  
 3679 property damage liability coverage that meets the requirements  
 3680 of s. 324.022, Florida Statutes, on December 31, 2017, but which  
 3681 does not meet minimum security requirements on or after January  
 3682 1, 2018, is deemed to meet the security requirements of s.  
 3683 324.022, Florida Statutes, and the medical payments coverage

Page 127 of 132

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

20-01083B-17 20171766\_\_  
 3684 requirements of s. 627.7265, Florida Statutes, until such policy  
 3685 is renewed, nonrenewed, or canceled on or after January 1, 2018.  
 3686 (3) Each insurer shall allow each insured who has a new or  
 3687 renewal policy providing personal injury protection, which  
 3688 becomes effective before January 1, 2018, and whose policy does  
 3689 not meet minimum security requirements on or after January 1,  
 3690 2018, to change coverages so as to eliminate personal injury  
 3691 protection and obtain coverage providing minimum security  
 3692 requirements, which shall be effective on or after January 1,  
 3693 2018. The insurer is not required to provide coverage complying  
 3694 with minimum security requirements in such policies if the  
 3695 insured does not pay the required premium, if any, by January 1,  
 3696 2018, or such later date as the insurer may allow. Any reduction  
 3697 in the premium must be refunded by the insurer. The insurer may  
 3698 not impose on the insured an additional fee or charge that  
 3699 applies solely to a change in coverage; however, the insurer may  
 3700 charge an additional required premium that is actuarially  
 3701 indicated.  
 3702 (4) By September 1, 2017, each motor vehicle insurer shall  
 3703 provide notice of this section to each motor vehicle  
 3704 policyholder who is subject to this section. The notice is  
 3705 subject to approval by the Office of Insurance Regulation and  
 3706 must clearly inform the policyholder that:  
 3707 (a) The Florida Motor Vehicle No-Fault Law is repealed,  
 3708 effective January 1, 2018, and that on or after that date, the  
 3709 insured is no longer required to maintain personal injury  
 3710 protection insurance coverage, that personal injury protection  
 3711 coverage is no longer available for purchase in this state, and  
 3712 that all new or renewal policies issued on or after that date do

Page 128 of 132

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

20-01083B-17

20171766\_\_

3713 not contain such coverage.

3714 (b) Effective January 1, 2018, a person subject to the  
 3715 financial responsibility requirements of s. 324.022, Florida  
 3716 Statutes, must maintain minimum security requirements that  
 3717 enable the person to respond in damages for liability on account  
 3718 of accidents arising out of the ownership, maintenance, or use  
 3719 of a motor vehicle in the following amounts:

3720 1. Beginning on the effective date of this act, and  
 3721 continuing through December 31, 2019:

3722 a. Twenty thousand dollars for bodily injury to, or the  
 3723 death of, one person in any one crash and, subject to such  
 3724 limits for one person, in the amount of \$40,000 for bodily  
 3725 injury to, or the death of, two or more persons in any one  
 3726 crash; and

3727 b. Ten thousand dollars for damage to, or destruction of,  
 3728 property of others in any one crash.

3729 2. Beginning January 1, 2020, and continuing through  
 3730 December 31, 2021:

3731 a. Twenty-five thousand dollars for bodily injury to, or  
 3732 the death of, one person in any one crash and, subject to such  
 3733 limits for one person, in the amount of \$50,000 for bodily  
 3734 injury to, or the death of, two or more persons in any one  
 3735 crash; and

3736 b. Ten thousand dollars for damage to, or destruction of,  
 3737 property of others in any one crash.

3738 3. Beginning January 1, 2022, and continuing thereafter:

3739 a. Thirty thousand dollars for bodily injury to, or the  
 3740 death of, one person in any one crash and, subject to such  
 3741 limits for one person, in the amount of \$60,000 for bodily

20-01083B-17

20171766\_\_

3742 injury to, or the death of, two or more persons in any one  
 3743 crash; and

3744 b. Ten thousand dollars for damage to, or destruction of,  
 3745 property of others in any one crash.

3746 (c) Personal injury protection insurance paid covered  
 3747 medical expenses for injuries sustained in a motor vehicle crash  
 3748 by the policyholder, passengers, and relatives residing in the  
 3749 policyholder's household.

3750 (d) Bodily injury liability coverage protects the insured,  
 3751 up to the coverage limits, against loss if the insured is  
 3752 legally responsible for the death of or bodily injury to others  
 3753 in a motor vehicle accident.

3754 (e) Effective January 1, 2018, a person who purchases a  
 3755 motor vehicle liability insurance policy as proof of financial  
 3756 responsibility must maintain medical payments coverage that  
 3757 complies with s. 627.7265, Florida Statutes. Medical payments  
 3758 coverage pays covered medical expenses, up to the limits of such  
 3759 coverage, for injuries sustained in a motor vehicle crash by the  
 3760 policyholder, passengers, and relatives residing in the  
 3761 policyholder's household, as provided in s. 627.7265, Florida  
 3762 Statutes.

3763 (f) The policyholder may obtain underinsured motorist  
 3764 coverage, which provides benefits, up to the limits of such  
 3765 coverage, to a policyholder or other insured entitled to recover  
 3766 damages for bodily injury, sickness, disease, or death resulting  
 3767 from a motor vehicle accident with an uninsured or underinsured  
 3768 owner or operator of a motor vehicle.

3769 (g) If the policyholder's new or renewal motor vehicle  
 3770 insurance policy is effective before January 1, 2018, and

20-01083B-17 20171766\_\_

3771 contains personal injury protection and property damage  
 3772 liability coverage as required by state law before January 1,  
 3773 2018, but does not meet minimum security requirements on or  
 3774 after January 1, 2018, the policy is deemed to meet minimum  
 3775 security requirements until it is renewed, nonrenewed, or  
 3776 canceled on or after January 1, 2018.

3777 (h) A policyholder whose new or renewal policy becomes  
 3778 effective before January 1, 2018, but does not meet minimum  
 3779 security requirements on or after January 1, 2018, may change  
 3780 coverages under the policy so as to eliminate personal injury  
 3781 protection and to obtain coverage providing minimum security  
 3782 requirements, including bodily injury liability coverage, which  
 3783 are effective on or after January 1, 2018.

3784 (i) If the policyholder has any questions, he or she should  
 3785 contact the person named at the telephone number provided in the  
 3786 notice.

3787 (5) This section takes effect on the effective date of this  
 3788 act.

3789 Section 52. Application of suspensions for failure to  
 3790 maintain security; reinstatement.—All suspensions for failure to  
 3791 maintain required security as required by law in effect before  
 3792 January 1, 2018, remain in full force and effect after the  
 3793 effective date of this act. A driver may reinstate a suspended  
 3794 driver license or registration as provided under s. 324.0221,  
 3795 Florida Statutes.

3796 Section 53. The Division of Law Revision and Information is  
 3797 directed to replace the phrase “the effective date of this act”  
 3798 wherever it occurs in this act with the date this act becomes a  
 3799 law.

Page 131 of 132

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

20-01083B-17 20171766\_\_

3800 Section 54. Except as otherwise expressly provided in this  
 3801 act and except for this section, which shall take effect upon  
 3802 this act becoming a law, this act shall take effect January 1,  
 3803 2018.

Page 132 of 132

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

4/13/17

Meeting Date

1766

Bill Number (if applicable)

482232

Amendment Barcode (if applicable)

Topic \_\_\_\_\_

Name PAUL LAMBERT

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

Address 263 Rosehill Drive North

Street

850 597-2696

Phone

Tallahassee FL 32312

City

State

Zip

plambert@paul Lambert Law.com

Email

Speaking:  For  Against  Information

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

Representing FLORIDA CHIROPRACTIC ASSO.

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

4/13/17  
Meeting Date

SB 1766  
Bill Number (if applicable)

482232  
Amendment Barcode (if applicable)

Topic \_\_\_\_\_

Name Jeff Scott

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

Address 1430 Piedmont Dr. E.

Phone 850 224-6496

Jalldhs see FL 32308  
City State Zip

Email j.scott@flmedical.org

Speaking:  For  Against  Information

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

Representing Florida Medical Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

4-13-17  
Meeting Date

1764  
Bill Number (if applicable)  
482232  
Amendment Barcode (if applicable)

Topic PIP - emergency med pay

Name Toni Large

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

Address 519 E. Park Ave  
Street  
Tallahassee, FL 32301  
City State Zip

Phone 556-1461

Email toni@sulaw.net

Speaking:  For  Against  Information

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

Representing Florida College of Emergency Physicians & Florida Orthopedic Surgeons

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/13/17

Meeting Date

1766

Bill Number (if applicable)

Topic Motor Vehicle Insurance

Amendment Barcode (if applicable)

Name Adam Saben

Job Title Attorney

Address 10245 Centurion Parkway #109

Phone 904-999-4000

Street

Jacksonville FL 32256

City

State

Zip

Email Saben104@gmail.com

Speaking: For [ ] Against [x] Information [ ]

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

Representing Self

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

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

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

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

04/13/2017  
Meeting Date

1766  
Bill Number (if applicable)

Topic MOTOR VEHICLE INSURANCE

Amendment Barcode (if applicable)

Name LEWIS MERTZ

Job Title ATTORNEY

Address 6291 SW 40 ST  
Street

Phone 305.821-4581

Miami FL 33155  
City State Zip

Email MERTZLTZ@HOTMAIL.COM

Speaking:  For  Against  Information

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

Representing SELF

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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



THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

4/13/17

Meeting Date

1766

Bill Number (if applicable)

Topic Motor Vehicle Insurance

Amendment Barcode (if applicable)

Name Mac Phillips

Job Title Attorney

Address 212 SE 8<sup>th</sup> St., Ste 103

Phone 954-642-8885

Street

Fort Lauderdale

FL

33316

Email mphilips@phillipsktdros.com

City

State

Zip

Speaking:  For  Against  Information

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

Representing Self

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3.  
4-15-17

Meeting Date

1766

Bill Number (if applicable)

Topic PIP / Mandatory BI

Amendment Barcode (if applicable)

Name Chandler Irvin

Job Title Attorney

Address 111 2nd Ave NE #630

Phone (321) 749-1203

Street

St. Petersburg

FL

33701

Email cpi@irvinandpetty.com

City

State

Zip

Speaking:  For  Against  Information

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

Representing \_\_\_\_\_

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

4/13/17

Meeting Date

1766

Bill Number (if applicable)

Topic MANDATORY BI

Amendment Barcode (if applicable)

Name MARK CEDERBERG

Job Title ATTORNEY

Address 11 S. BUNNY AVE.

Phone (407) 926-8710

Street

ORLANDO

FL

32803

Email markcederberg@law.com

City

State

Zip

Speaking:  For  Against  Information

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

Representing SELF

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

04.13.17  
Meeting Date

SB 1766  
Bill Number (if applicable)

Topic AUTO INSURANCE

Amendment Barcode (if applicable)

Name RON JACKSON

Job Title VP STATE AFFAIRS

Address 2107 N. DECATUR RD. SUITE 257

Phone 404.261.8834

Decatur GA 30033  
City State Zip

Email rjackson@aiaa.org

Speaking:  For  Against  Information

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

Representing AMERICAN INSURANCE ASSOCIATION

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

4/13/17

Meeting Date

1766

Bill Number (if applicable)

Topic ~~MAT~~ MBI

Amendment Barcode (if applicable)

Name GLEN GED

Job Title Attorney

Address 7171 N. FEDERAL HIGHWAY

Phone 561-302-8880

Street

BOCA RATON FL 33487

Email

City

State

Zip

Speaking:  For  Against  Information

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

Representing Self

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

4/13/17  
Meeting Date

1766  
Bill Number (if applicable)

Topic PIP

Amendment Barcode (if applicable)

Name John Ricco

Job Title Exec. DIR

Address 325 John Knox Rd

Phone 850-224-0711

Street

TLH FL 32307

City

State

Zip

Email jricco@execoffice.org

Speaking:  For  Against  Information

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

Representing FL Cemetery Cremation & Funeral Assoc

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/13/17

Meeting Date

File

Bill Number (if applicable)

Topic Motor Vehicle Insurance

Amendment Barcode (if applicable)

Name Coretta Anthony-Smith

Job Title Attorney

Address 5401 S Kirkman Rd.

Phone (407) 299-8589

Street

Orlando FL 32819

Email canthony@anthony-smithlaw.com

City

State

Zip

Speaking:  For  Against  Information

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

Representing SELF

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/13/17

Meeting Date

1766

Bill Number (if applicable)

Topic Mandatory BI

Amendment Barcode (if applicable)

Name BRIAN MOTRONI

Job Title TRIAL LAWYER

Address 5025 W. Lemon St.

Phone 813-287-2227

Street

Tampa

City

FL

State

33607

Zip

Email brian@hunterkwgroup.com

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

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

Representing \_\_\_\_\_

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

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

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

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

S-001 (10/14/14)



THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

April 13, 2017

Meeting Date

SB 1766

Bill Number (if applicable)

Topic SB 1766 - Auto Insurance

Amendment Barcode (if applicable)

Name Adrienne Gorham

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

Address 3303 Juniper Drive

Phone 352-973-8519

Street

Edge Water FL 32141

Email \_\_\_\_\_

City

State

Zip

Speaking:  For  Against  Information

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

Representing Self / Floridians for Responsible Roadways

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

4/13/17

Meeting Date

SB 1766

Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name DAVID ALEXANDER

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

Address 11 S. BUNBY AVE.

Phone \_\_\_\_\_

Street

ORLANDO FL 32803

Email \_\_\_\_\_

City

State

Zip

Speaking:  For  Against  Information

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

Representing \_\_\_\_\_

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

4/13/2017  
Meeting Date

SB1766  
Bill Number (if applicable)

Topic Repeal of Fla Motor Vehicle No-fault law

Amendment Barcode (if applicable)

Name James D. Underwood, Esq

Job Title General Counsel / Attorney

Address 45 E. Sheridan St  
Street

Phone 305-981-9055

Dania Beach FL 33004  
City State Zip

Email jd@fladvocates.com

Speaking:  For  Against  Information

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

Representing The Responsive Automobile Insurance Co.

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/13/2017  
Meeting Date

SR1766  
Bill Number (if applicable)

Topic Bad Faith Reform

Amendment Barcode (if applicable)

Name Mark Delegal

Job Title Retained Counsel

Address 315 S. Calhoun Street #600  
Street

Phone 850 224 7000

JLH FL 32301  
City State Zip

Email mark.delegal@hklaw.com

Speaking:  For  Against  Information

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

Representing State Farm Mutual Automobile Ins Company

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

04.13.17

*Meeting Date*

1766

*Bill Number (if applicable)*

Topic Motor Vehicle Insurance

*Amendment Barcode (if applicable)*

Name Rick Parker

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

Address 3600 Maclay Boulevard - Ste 101

Phone 850-894-4111

*Street*

Tallahassee

FL

32312

Email jparker@butler.legal

*City*

*State*

*Zip*

Speaking:  For  Against  Information

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

Representing Florida Justice Reform Institute

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)

**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

April 13, 2017

1766

*Meeting Date*

*Bill Number (if applicable)*

Topic Motor Vehicle Insurance

*Amendment Barcode (if applicable)*

Name Michael Carlson

Job Title President

Address 125 S. Monroe St. Ste. 835

Phone 850597-7425

*Street*

Tallahassee

FL

32301

Email michael.carlson@piff.net

*City*

*State*

*Zip*

Speaking:  For  Against  Information

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

Representing Personal Insurance Federation of Florida

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

9-13-17

Meeting Date

1766

Bill Number (if applicable)

Topic PIP

Amendment Barcode (if applicable)

Name Tom YARO

Job Title Public Affairs Director

Address 106 College Ave

Phone 407-383-3470

Street

Tallahassee

FL

Email TYARO@foley.com

City

State

Zip

Speaking:  For  Against  Information

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

Representing LYFT

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

4/13/17

Meeting Date

1766

Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name PAUL LAMBERT

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

Address 263 Rosehill Drive North

Phone 850 597 2696

Street

Email plambert@paulambertlaw.com

Tallahassee FL 32312

City

State

Zip

Speaking:  For  Against  Information

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

Representing Florida Chiropractic Assn.

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)



**THE FLORIDA SENATE**  
**APPEARANCE RECORD**

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

SB 1766  
Bill Number (if applicable)

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

Topic PIP

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

Name Tim Meenan

Job Title 325 W. College Ave

Address Tallahassee

Phone (850) 425-4000

Street

FL

Email \_\_\_\_\_

City

State

Zip

Speaking:  For  Against  Information

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

Representing Nationwide Insurance

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

1786

Meeting Date

Bill Number (if applicable)

Topic Auto Insurance

Amendment Barcode (if applicable)

Name Paul Handerman

Job Title lobbyist

Address 120 S. Monroe St.  
Street

Phone 850 727 7087

Tallahassee FL 32301  
City State Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing FL. Association for Insurance Reform

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

4/13/17  
Meeting Date

1764  
Bill Number (if applicable)

Topic Motor Vehicle Ins

Amendment Barcode (if applicable)

Name Katie Webb

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

Address 215 S. Monroe St

Phone \_\_\_\_\_

Street

Tall FL 34301

Email \_\_\_\_\_

City

State

Zip

Speaking:  For  Against  Information

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

Representing Property Casualty Ins. Assoc of America

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

1766

Meeting Date

Bill Number (if applicable)

Topic Automobile insurance

Amendment Barcode (if applicable)

Name Clark Swope

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

Address 1234 5th Ave.

Phone 813 273-0017

Street

Email clark@swopelaw.com

Tampa

FL

33605

City

State

Zip

Speaking:  For  Against  Information

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

Representing Florida Justice Assn.

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)

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

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

---

Prepared By: The Professional Staff of the Committee on Banking and Insurance

---

BILL: CS/SB 1768

INTRODUCER: Banking and Insurance Committee and Senator Lee

SUBJECT: Public Records/Medical Payments Coverage and Liability Motor Vehicle Insurance Policies/Department of Highway Safety and Motor Vehicles

DATE: April 13, 2017

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Knudson</u>	<u>Knudson</u>	<u>BI</u>	<u>Fav/CS</u>
2.	_____	_____	<u>GO</u>	_____
3.	_____	_____	<u>AP</u>	_____

---

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

COMMITTEE SUBSTITUTE - Technical Changes

---

**I. Summary:**

CS/SB 1768 amends s. 324.242, F.S., to revise the public records exemption for information in personal injury protection and property damage liability insurance policies held by the Department of Highway Safety and Motor Vehicles (DHSMV). The bill applies the public records exemption to medical payments coverage and motor vehicle liability insurance policies, instead of personal injury protection and property damage. The bill does not change what information the exemption holds confidential and exempt. The change is necessary because SB 1766 repeals the Florida Motor Vehicle No-Fault Law, which requires personal injury coverage, and will create bodily injury liability financial responsibility requirements. The bill will only take effect if SB 1766, or similar legislation, is adopted during this legislative session or an extension thereof and becomes law.

The public records exemption will be subject to the Open Government Sunset Review Act in accordance with s. 119.15, F.S., and shall stand repealed on October 2, 2022, unless reviewed and saved from repeal through reenactment by the Legislature.

## II. Present Situation:

### Public Records Law

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.<sup>1</sup> This applies to the official business of any public body, officer or employee of the state, including all three branches of state government, local governmental entities and any person acting on behalf of the government.<sup>2</sup> In addition to the Florida Constitution, the Florida Statutes provides that the public may access legislative and executive branch records.<sup>3</sup> Chapter 119, F.S., constitutes the main body of public records laws, and is known as the Public Records Act.<sup>4</sup> The Public Records Act states that:

it is the policy of this state that all state, county and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.<sup>5</sup>

According to the Public Records Act, a public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.<sup>6</sup> The Florida Supreme Court has interpreted public records as being “any material prepared in connection with official agency business which is intended to perpetuate, communicate or formalize knowledge of some type.”<sup>7</sup> A violation of the Public Records Act may result in civil or criminal liability.<sup>8</sup>

The Legislature may create an exemption to public records requirements.<sup>9</sup> An exemption must pass by a two-thirds vote of the House and the Senate.<sup>10</sup> In addition, an exemption must explicitly lay out the public necessity justifying the exemption, and the exemption must be no broader than necessary to accomplish the stated purpose of the exemption.<sup>11</sup> A statutory

---

<sup>1</sup> FLA. CONST., art. I, s. 24(a).

<sup>2</sup> FLA. CONST., art. I, s. 24(a).

<sup>3</sup> The Public Records Act does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So.2d 32 (Fla. 1992). Also see *Times Pub. Co. v. Ake*, 660 So.2d 255 (Fla. 1995). The Legislature’s records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislatures are primarily located in s. 11.0431(2)-(3), F.S.

<sup>4</sup> Public records laws are found throughout the Florida Statutes.

<sup>5</sup> Section 119.01(1), F.S.

<sup>6</sup> Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.” Section 119.011(2), F.S., defines “agency” to mean as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

<sup>7</sup> *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So.2d 633, 640 (Fla. 1980).

<sup>8</sup> Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

<sup>9</sup> FLA. CONST., art. I, s. 24(c).

<sup>10</sup> FLA. CONST., art. I, s. 24(c).

<sup>11</sup> FLA. CONST., art. I, s. 24(c).

exemption which does not meet these criteria may be unconstitutional and may not be judicially saved.<sup>12</sup>

When creating a public records exemption, the Legislature may provide that a record is ‘confidential and exempt’ or ‘exempt.’<sup>13</sup> Records designated as ‘confidential and exempt’ may be released by the records custodian only under the circumstances defined by the Legislature. Records designated as ‘exempt’ may be released at the discretion of the records custodian.<sup>14</sup>

### **Open Government Sunset Review Act**

In addition to the constitutional requirements relating to the enactment of a public records exemption, the Legislature may subject the new or broadened exemption to the Open Government Sunset Review Act (OGSR).

The OGSR prescribes a legislative review process for newly created or substantially amended public records.<sup>15</sup> The OGSR provides that an exemption automatically repeals on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption.<sup>16</sup> In practice, many exemptions are continued by repealing the sunset date rather than reenacting the exemption.

### **Section 324.242, F.S., Exemption**

Every Florida registrant of a motor vehicle must obtain and provide proof of holding a motor vehicle insurance policy that includes \$10,000 in personal injury protection (PIP).<sup>17</sup> Additionally, s. 324.022, F.S., requires owners and operators of Florida-registered motor vehicles to maintain the ability to pay at least \$10,000 in property damage, which may be met by maintaining \$10,000 in property damage liability coverage.<sup>18</sup> A higher financial requirement is placed on commercial motor vehicles, taxicab owners and operators, for-hire passenger transportation vehicles, and

---

<sup>12</sup> *Halifax Hosp. Medical Center v. New-Journal Corp.*, 724 So.2d 567 (Fla. 1999). In *Halifax Hospital*, the Florida Supreme Court found that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption. *Id.* at 570. The Florida Supreme Court also declined to narrow the exemption in order to save it. *Id.* In *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So.2d 189 (Fla. 1st DCA 2004), the court found that the intent of a statute was to create a public records exemption. The *Baker County Press* court found that since the law did not contain a public necessity statement, it was unconstitutional. *Id.* at 196.

<sup>13</sup> If the Legislature designates a record as confidential, such record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48 (Fla. 5th DCA 2004).

<sup>14</sup> A record classified as exempt from public disclosure may be disclosed under certain circumstances. *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991).

<sup>15</sup> Section 119.15, F.S. According to s. 119.15(4)(b), F.S., a substantially amended exemption is one that is expanded to include more information or to include meetings. The OGSR does not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System pursuant to s. 119.15(2), F.S. The OGSR process is currently being followed, however, the Legislature is not required to continue to do so. The Florida Supreme Court has found that one legislature cannot bind a future legislature. *Scott v. Williams*, 107 So.3d 379 (Fla. 2013).

<sup>16</sup> Section 119.15(3), F.S.

<sup>17</sup> Section 627.733, F.S.

<sup>18</sup> Section 324.022, F.S.

registered vehicle owners or operators found guilty or that have plead nolo contendere to driving under the influence.<sup>19</sup>

The Department of Highway Safety and Motor Vehicles (DHSMV) is notified by insurers that supply policies with personal injury protection or property damage liability coverage of renewals, cancellations, and non-renewals of these policies within 45 days of their effective dates, as required by s. 324.0221, F.S. The insurer must also notify the named insured in writing of the cancellation or non-renewal of a policy and give notice of the consequences from the failure of maintaining PIP and property damage coverage, including the loss of registration, loss of driving privileges, and imposition of reinstatement fees. The records held by the DHSMV contain the insurance company code, the policy number, driver's license number, personal identifying information (name and address), and information identifying the vehicle, including the vehicle identification number and the make, model, and year of the vehicle.

Section 324.242, F.S., exempts from public records requirements personal identifying information, including the name, address, and driver's license number of insureds and former insureds and the insurance policy number contained in PIP and property damage liability motor vehicle insurance policies.<sup>20</sup> The exemption serves to protect sensitive personal information concerning individuals whose reputation or safety from identity theft would be jeopardized if the information were released. The exemption also protects confidential information used for business advantage against competitors. The disclosure of this information could injure insurance companies in the market since competitors would be able to solicit the business of their policyholders. The information exempted by s. 324.242, F.S., is neither obtainable by alternate means nor protected under other exemptions. However under s. 324.242, F.S., the DHSMV must release the policy number for a vehicle involved in an accident to any person involved in the accident, the attorney of any person involved in the accident, or a representative of the insurer of any person involved in the accident upon receipt of a written request and copy of the crash report.

### III. Effect of Proposed Changes:

**Section 1** amends s. 324.242, F.S., to revise the public records exemption for information in personal injury protection and property damage liability policies held by the DHSMV. The bill applies the public records exemption to medical payments coverage and motor vehicle liability insurance policies, instead of personal injury protection and property damage. The bill does not change what information the exemption holds confidential and exempt. The change is necessary because SB 1766 will repeal the Florida Motor Vehicle No-Fault Law which requires personal injury coverage, and will create bodily injury liability financial responsibility requirements.

The public records exemption will be subject to the Open Government Sunset Review Act in accordance with s. 119.15, F.S., and shall stand repealed on October 2, 2022, unless reviewed and saved from repeal through reenactment by the Legislature.

---

<sup>19</sup> See ss. 324.023, F.S., and 324.032, F.S.

<sup>20</sup> The statutory predecessor to s. 324.242, F.S., was s. 627.736(9)(a), F.S., which was repealed as part of the Florida Motor Vehicle No-Fault Law on October 1, 2007.



**Section 2** justifies the exemption through legislative findings that it is a public necessity to make certain information regarding bodily injury liability insurance and medical payments coverage policy held by the DHSMV confidential and exempt. The section states that it is imperative that automobile drivers be properly insured to ensure public safety on the roads and highways. Consequently, insurers must report to the DHSMV and verify the issuance, renewal, nonrenewal, or cancellation of motor vehicle insurance policies. The information includes the personal identifying information of insureds and former insureds as well as insurance policy numbers. This information, if compiled, could create customer lists for each insurer in the state, which are traditionally considered proprietary business information. Further, public access to such information could be used to perpetuate fraud against an insured, put him or her at risk, or make the insured the target of uninvited solicitations from other insurers and others seeking to profit from motor vehicle accidents.

**Section 3** makes the act effective on the same date that SB 1766 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes law.

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

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Article I, s. 24(c), of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public records exemption.

The bill contains the public necessity statement required by Article I, s. 24(c) of the Florida Constitution for a newly-created or expanded public records or public meetings exemption.

C. Trust Funds Restrictions:

None.

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

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 324.242 of the Florida Statutes.

**IX. Additional Information:**

A. Committee Substitute – Statement of Changes:

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

**CS by Banking and Insurance on April 13, 2017:**

Provides that the bill is effective on the date SB 1766, or similar legislation, takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes law.

B. Amendments:

None.



685848

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/13/2017	.	
	.	
	.	
	.	

---

The Committee on Banking and Insurance (Lee) recommended the following:

**Senate Amendment**

Delete line 97  
and insert:  
SB 1766 or similar legislation takes effect, if such  
legislation

By Senator Lee

20-02001-17

20171768\_\_

1 A bill to be entitled  
 2 An act relating to public records; amending s.  
 3 324.242, F.S.; revising an exemption from public  
 4 records requirements to exempt certain information  
 5 held by the Department of Highway Safety and Motor  
 6 Vehicles relating to medical payments coverage and  
 7 liability motor vehicle insurance policies, rather  
 8 than relating to personal injury protection and  
 9 property damage liability insurance policies;  
 10 requiring the department to provide certain policy  
 11 numbers to specified parties; providing for future  
 12 legislative review and repeal of the exemption;  
 13 providing a statement of public necessity; providing a  
 14 contingent effective date.

15  
 16 Be It Enacted by the Legislature of the State of Florida:

17  
 18 Section 1. Section 324.242, Florida Statutes, is amended to  
 19 read:

20 324.242 Medical payments coverage and motor vehicle  
 21 ~~Personal injury protection and property damage~~ liability  
 22 insurance policies; public records exemption.—

23 (1) The following information regarding medical payments  
 24 coverage and motor vehicle personal injury protection and  
 25 ~~property damage~~ liability insurance policies held by the  
 26 department is confidential and exempt from s. 119.07(1) and s.  
 27 24(a), Art. I of the State Constitution:

28 (a) Personal identifying information of an insured or  
 29 former insured; and

Page 1 of 4

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

20-02001-17

20171768\_\_

30 (b) An insurance policy number.  
 31 (2) Upon receipt of a request and proof of a crash report  
 32 as required under s. 316.065, s. 316.066, or s. 316.068, or a  
 33 crash report created pursuant to the laws of another state, the  
 34 department shall release the policy number for a policy covering  
 35 a vehicle involved in a motor vehicle accident to:  
 36 (a) Any person involved in such accident;  
 37 (b) The attorney of any person involved in such accident;  
 38 or  
 39 (c) A representative of the insurer of any person involved  
 40 in such accident.  
 41 (3) The department shall provide motor vehicle personal  
 42 ~~injury protection and property damage~~ liability insurance and  
 43 medical payments coverage policy numbers to department-approved  
 44 third parties that provide data collection services to an  
 45 insurer of any person involved in such accident.  
 46 (4) Before the department's release of a policy number in  
 47 accordance with subsection (2) or subsection (3), an insurer's  
 48 representative, a contracted third party, or an attorney for a  
 49 person involved in an accident must provide the department with  
 50 documentation confirming proof of representation.  
 51 (5) Information made confidential and exempt by this  
 52 section may be disclosed to another governmental entity without  
 53 a written request or copy of the crash report if disclosure is  
 54 necessary for the receiving governmental entity to perform its  
 55 duties and responsibilities. For purposes of this subsection,  
 56 the term "governmental entity" means any federal, state, county,  
 57 district, authority, or municipal officer, department, division,  
 58 board, bureau, or commission created or established by law.

Page 2 of 4

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

20-02001-17

20171768\_\_

59 (6) This exemption applies to personal identifying  
60 information of an insured or former insured and insurance policy  
61 numbers held by the department before, on, or after October 11,  
62 2007.

63 (7) This section is subject to the Open Government Sunset  
64 Review Act in accordance with s. 119.15 and shall stand repealed  
65 on October 2, 2022, unless reviewed and saved from repeal  
66 through reenactment by the Legislature.

67 Section 2. The Legislature finds and declares that it is a  
68 public necessity to make certain information regarding bodily  
69 injury liability insurance and medical payments coverage  
70 policies held by the Department of Highway Safety and Motor  
71 Vehicles confidential and exempt from the requirements of s.  
72 119.07(1), Florida Statutes, and s. 24(a), Article I of the  
73 State Constitution. In order to ensure public safety on the  
74 roads and highways of this state, it is imperative that  
75 automobile drivers be properly insured for liability for bodily  
76 injury and damage to real property and be properly insured for  
77 personal medical expenses. As such, insurers are required to  
78 report to the department and verify the issuance to a driver of  
79 a new policy as well as the renewal, nonrenewal, or cancellation  
80 of that policy. Such information includes the personal  
81 identifying information of an insured or former insured as well  
82 as the insurance policy number of the insured. If this  
83 information is compiled, it could result in a customer list of  
84 every insurer in the state. Customer lists contain detailed  
85 client and policy information that is traditionally considered  
86 proprietary business information because such lists could be  
87 used by competitors to solicit customers. Consequently, the

Page 3 of 4

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

20-02001-17

20171768\_\_

88 release of that information could injure the insurer in the  
89 marketplace by diminishing the advantage that the insurer  
90 maintains over those who do not possess such information.  
91 Further, public access to such information could be used to  
92 perpetuate fraud against an insured and put him or her at risk  
93 or to make the insured the target of uninvited solicitations  
94 from other insurers or from others seeking to profit from motor  
95 vehicle accidents.

96 Section 3. This act shall take effect on the same date that  
97 SB \_\_\_\_ or similar legislation takes effect, if such legislation  
98 is adopted in the same legislative session or an extension  
99 thereof and becomes a law.

Page 4 of 4

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

# CourtSmart Tag Report

Room: EL 110  
Caption: Senate Banking and Insurance

Case No.:  
Judge:

Type:

Started: 4/13/2017 8:03:04 AM

Ends: 4/13/2017 8:56:58 AM

Length: 00:53:55

8:03:03 AM Meeting called to order  
8:03:23 AM roll call  
8:03:28 AM quorum is present  
8:03:41 AM tab 1 SB1766  
8:03:48 AM Sen Lee explains the bill  
8:09:26 AM Questions for Sen Lee  
8:10:30 AM no questions  
8:10:36 AM Amendment 482232 explained  
8:12:44 AM Waive against: Toni LargeFlorida College of Emergency Physicians,  
8:12:59 AM Paul LambertFlorida Chiropractic Association waive against  
8:13:09 AM , Jeff Scott Florida Medical Association waive against  
Amendment 482232 withdrawn  
8:13:22 AM Next amendment 463472 explained  
8:13:38 AM no questions - amendment is withdrawn  
8:13:49 AM amendment 754868 by Steube  
8:14:06 AM withdrawn  
8:14:10 AM back on the bill SB1766 –  
8:14:25 AM Sen Garcia with question  
8:14:41 AM Sen Lee response  
8:18:00 AM Sen Garcia with further question  
8:18:10 AM Sen Lee response  
8:20:34 AM Sen Garcia  
8:20:42 AM Sen Lee response  
8:21:58 AM Sen Farmer with question  
8:22:42 AM Sen Farmer with question  
8:22:43 AM Sen Lee response  
8:23:27 AM Sen Farmer continues  
8:23:34 AM Sen Lee response  
8:23:57 AM Sen Lee response  
8:24:01 AM Chair Flores with question  
8:24:08 AM Sen Lee response  
8:25:44 AM Sen Flores further question  
8:25:55 AM Sen Lee response  
8:26:33 AM Sen Lee response  
8:26:34 AM Sen Garcia with question on PIP  
8:26:44 AM Sen Lee response  
8:27:53 AM Sen Garcia further question  
8:28:05 AM Sen Lee response  
8:30:11 AM Public testimony  
8:30:19 AM Adam Saben Jacksonville representing self - attorney represents medical  
8:32:12 AM Lewis Mertz attorney from Miami  
8:32:31 AM Mac Phillips attorney of Fort Lauderdale  
8:33:31 AM Chandler Irvin attorney of St Petersburg  
8:34:39 AM Mark Cederberg attorney of Orlando  
8:35:52 AM Ron Jackson VP State Affairs of Georgia against  
8:36:58 AM Glen Ged attorney of Boca Rotan  
8:38:20 AM Corcita Anthony- Smith attorney of Orlando  
8:38:57 AM Brian Motroni trial lawyer of Tampa  
8:39:29 AM Adrienne Gorham of Floridians for Responsible Roadways of Edgewater  
8:41:16 AM David Alexander of Orlando  
8:42:30 AM James D. Underwood Esq. General Counsel/ Attorney of Dania Beach for The Responsive Automobile  
Ins. Co

**8:43:32 AM** Mark Delegal Retained counsel of State Farm Mutual Automobile Ins Co. Tallahassee  
**8:44:47 AM** Rick Parker Tallahassee Florida Justice Reform Institute  
**8:45:52 AM** Michael Carlson President Personal Insurance Federation of Florida of Tallahassee  
**8:47:55 AM** Paul Lambert Florida Chiropractic Association of Tallahassee  
**8:48:58 AM** Paul Lambert Florida Chiropractic Association of Tallahassee  
**8:49:57 AM** Tim Meenan Nationwide Insurance of Tallahassee  
**8:50:05 AM** waive: Paul Handerhan FL Association for Insurance Reform; Association of America in support.  
**8:50:48 AM** Katie Webb Property Casualty Ins.- against; Dale Swope Florida Justice Association in support; John Ricco FL Cemetery Cremation & Funeral Association; Jan Vapo Public Affairs Director Of LYFT – in support  
**8:51:50 AM** Sen Garcia  
**8:52:32 AM** Sen Braynon  
**8:53:13 AM** Sen Mayfield  
**8:54:08 AM** Sen Lee closes on bill  
**8:54:37 AM** Roll call on bill 1766  
**8:54:53 AM** Bill passes  
**8:55:01 AM** SB 1768 Sen Lee explains  
**8:55:40 AM** Questions- none  
**8:55:44 AM** Barcode 685848  
**8:56:03 AM** Amendment adopted  
**8:56:08 AM** No questions  
**8:56:11 AM** No debate  
**8:56:14 AM** Sen Lee waive close  
**8:56:19 AM** Roll call for SB 1768  
**8:56:28 AM** Bill passes  
**8:56:34 AM** No further business  
**8:56:38 AM** Sen Garcia moves adjourn