

By Senator Diaz de la Portilla

36-01861-11

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1                   A bill to be entitled  
2           An act relating to motor vehicle insurance; amending  
3           s. 324.021, F.S.; revising provisions relating to  
4           proof of financial responsibility for rented or leased  
5           motor vehicles; providing lessors and lessees of  
6           rented and leased motor vehicles with certain  
7           responsibilities relating to the provision and  
8           obtaining of liability insurance; revising who is  
9           deemed the owner of a motor vehicle for purposes of  
10          determining financial responsibility; revising  
11          applicability of certain provisions relating to  
12          financial responsibility of an owner of commercial  
13          motor vehicles; providing an effective date.

14  
15 Be It Enacted by the Legislature of the State of Florida:

16  
17           Section 1. Subsections (7) and (9) of section 324.021,  
18 Florida Statutes, are amended to read:

19           324.021 Definitions; minimum insurance required.—The  
20 following words and phrases when used in this chapter shall, for  
21 the purpose of this chapter, have the meanings respectively  
22 ascribed to them in this section, except in those instances  
23 where the context clearly indicates a different meaning:

24           (7) PROOF OF FINANCIAL RESPONSIBILITY.—That proof of  
25 ability to respond in damages for liability on account of  
26 crashes arising out of the use of a motor vehicle:

27           (a) In the amount of \$10,000 because of bodily injury to,  
28 or death of, one person in any one crash;

29           (b) Subject to such limits for one person, in the amount of

36-01861-11

20111806\_\_

30 \$20,000 because of bodily injury to, or death of, two or more  
31 persons in any one crash;

32 (c) In the amount of \$10,000 because of injury to, or  
33 destruction of, property of others in any one crash; ~~and~~

34 (d) With respect to commercial motor vehicles and nonpublic  
35 sector buses, in the amounts specified in ss. 627.7415 and  
36 627.742, respectively; and

37 (e) With respect to rented or leased motor vehicles, in the  
38 amounts specified in paragraph (9) (b).

39 (9) OWNER; OWNER/LESSOR.—

40 (a) *Owner*.—A person who holds the legal title of a motor  
41 vehicle; or, in the event a motor vehicle is the subject of an  
42 agreement for the conditional sale or lease thereof with the  
43 right of purchase upon performance of the conditions stated in  
44 the agreement and with an immediate right of possession vested  
45 in the conditional vendee or lessee, or in the event a mortgagor  
46 of a vehicle is entitled to possession, then such conditional  
47 vendee or lessee or mortgagor shall be deemed the owner for the  
48 purpose of this chapter.

49 (b) *Owner/lessor*.—Notwithstanding any other provision of  
50 the Florida Statutes or existing case law:

51 1. The lessor, under an agreement to lease a motor vehicle  
52 for 1 year or longer which requires the lessee to obtain  
53 insurance acceptable to the lessor which contains limits not  
54 less than \$100,000/\$300,000 bodily injury liability and \$50,000  
55 property damage liability or not less than \$500,000 combined  
56 property damage liability and bodily injury liability, shall not  
57 be deemed the owner of said motor vehicle for the purpose of  
58 determining financial responsibility for the operation of said

36-01861-11

20111806\_\_

59 motor vehicle or for the acts of the operator in connection  
60 therewith; further, this subparagraph shall be applicable so  
61 long as the insurance meeting these requirements is in effect.  
62 The insurance meeting such requirements may be obtained by the  
63 lessor or lessee, provided, if such insurance is obtained by the  
64 lessor, the combined coverage for bodily injury liability and  
65 property damage liability shall contain limits of not less than  
66 \$1 million and may be provided by a lessor's blanket policy.

67 2. The lessor, under an agreement to rent or lease a motor  
68 vehicle for a period of less than 1 year, shall require the  
69 lessee to obtain insurance to respond in damages for liability  
70 arising out of the use of the motor vehicle due to the  
71 negligence of the lessee, or any permissive user of the motor  
72 vehicle, with limits of not less than \$500,000 combined property  
73 damage liability and bodily injury liability. The lessor may  
74 provide coverage for bodily injury liability and property damage  
75 liability to the lessee through a policy issued by an insurer  
76 licensed to transact insurance in this state and purchased by  
77 the lessee for a premium separately set forth in the lease or  
78 rental agreement. The lessor has a continuing duty to ensure  
79 that the lessee has obtained insurance consistent with this  
80 subparagraph ~~be deemed the owner of the motor vehicle for the~~  
81 ~~purpose of determining liability for the operation of the~~  
82 ~~vehicle or the acts of the operator in connection therewith only~~  
83 ~~up to \$100,000 per person and up to \$300,000 per incident for~~  
84 ~~bodily injury and up to \$50,000 for property damage. If, at the~~  
85 time any liability arises out of the use of the motor vehicle,  
86 the lessee or the operator of the motor vehicle is uninsured or  
87 has any insurance with limits less than \$500,000 combined

36-01861-11

20111806\_\_

88 property damage liability and bodily injury liability, the  
89 lessor shall be liable for up to \$100,000 per person and up to  
90 \$300,000 per incident for bodily injury, up to \$50,000 for  
91 property damage, and up to an additional \$500,000 in economic  
92 damages only arising out of the use of the motor vehicle. The  
93 additional specified liability of the lessor for economic  
94 damages shall be reduced by amounts actually recovered from the  
95 lessee, from the operator, and from any insurance or self-  
96 insurance covering the lessee or operator. If the lessee does  
97 not obtain coverage consistent with this subparagraph, the  
98 lessor shall be deemed liable for any amounts not recovered from  
99 the lessee arising out of the use of the motor vehicle or the  
100 acts of the operator in connection therewith. Nothing in this  
101 subparagraph shall be construed to affect the liability of the  
102 lessor for its own negligence.

103 3. The owner who is a natural person and loans a motor  
104 vehicle to any permissive user shall be liable for the operation  
105 of the vehicle or the acts of the operator in connection  
106 therewith only up to \$100,000 per person and up to \$300,000 per  
107 incident for bodily injury and up to \$50,000 for property  
108 damage. If the permissive user of the motor vehicle is uninsured  
109 or has any insurance with limits less than \$500,000 combined  
110 property damage and bodily injury liability, the owner shall be  
111 liable for up to an additional \$500,000 in economic damages only  
112 arising out of the use of the motor vehicle. The additional  
113 specified liability of the owner for economic damages shall be  
114 reduced by amounts actually recovered from the permissive user  
115 and from any insurance or self-insurance covering the permissive  
116 user. Nothing in this subparagraph shall be construed to affect

36-01861-11

20111806\_\_

117 the liability of the owner for his or her own negligence.

118 (c) *Application.*—

119 1. The financial responsibility and insurance requirements  
120 of subparagraph ~~limits on liability in subparagraphs~~ (b)2. and  
121 the limits on liability in subparagraph (b)3. do not apply to an  
122 owner of motor vehicles that are used for commercial activity in  
123 the owner's ordinary course of business, other than a rental  
124 company that rents or leases motor vehicles. For purposes of  
125 this paragraph, the term "rental company" includes only an  
126 entity that is engaged in the business of renting or leasing  
127 motor vehicles to the general public and that rents or leases a  
128 majority of its motor vehicles to persons with no direct or  
129 indirect affiliation with the rental company. The term also  
130 includes a motor vehicle dealer that provides temporary  
131 replacement vehicles to its customers for up to 10 days. The  
132 term "rental company" also includes:

133 a. A related rental or leasing company that is a subsidiary  
134 of the same parent company as that of the renting or leasing  
135 company that rented or leased the vehicle.

136 b. The holder of a motor vehicle title or an equity  
137 interest in a motor vehicle title if the title or equity  
138 interest is held pursuant to or to facilitate an asset-backed  
139 securitization of a fleet of motor vehicles used solely in the  
140 business of renting or leasing motor vehicles to the general  
141 public and under the dominion and control of a rental company,  
142 as described in this subparagraph, in the operation of such  
143 rental company's business.

144 2. ~~Furthermore,~~ With respect to commercial motor vehicles  
145 as defined in s. 627.732, the financial responsibility and

36-01861-11

20111806\_\_

146 insurance requirements of subparagraph ~~limits on liability in~~  
147 ~~subparagraphs~~ (b)2. and the limits on liability in subparagraph  
148 (b)3. do not apply if, at the time of the incident, the  
149 commercial motor vehicle is being used in the transportation of  
150 materials found to be hazardous for the purposes of the  
151 Hazardous Materials Transportation Authorization Act of 1994, as  
152 amended, 49 U.S.C. ss. 5101 et seq., and ~~that~~ is required  
153 pursuant to such act to carry placards warning others of the  
154 hazardous cargo, unless at the time of lease or rental either:

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

159       b. The lessee or other operator of the commercial motor  
160 vehicle has in effect insurance with limits of at least  
161 \$5,000,000 combined property damage and bodily injury liability.

162       Section 2. This act shall take effect July 1, 2011.