1 A bill to be entitled
2 An act relating to motor vehicle insurance; amending
3 s. 316.066, F.S.; revising provisions relating to the
4 contents of written reports of motor vehicle crashes;
5 amending s. 627.736, F.S.; providing limitations on
6 attorney fees for certain actions under the Florida
7 Motor Vehicle No-Fault Law; specifying that the
8 limitations on attorney fee awards does not limit the
9 attorney fees an insured may pay her or his attorney;
10 creating s. 627.748, F.S.; designating specified
11 provisions as the Florida Motor Vehicle No-Fault
12 Medical Care Coverage Law; providing legislative
13 findings; creating s. 627.7481, F.S.; providing
14 purposes; creating s. 627.74811, F.S.; providing
15 legislative intent that provisions, schedules, or
16 procedures are to be given full force and effect
17 regardless of their express inclusion in insurer
18 forms; creating s. 627.7482, F.S.; providing
19 definitions; creating s. 627.7483, F.S.; requiring
20 every owner or registrant of a motor vehicle required
21 to be registered and licensed in this state to
22 maintain specified security; providing exceptions;
23 requiring every nonresident owner or registrant of a
24 motor vehicle that has been physically present within
25 this state for a specified period to maintain
26 security; specifying means by which such security is
27 provided; providing an exemption; creating s.
28 627.7484, F.S.; providing requirements for filing and

29 maintaining proof of security; providing penalties;
30 creating s. 627.7485, F.S.; requiring that insurance
31 policies provide medical care coverage to specified
32 persons; providing limits of coverage; specifying
33 limits for medical, disability, and death benefits;
34 providing restrictions on insurers with respect to
35 provision of required benefits; authorizing insurers
36 writing motor vehicle liability insurance to offer
37 additional first-party motor vehicle coverages;
38 prohibiting requiring purchase of other motor vehicle
39 coverage as a condition for providing such benefits;
40 prohibiting insurers from requiring the purchase of
41 property damage liability insurance exceeding a
42 specified amount in conjunction with medical care
43 coverage insurance; providing that failure to comply
44 with specified availability requirements constitutes
45 an unfair method of competition or an unfair or
46 deceptive act or practice; providing penalties;
47 specifying benefits an insurer may exclude; providing
48 procedure with respect to such exclusions; specifying
49 when benefits are due from an insurer; prohibiting
50 insurers from obtaining liens on recovery of special
51 damages in tort claims for medical care coverage
52 benefits; providing that benefits under the Florida
53 Motor Vehicle No-Fault Medical Care Coverage Law are
54 subject to the Medicaid program in specified
55 circumstances; specifying when benefits are overdue;
56 requiring insurers to hold a specified amount of

57 benefits in reserve for a certain time for the payment
58 of providers; providing for interest on overdue
59 payments; providing for tolling the time period in
60 which medical care coverage benefits are required to
61 be paid when the insurer has reasonable belief that
62 fraud has been committed; specifying injuries for
63 which an insurer must pay medical care coverage
64 benefits; disallowing benefits to an insured who has
65 committed insurance fraud; providing that a person or
66 entity lawfully rendering treatment to an injured
67 person for a bodily injury covered by medical care
68 coverage may charge only a reasonable amount for
69 services and care; providing that the insurer may pay
70 such charges directly to the person or entity lawfully
71 rendering such treatment; providing limits on such
72 charges; providing for determination of reasonableness
73 of charges; providing that payments made by an insurer
74 pursuant to the schedule of maximum charges, or for
75 lesser amounts billed by providers, are considered
76 reasonable; establishing a schedule of maximum
77 charges; specifying that reimbursement under a
78 schedule of maximum charges that is based on Medicare
79 is to be calculated under the applicable Medicare
80 schedule in effect on a specified date each year;
81 authorizing insurers to use all Medicare coding
82 policies and CMS payment methodologies in determining
83 reimbursement under a schedule of maximum charges that
84 is Medicare-based; establishing limits on specified

85 services and care; providing conditions under which an
86 insurer or insured is not required to pay a claim or
87 charges; requiring the Department of Health to adopt,
88 by rule, a list of diagnostic tests deemed not to be
89 medically necessary and to periodically revise the
90 list; providing procedures and requirements with
91 respect to statements of and bills for charges for
92 emergency services and care; directing the Financial
93 Services Commission to adopt by rule a disclosure and
94 acknowledgment form to be countersigned by claimants
95 upon receipt of medical services; providing procedures
96 and requirements with respect to investigation of
97 claims of improper billing by a physician or other
98 medical provider; prohibiting insurers from
99 systematically downcoding with intent to deny
100 reimbursement; requiring insureds to comply with all
101 terms of the medical care coverage policy, including
102 submission to examinations under oath; limiting the
103 scope of questioning during such examinations under
104 oath; providing that compliance with policy terms is a
105 condition precedent to the receipt of medical care
106 coverage benefits; providing that it is an unfair
107 method of competition or an unfair or deceptive trade
108 practice for an insurer, as a general business
109 practice, to request examinations under oath without a
110 reasonable basis; providing for insurers to inspect
111 the physical premises of providers seeking payment of
112 medical care coverage benefits; providing that when an

113 insured fails to appear for two or more mental or
114 physical examinations, the medical care coverage
115 carrier is not liable for subsequent medical care
116 coverage benefits; creating a rebuttable presumption
117 that an insured's failure to appear for two
118 examinations is an unreasonable refusal to appear;
119 creating an attorney fee cap; prohibiting the use of
120 contingency risk multipliers in calculating attorney
121 fee awards; requiring that an insurer must be provided
122 with written notice of an intent to initiate
123 litigation as a condition precedent to filing any
124 action for benefits; providing requirements with
125 respect to a demand letter; providing procedures and
126 requirements with respect to payment of an overdue
127 claim; providing for the tolling of the time period
128 for an action against an insurer; providing that
129 failure to pay valid claims with specified frequency
130 constitutes an unfair or deceptive trade practice;
131 providing penalties; providing circumstances under
132 which an insurer has a cause of action; providing for
133 fraud advisory notice; requiring that all claims
134 related to the same health care provider for the same
135 injured person be brought in one action unless good
136 cause is shown; authorizing the electronic
137 transmission of notices and communications under
138 certain conditions; creating s. 627.7486, F.S.;
139 providing an exemption from tort liability for certain
140 damages in legal actions under the Florida Motor

141 Vehicle No-Fault Medical Care Coverage Law in certain
142 circumstances; providing for recovery of tort damages
143 in certain circumstances; providing for motions to
144 dismiss action on specified grounds; prohibiting the
145 award of punitive damages; creating s. 627.7487, F.S.;
146 providing for optional deductibles and limitations of
147 coverage for medical care coverage policies; requiring
148 a specified notice to policyholders; creating s.
149 627.7488, F.S.; requiring the commission to adopt by
150 rule a form for the notification of insureds of their
151 right to receive medical care coverage benefits;
152 specifying contents of such notice; providing
153 requirements for the mailing or delivery of such
154 notice; creating s. 627.7489, F.S.; providing for
155 mandatory joinder of specified claims; creating s.
156 627.749, F.S.; providing for an insurer's right of
157 reimbursement for medical care benefits paid to a
158 person injured by a commercial motor vehicle under
159 specified circumstances; creating s. 627.7491, F.S.;
160 providing for application of the Florida Motor Vehicle
161 No-Fault Medical Care Coverage Law; providing for
162 requirements for forms and rates for policies issued
163 or renewed on or after a specified date; requiring a
164 specified notice to existing policyholders; amending
165 ss. 316.646, 318.18, 320.02, 320.0609, 320.27,
166 320.771, 322.251, 322.34, 324.021, 324.0221, 324.032,
167 324.171, 400.9935, 409.901, 409.910, 456.057, 456.072,
168 626.9541, 627.06501, 627.0652, 627.0653, 627.4132,

169 627.6482, 627.7263, 627.727, 627.7275, 627.728,
170 627.7295, 627.8405, 627.915, 628.909, 705.184, 713.78,
171 and 817.234, F.S.; conforming provisions; providing a
172 directive to the Division of Statutory Revision;
173 providing applicability; providing for severability;
174 providing effective dates.
175
176 Be It Enacted by the Legislature of the State of Florida:
177
178 Section 1. Effective May 1, 2012, subsection (1) of
179 section 316.066, Florida Statutes, is amended to read:
180 316.066 Written reports of crashes.—
181 (1)(a) A Florida Traffic Crash Report must~~, Long Form is~~
182 ~~required to~~ be completed and submitted to the entities specified
183 in paragraph (e) ~~department~~ within 10 days after ~~completing~~ an
184 investigation is completed by the ~~every~~ law enforcement officer
185 who in the regular course of duty investigates a motor vehicle
186 crash. ~~that:~~
187 ~~1. Resulted in death or personal injury.~~
188 ~~2. Involved a violation of s. 316.061(1) or s. 316.193~~.
189 (b) ~~In every crash for which a Florida Traffic Crash~~
190 ~~Report, Long Form is not required by this section, the law~~
191 ~~enforcement officer may complete a short-form crash report or~~
192 ~~provide a driver exchange-of-information form to be completed by~~
193 ~~each party involved in the crash.~~ The ~~short-form~~ report must
194 include:
195 1. The date, time, and location of the crash.
196 2. A description of the vehicles involved.

197 3. The names and addresses of the parties involved,
198 including all drivers and passengers, each clearly identified as
199 being either a driver or a passenger and specifying the vehicle
200 in which each person was a driver or passenger.
201 4. The names and addresses of witnesses.
202 5. The name, badge number, and law enforcement agency of
203 the officer investigating the crash.
204 6. The names of the insurance companies for the respective
205 parties involved in the crash.
206 (c) Each party to the crash must provide the law
207 enforcement officer with proof of insurance, which must be
208 documented in the crash report. If a law enforcement officer
209 submits a report on the crash, proof of insurance must be
210 provided to the officer by each party involved in the crash. Any
211 party who fails to provide the required information commits a
212 noncriminal traffic infraction, punishable as a nonmoving
213 violation as provided in chapter 318, unless the officer
214 determines that due to injuries or other special circumstances
215 such insurance information cannot be provided immediately. If
216 the person provides the law enforcement agency, within 24 hours
217 after the crash, proof of insurance that was valid at the time
218 of the crash, the law enforcement agency may void the citation.
219 (d) The driver of a vehicle that was in any manner
220 involved in a crash resulting in damage to any vehicle or other
221 property in an amount of $500 or more which was not investigated
222 by a law enforcement agency, shall, within 10 days after the
223 crash, submit a written report of the crash to the department.
224 The entity receiving the report may require witnesses of the

225 crash to render reports and may require any driver of a vehicle
226 involved in a crash of which a written report must be made to
227 file supplemental written reports if the original report is
228 deemed insufficient by the receiving entity.
229 (e) Reports for motor vehicle crashes that result in death
230 or personal injury or involve a violation of s. 316.061(1) or s.
231 316.193 shall be submitted to the department and may be
232 maintained by the law enforcement officer's agency. All other
233 ~~Short-form~~ crash reports ~~prepared by law enforcement~~ shall be
234 maintained by the law enforcement officer's agency.
235 Section 2. Effective upon this act becoming a law,
236 subsection (8) of section 627.736, Florida Statutes, is amended
237 to read:
238 627.736 Required personal injury protection benefits;
239 exclusions; priority; claims.—
240 (8) APPLICABILITY OF PROVISION REGULATING ATTORNEY'S
241 FEES.—
242 (a) For legal actions commenced on or after the effective
243 date of this act, with respect to any dispute under the
244 provisions of ss. 627.730-627.7405 between the insured and the
245 insurer, or between an assignee of an insured's rights and the
246 insurer, ~~the provisions of~~ s. 627.428 applies ~~shall apply~~,
247 except as provided in paragraphs (b) and (c) and subsections
248 (10) and (15) and except that any attorney fees recovered are
249 limited to the lesser of the actual fee incurred based upon a
250 rate for attorney services not to exceed $200 per billable hour
251 or:
252 1. For any disputed amount of less than $500, 15 times any

253 disputed amount recovered by the attorney under ss. 627.730-
254 627.7405, limited to a total of $5,000.
255 2. For any disputed amount of $500 or more and less than
256 $5,000, 10 times any disputed amount recovered by the attorney
257 under ss. 627.730-627.7405, limited to a total of $10,000.
258 3. For any disputed amount of $5,000 or more and up to
259 $10,000, 5 times any disputed amount recovered by the attorney
260 under ss. 627.730-627.7405, limited to a total of $15,000.
261
262 Fees incurred in litigating or quantifying the amount of fees
263 due to the prevailing party under ss. 627.730-627.7405 are not
264 recoverable.
265 (b) Notwithstanding s. 627.428, the attorney fees
266 recovered under ss. 627.730-627.7405 shall be calculated without
267 regard to any contingency risk multiplier.
268 (c) Attorney fees in a class action under ss. 627.730-
269 627.7405 are limited to the lesser of $50,000 or 3 times the
270 total of any disputed amount recovered in the class action
271 proceeding.
272 (d) This subsection does not limit the attorney fees an
273 insured may pay her or his attorney.
274 Section 3. Section 627.748, Florida Statutes, is created
275 to read:
276 627.748 Florida Motor Vehicle Medical Care Coverage Law;
277 legislative findings.—
278 (1) SHORT TITLE.—Sections 627.748-627.7491 may be cited as
279 the "Florida Motor Vehicle Medical Care Coverage Law."
280 (2) LEGISLATIVE FINDINGS.—

281 (a) The Florida Motor Vehicle No-Fault Law, ss. 627.730-
282 627.7405, was intended to deliver medically necessary and
283 appropriate medical care promptly, without regard to fault, and
284 without undue litigation or other associated costs. This intent
285 has been frustrated at significant cost and harm to consumers by
286 fraud, inappropriate treatment, overutilization of medical
287 services, inflated charges, and other abusive practices.
288 (b) Personal injury protection fraud has become pervasive.
289 Widespread fraud has been documented by a statewide grand jury
290 ("Report on Insurance Fraud Related to Personal Injury
291 Protection" by the Fifteenth Statewide Grand Jury, 2000), the
292 Insurance Consumer Advocate ("Report on Florida Motor Vehicle
293 No-Fault Insurance," December 2011), and the Office of Insurance
294 Regulation ("Report on Review of the 2011 Personal Injury
295 Protection Data Call, April 11, 2011) as well as numerous media
296 reports and other publications ("Suspicious Staged Accident
297 Claims Soar in Florida," National Insurance Crime Bureau, 2010).
298 Since 2009, no-fault fraud has cost Florida motorists and their
299 insurers nearly $1.3 billion.
300 (c) Personal injury protection premiums have risen to
301 unacceptable levels as a result of fraud and abuse,
302 significantly impacting the ability of average families to
303 maintain coverage mandated by law. Based on current trends, it
304 is anticipated that personal injury protection premiums will
305 double every 3 years.
306 (d) Personal injury protection insurance carrier losses
307 from fraud and abuse are increasing faster than the rise in
308 premiums, threatening the availability of personal injury

309 protection coverage within this state. From 2008 to 2010,
310 personal injury protection benefits paid by insurers increased
311 by 70 percent, from $1.43 billion to $2.37 billion.
312 (e) Significant reforms must be enacted to curtail the
313 level of fraudulent activity within no-fault motor vehicle
314 insurance to preserve the affordability and availability of
315 coverage within this state, particularly with respect to
316 overutilization of certain treatment and procedures. Reform
317 measures must also be adopted to address the proliferation of
318 litigation and the concomitant costs associated with the
319 increasing number of lawsuits.
320 (f) Ensuring the availability and affordability of no-
321 fault motor vehicle insurance by requiring medical care coverage
322 is an overwhelming public necessity and provides a commensurate
323 benefit. Moreover, deterrence and prevention of fraud and abuse
324 are matters of great public interest and of importance to public
325 health, safety, and welfare.
326 Section 4. Section 627.7481, Florida Statutes, is created
327 to read:
328 627.7481 Purposes.—The purposes of ss. 627.748-627.7491
329 are to provide, without regard to fault, for emergency services
330 and care, services and care for injuries arising from motor
331 vehicle accidents, prescribed followup care, funeral benefits,
332 and disability insurance benefits; to require motor vehicle
333 insurance that secures such benefits for motor vehicles required
334 to be registered in this state; and, with respect to motor
335 vehicle accidents, to provide a limitation on the right to claim
336 damages for pain, suffering, mental anguish, and inconvenience.

337 Section 5. Section 627.74811, Florida Statutes, is created
338 to read:
339 627.74811 Effect of law on medical care coverage
340 policies.—The provisions, schedules, and procedures authorized
341 in ss. 627.748-627.7491 shall be implemented by insurers
342 offering policies pursuant to the Florida Motor Vehicle No-Fault
343 Medical Care Coverage Law. The Legislature intends that these
344 provisions, schedules, and procedures have full force and effect
345 regardless of their express inclusion in an insurance policy
346 form, and a specific provision, schedule, or procedure
347 authorized in ss. 627.748-627.7491 will govern over general
348 provisions in an insurance policy form. An insurer is not
349 required to amend its policy form or to expressly notify
350 providers, claimants, or insureds of the applicable fee
351 schedules in order to implement and apply such provisions,
352 schedules, or procedures.
353 Section 6. Section 627.7482, Florida Statutes, is created
354 to read:
355 627.7482 Definitions.—As used in ss. 627.748-627.7491, the
356 term:
357 (1) "Ambulatory surgical center" means a facility that, at
358 the time services or treatment were rendered, was licensed
359 pursuant to s. 395.003.
360 (2) "Broker" means any person not licensed under chapter
361 395, chapter 400, chapter 429, chapter 458, chapter 459, chapter
362 460, chapter 461, or chapter 641 who charges or receives
363 compensation for any use of medical equipment and is not the
364 100-percent owner or the 100-percent lessee of such equipment.

365 For purposes of this subsection, such owner or lessee may be an
366 individual, a corporation, a partnership, or any other entity
367 and any of its 100-percent-owned affiliates and subsidiaries.
368 For purposes of this subsection, the term "lessee" means a long-
369 term lessee under a capital or operating lease but does not
370 include a part-time lessee. For purposes of this subsection, the
371 term "broker" does not include a hospital or physician
372 management company whose medical equipment is ancillary to the
373 practices managed; a debt collection agency; an entity that has
374 contracted with the insurer to obtain a discounted rate; a
375 management company that has contracted to provide general
376 management services for a licensed physician or health care
377 facility and whose compensation is not materially affected by
378 the usage or frequency of usage of medical equipment; or an
379 entity that is 100-percent owned by one or more hospitals or
380 physicians. The term "broker" does not include a person or
381 entity that certifies, upon request of an insurer, that:
382 (a) It is a clinic licensed under part X of chapter 400;
383 (b) It is a 100-percent owner of medical equipment; and
384 (c) The owner's only part-time lease of medical equipment
385 for medical care coverage patients is on a temporary basis not
386 to exceed 30 days in a 12-month period and is necessitated by:
387 1. Repair or maintenance of existing 100-percent-owned
388 medical equipment;
389 2. The pending arrival and installation of newly purchased
390 or replacement 100-percent-owned medical equipment; or
391 3. A determination by the medical director or clinical
392 director that open-style medical equipment is medically

393 necessary for the performance of tests or procedures for
394 patients due to a patient's physical size or claustrophobia. The
395 leased medical equipment may not be used by patients who are not
396 patients of the registered clinic for medical treatment of
397 services.
398
399 However, the 30-day period provided in this paragraph may be
400 extended for an additional 60 days as applicable to magnetic
401 resonance imaging equipment if the owner certifies that the
402 extension otherwise complies with this paragraph.
403
404 Any person or entity making a false certification under this
405 subsection commits insurance fraud as defined in s. 817.234.
406 (3) "Certify" means to swear or attest to a fact being
407 true or accurately represented in a writing.
408 (4) "Emergency medical condition" means:
409 (a) A medical condition manifesting itself by acute
410 symptoms of sufficient severity, which may include severe pain,
411 such that the absence of immediate medical attention could
412 reasonably be expected to result in any of the following:
413 1. Serious jeopardy to patient health, including a
414 pregnant woman or fetus.
415 2. Serious impairment to bodily functions.
416 3. Serious dysfunction of any bodily organ or part.
417 (b) With respect to a pregnant woman:
418 1. That there is inadequate time to effect safe transfer
419 to another hospital prior to delivery;
420 2. That a transfer may pose a threat to the health and

421 safety of the patient or fetus; or
422 3. That there is evidence of the onset and persistence of
423 uterine contractions or rupture of the membranes.
424 (5) "Emergency services and care" means medical screening,
425 examination and evaluation by a physician, or, to the extent
426 permitted by applicable law, by other appropriate personnel
427 under the supervision of a physician, to determine if an
428 emergency medical condition exists and, if it does, the care,
429 treatment, or surgery by a physician necessary to relieve or
430 eliminate the emergency medical condition, within the service
431 capability of the facility.
432 (6) "Hospital" means a facility that, at the time services
433 or treatment was rendered, was licensed under chapter 395.
434 (7) "Knowingly" means having actual knowledge of
435 information; acting in deliberate ignorance of the truth or
436 falsity of the information; or acting in reckless disregard of
437 the information. Proof of specific intent to defraud is not
438 required.
439 (8) "Lawful" or "lawfully" means in substantial compliance
440 with all relevant applicable criminal, civil, and administrative
441 requirements of state and federal law related to the provision
442 of medical services or treatment.
443 (9) "Medically necessary" refers to a medical service or
444 supply that a prudent physician would provide for the purpose of
445 preventing, diagnosing, or treating an illness, injury, disease,
446 or symptom in a manner that is:
447 (a) In accordance with generally accepted standards of
448 medical practice;

449 (b) Clinically appropriate in terms of type, frequency,
450 extent, site, and duration; and
451 (c) Not primarily for the convenience of the patient,
452 physician, or other health care provider.
453 (10) "Motor vehicle" means any self-propelled vehicle with
454 four or more wheels that is of a type both designed and required
455 to be licensed for use on the highways of this state and any
456 trailer or semitrailer designed for use with such vehicle and
457 includes:
458 (a) A "private passenger motor vehicle," which is any
459 motor vehicle that is a sedan, station wagon, or jeep-type
460 vehicle and, if not used primarily for occupational,
461 professional, or business purposes, a motor vehicle of the
462 pickup truck, panel truck, van, camper, or motor home type.
463 (b) A "commercial motor vehicle," which is any motor
464 vehicle that is not a private passenger motor vehicle.
465
466 The term "motor vehicle" does not include a mobile home or any
467 motor vehicle that is used in mass transit, other than public
468 school transportation; is designed to transport more than five
469 passengers exclusive of the operator of the motor vehicle; and
470 is owned by a municipality, a transit authority, or a political
471 subdivision of the state.
472 (11) "Named insured" means a person, usually the owner of
473 a motor vehicle, identified in a policy by name as the insured
474 under the policy.
475 (12) "Owner," with respect to a motor vehicle, means a
476 person who holds the legal title to a motor vehicle or, if a

477 motor vehicle is the subject of a security agreement or lease
478 with an option to purchase with the debtor or lessee having the
479 right to possession, the debtor or lessee of the motor vehicle.
480 (13) "Properly completed" means providing truthful,
481 substantially complete, and substantially accurate responses as
482 to all material elements to each applicable request for
483 information or statement by a means that may lawfully be
484 provided and that complies with this section, or as otherwise
485 agreed to by the parties.
486 (14) "Relative residing in the insured's household" means
487 a relative of any degree by blood or by marriage who usually
488 makes her or his home in the same family unit, regardless of
489 whether she or he is temporarily living elsewhere.
490 (15) "Unbundling" means separating treatment or services
491 that would be properly billed under one billing code into two or
492 more billing codes, resulting in a payment amount greater than
493 would be paid using one billing code.
494 (16) "Upcoding" means using a billing code to describe
495 treatment or services in a manner that would result in a payment
496 amount greater than would be paid using a billing code that
497 accurately describes such treatment or services. The term does
498 not include an otherwise lawful bill by a magnetic resonance
499 imaging facility, which globally combines both technical and
500 professional components, if the amount of the global bill is not
501 more than the components if billed separately; however, payment
502 of such a bill constitutes payment in full for all components of
503 such service.

504 Section 7. Section 627.7483, Florida Statutes, is created
505 to read:
506 627.7483 Required security.—
507 (1)(a) Every owner or registrant of a motor vehicle, other
508 than a motor vehicle used as a school bus as defined in s.
509 1006.25 or a limousine, required to be registered and licensed
510 in this state shall maintain security as described in subsection
511 (3) continuously throughout the registration or licensing
512 period.
513 (b) Paragraph (a) does not apply to an owner or registrant
514 of a motor vehicle used as a taxicab, but such owner or
515 registrant shall maintain security as required under s.
516 324.032(1), and s. 627.7486 does not apply to any such motor
517 vehicle.
518 (2) Every nonresident owner or registrant of a motor
519 vehicle that, whether operated or not operated, has been
520 physically present within this state for more than 90 days
521 during the preceding 365 days shall thereafter maintain security
522 as described in subsection (3) continuously while such motor
523 vehicle is physically present within this state.
524 (3) Security required by this section shall be provided:
525 (a) By an insurance policy delivered or issued for
526 delivery in this state by an authorized or eligible motor
527 vehicle liability insurer which provides the benefits and
528 exemptions contained in ss. 627.748-627.7491. Any policy of
529 insurance represented or sold as providing the security required
530 under this section shall be deemed to provide insurance for the
531 payment of the required benefits; or

532 (b) By any other method authorized by s. 324.031(2), (3),
533 or (4) and approved by the Department of Highway Safety and
534 Motor Vehicles as affording security equivalent to that afforded
535 by a policy of insurance or by self-insuring as authorized by s.
536 768.28(16). The person filing such security shall have all of
537 the obligations and rights of an insurer under ss. 627.748-
538 627.7491.
539 (4) An owner of a motor vehicle for which security is
540 required by this section who fails to have such security in
541 effect at the time of an accident is not immune from tort
542 liability and is personally liable for the payment of benefits
543 under s. 627.7485. With respect to such benefits, such an owner
544 has all of the rights and obligations of an insurer under ss.
545 627.748-627.7491.
546 (5) In addition to other persons who are not required to
547 provide security as required under this section and s. 324.022,
548 the owner or registrant of a motor vehicle is exempt from such
549 requirements if she or he is a member of the United States Armed
550 Forces and is called to or on active duty outside the United
551 States in an emergency situation. The exemption provided by this
552 subsection applies only while the member of the armed forces is
553 on such active duty outside the United States and while the
554 motor vehicle covered by the security required by this section
555 and s. 324.022 is not operated by any person. Upon receipt of a
556 written request by the insured to whom the exemption provided in
557 this subsection applies, the insurer shall cancel the coverages
558 and return any unearned premium or suspend the security required
559 by this section and s. 324.022. Notwithstanding s. 324.0221(2),

560 the Department of Highway Safety and Motor Vehicles may not
561 suspend the registration or operator's license of any owner or
562 registrant of a motor vehicle during the time she or he
563 qualifies for an exemption under this subsection. Any owner or
564 registrant of a motor vehicle who qualifies for an exemption
565 under this subsection shall immediately notify the department
566 prior to and at the end of the expiration of the exemption.
567 Section 8. Section 627.7484, Florida Statutes, is created
568 to read:
569 627.7484 Proof of security; security requirements;
570 penalties.—
571 (1) The provisions of chapter 324 that pertain to the
572 method of giving and maintaining proof of financial
573 responsibility and that govern and define a motor vehicle
574 liability policy apply to filing and maintaining proof of
575 security required by ss. 627.748-627.7491.
576 (2) Any person who:
577 (a) Gives information required in a report or otherwise as
578 provided for in ss. 627.748-627.7491, knowing or having reason
579 to believe that such information is false;
580 (b) Forges or, without authority, signs any evidence of
581 proof of security; or
582 (c) Files, or offers for filing, any such evidence of
583 proof, knowing or having reason to believe that it is forged or
584 signed without authority
585
586 commits a misdemeanor of the first degree, punishable as
587 provided in s. 775.082 or s. 775.083.

588 Section 9. Section 627.7485, Florida Statutes, is created
589 to read:
590 627.7485 Required medical care coverage benefits;
591 exclusions; priority; claims.—
592 (1) REQUIRED BENEFITS.—Every insurance policy complying
593 with the security requirements of s. 627.7483 must provide
594 medical care coverage to the named insured, relatives residing
595 in the insured's household, persons operating the insured motor
596 vehicle, passengers in such motor vehicle, and other persons
597 struck by such motor vehicle and suffering bodily injury while
598 not an occupant of a self-propelled vehicle, subject to
599 subsection (2) and paragraph (4)(f), to a limit of $10,000 for
600 loss sustained by any such person as a result of bodily injury,
601 sickness, disease, or death arising out of the ownership,
602 maintenance, or use of a motor vehicle as follows:
603 (a) Medical benefits.—Up to a limit of $10,000, 80 percent
604 of all reasonable expenses as follows:
605 1. Emergency transport and treatment rendered by an
606 ambulance provider licensed under part III of chapter 401 within
607 24 hours after the motor vehicle accident.
608 2. Emergency services and care rendered in a hospital
609 within 72 hours after the motor vehicle accident.
610 3. Services and care rendered when an insured is admitted
611 to a hospital within 72 hours after the motor vehicle accident.
612 4. Emergency services and care rendered to an insured in a
613 hospital who is determined more than 72 hours after the motor
614 vehicle accident to have an emergency medical condition related
615 to the initial medical diagnosis made in a hospital and arising

616 from the motor vehicle accident.
617 5. If the insured receives services and care pursuant to
618 subparagraph 2., subparagraph 3., or subparagraph 4., subsequent
619 services and care directly related to the determination of an
620 emergency medical condition and medical diagnosis arising from
621 the motor vehicle accident, subject to the following:
622 a. The medical diagnosis and the determination of an
623 emergency medical condition shall be rendered in a hospital and
624 rendered by a physician licensed under chapter 458, by an
625 osteopathic physician licensed under chapter 459, by a dentist
626 licensed under chapter 466, or, to the extent permitted by
627 applicable law and under the supervision of such physician,
628 osteopathic physician, or dentist, by a physician assistant
629 licensed under chapter 458 or chapter 459 or an advanced
630 registered nurse practitioner licensed under chapter 464; and
631 b. The care and services shall be rendered by a physician
632 licensed under chapter 458, an osteopathic physician licensed
633 under chapter 459, a dentist licensed under chapter 466, a
634 physician assistant licensed under chapter 458 or chapter 459,
635 or an advanced registered nurse practitioner licensed under
636 chapter 464.
637 6. If the insured receives services and care pursuant to
638 subparagraph 2., subparagraph 3., subparagraph 4., or
639 subparagraph 5., all medically necessary medical, surgical,
640 dental, nursing, or diagnostic ancillary services, hospital or
641 ambulatory surgical center services, durable medical equipment,
642 prosthetics, or orthotics and supplies.
643

644 For purposes of ss. 627.748-627.7491, a determination pursuant
645 to this paragraph that an emergency medical condition exists is
646 presumed to be correct unless rebutted by clear and convincing
647 evidence to the contrary.
648 (b) Medical benefits.—Up to a limit of $1,500, 80 percent
649 of all reasonable expenses as follows:
650 1. Services and care rendered within 72 hours after the
651 motor vehicle accident by a physician licensed under chapter
652 458, an osteopathic physician licensed under chapter 459, a
653 dentist licensed under chapter 466, a physician assistant
654 licensed under chapter 458 or chapter 459, or an advanced
655 registered nurse practitioner licensed under chapter 464.
656 2. If the insured receives services and care pursuant to
657 subparagraph 1., subsequent services and care rendered by a
658 provider listed in subparagraph 1. and directly related to the
659 medical diagnosis arising from the motor vehicle accident.
660 3. All medically necessary medical, surgical, dental,
661 nursing, or diagnostic ancillary services, hospital or
662 ambulatory surgical center services, durable medical equipment,
663 prosthetics, or orthotics and supplies.
664
665 Payment of benefits under this paragraph shall occur only if a
666 person has been determined in a hospital not to have an
667 emergency medical condition or the person did not present
668 herself or himself at a hospital but received treatment from a
669 provider identified in subparagraph 1. within 72 hours after the
670 motor vehicle accident.
671 (c) Disability benefits.—Sixty percent of any loss of

672 gross income and loss of earning capacity per individual from
673 inability to work proximately caused by the injury sustained by
674 the injured person, plus all expenses reasonably incurred in
675 obtaining from others ordinary and necessary services in lieu of
676 those that, but for the injury, the injured person would have
677 performed without income for the benefit of her or his
678 household. All disability benefits payable under this paragraph
679 shall be paid not less than every 2 weeks.
680 (d) Death benefits.—Death benefits equal to the lesser of
681 $5,000 or the remainder of unused medical care coverage
682 insurance benefits per individual. The insurer shall pay such
683 benefits to the executor or administrator of the deceased, to
684 any of the deceased's relatives by blood, legal adoption, or
685 marriage, or to any person appearing to the insurer to be
686 equitably entitled thereto.
687
688 Only insurers writing motor vehicle liability insurance in this
689 state may provide the benefits required by this section, and no
690 such insurer may require the purchase of any other motor vehicle
691 coverage other than the purchase of property damage liability
692 coverage as required by s. 627.7275 as a condition for providing
693 such required benefits. Insurers may not require that property
694 damage liability insurance in an amount greater than $10,000 be
695 purchased in conjunction with medical care coverage insurance.
696 Such insurers shall make benefits and required property damage
697 liability insurance coverage available through normal marketing
698 channels. Any insurer writing motor vehicle liability insurance
699 in this state who fails to comply with such availability

700 requirement as a general business practice, as determined by the
701 office, shall be deemed to have violated part IX of chapter 626,
702 and such violation shall constitute an unfair method of
703 competition or an unfair or deceptive act or practice involving
704 the business of insurance. Any such insurer committing such
705 violation shall be subject to the penalties afforded in such
706 part, as well as those that may be afforded elsewhere in the
707 insurance code. An insurer writing motor vehicle liability
708 insurance may offer insureds additional first-party motor
709 vehicle coverages.
710 (2) AUTHORIZED EXCLUSIONS.—Any insurer may exclude
711 benefits:
712 (a) For injury sustained by the named insured and
713 relatives residing in the insured's household while occupying
714 another motor vehicle owned by the named insured and not insured
715 under the policy or for injury sustained by any person operating
716 the insured motor vehicle without the express or implied consent
717 of the insured.
718 (b) To any injured person if such person's conduct
719 contributed to her or his injury under either of the following
720 circumstances:
721 1. Causing injury to herself or himself intentionally; or
722 2. Being injured while committing a felony.
723
724 Whenever an insured is charged with conduct as set forth in
725 subparagraph 2., the 30-day payment provision of paragraph
726 (4)(b) shall be held in abeyance, and the insurer shall withhold
727 payment of any medical care coverage benefits pending the

728 outcome of the case at the trial level. If the charge is nolle
729 prossed or dismissed or the insured is acquitted, the 30-day
730 payment provision shall run from the date the insurer is
731 notified of such action.
732 (3) INSURED'S RIGHTS TO RECOVERY OF SPECIAL DAMAGES IN
733 TORT CLAIMS.—No insurer shall have a lien on any recovery in
734 tort by judgment, settlement, or otherwise for medical care
735 coverage benefits, whether suit has been filed or settlement has
736 been reached without suit. An injured party who is entitled to
737 bring suit under ss. 627.748-627.7491, or her or his legal
738 representative, shall have no right to recover any damages for
739 which medical care coverage benefits are paid or payable. The
740 plaintiff may prove all of her or his special damages
741 notwithstanding this limitation, but if special damages are
742 introduced in evidence, the trier of facts, whether judge or
743 jury, may not award damages for medical care coverage benefits
744 paid or payable. In all cases in which a jury is required to fix
745 damages, the court shall instruct the jury that the plaintiff
746 may not recover such special damages for medical care coverage
747 benefits paid or payable.
748 (4) BENEFITS; WHEN DUE.—Benefits due from an insurer under
749 ss. 627.748-627.7491 shall be primary, except that benefits
750 received under any workers' compensation law shall be credited
751 against the benefits provided by subsection (1) and shall be due
752 and payable as loss accrues, upon receipt of reasonable proof of
753 such loss and the amount of expenses and loss incurred that are
754 covered by the policy issued under ss. 627.748-627.7491. When
755 the Agency for Health Care Administration provides, pays, or

756 becomes liable for medical assistance under the Medicaid program
757 related to injury, sickness, disease, or death arising out of
758 the ownership, maintenance, or use of a motor vehicle, benefits
759 under ss. 627.748-627.7491 shall be subject to the provisions of
760 the Medicaid program.
761 (a) An insurer may require written notice to be given as
762 soon as practicable after an accident involving a motor vehicle
763 for which the policy affords the security required by ss.
764 627.748-627.7491.
765 (b) Medical care coverage benefits paid pursuant to this
766 section shall be overdue if not paid within 30 days after the
767 insurer is furnished written notice of the fact and amount of a
768 covered loss. If such written notice is not furnished to the
769 insurer as to the entire claim, any partial amount supported by
770 the written notice is overdue if not paid within 30 days after
771 the written notice is furnished to the insurer. Any part or all
772 of the remainder of the claim that is subsequently supported by
773 the written notice is overdue if not paid within 30 days after
774 the written notice is furnished to the insurer. When an insurer
775 pays only a portion of a claim or rejects a claim, the insurer
776 shall provide at the time of the partial payment or rejection an
777 itemized specification of each item that the insurer had
778 reduced, omitted, or declined to pay and any information that
779 the insurer desires the claimant to consider related to the
780 medical necessity of the denied treatment or to explain the
781 reasonableness of the reduced charge; however, this does not
782 limit the introduction of evidence at trial. The insurer shall
783 include the name and address of the person to whom the claimant

784 should respond and a claim number to be referenced in future
785 correspondence. However, notwithstanding the fact that written
786 notice has been furnished to the insurer, a payment may not be
787 deemed overdue when the insurer has reasonable proof to
788 establish that the insurer is not responsible for the payment.
789 For the purpose of calculating the extent to which any benefits
790 are overdue, payment shall be considered made on the date a
791 draft or other valid instrument that is equivalent to payment
792 was placed in the United States mail in a properly addressed,
793 postpaid envelope or, if not so posted, on the date of delivery.
794 This paragraph does not preclude or limit the ability of the
795 insurer to assert that the claim was unrelated, was not
796 medically necessary, or was unreasonable or that the amount of
797 the charge was in excess of that permitted under, or in
798 violation of, subsection (5). Such assertion by the insurer may
799 be made at any time, including after payment of the claim or
800 after the 30-day time period for payment set forth in this
801 paragraph.
802 (c) Upon receiving notice of an accident that is
803 potentially covered by medical care coverage benefits, the
804 insurer must reserve $5,000 of medical care coverage benefits
805 for payment to physicians licensed under chapter 458 or chapter
806 459, dentists licensed under chapter 466, physician assistants
807 licensed under chapter 458 or chapter 459, or advanced
808 registered nurse practitioners licensed under chapter 464 who
809 provide medical care coverage pursuant to subparagraphs (1)(a)2.
810 and 3. The amount required to be held in reserve may be used
811 only to pay claims from such medical providers until 30 days

812 after the date the insurer receives notice of the accident.
813 After the 30-day period, any amount of the reserve for which the
814 insurer has not received notice of a claim from such medical
815 provider for medical care coverage benefits may then be used by
816 the insurer to pay other claims. The time periods specified in
817 paragraph (b) for required payment of medical care coverage
818 benefits shall be tolled for the period of time that an insurer
819 is required by this paragraph to hold payment of a claim that is
820 not from a medical provider eligible to receive payment of
821 medical care coverage benefits to the extent that the medical
822 care coverage benefits not held in reserve are insufficient to
823 pay the claim. This paragraph does not require an insurer to
824 establish a claim reserve for insurance accounting purposes.
825 (d) All overdue payments shall bear simple interest at the
826 rate established under s. 55.03 or the rate established in the
827 insurance contract, whichever is greater, for the quarter in
828 which the payment became overdue, calculated from the date the
829 insurer was furnished with written notice of the amount of the
830 covered loss. Interest shall be due at the time payment of the
831 overdue claim is made.
832 (e) If an insurer has a reasonable belief that a
833 fraudulent insurance act, for the purposes of s. 626.989 or s.
834 817.234, has been committed, the insurer shall notify the
835 claimant, in writing, within 30 days after submission of the
836 claim that the claim is being investigated for suspected fraud.
837 The insurer then has an additional 60 days, beginning at the end
838 of the initial 30-day period, to conduct its fraud
839 investigation. Notwithstanding subsection (9), no later than 90

840 days after the submission of the claim, the insurer must either
841 deny or pay the claim with simple interest as provided in
842 paragraph (d). Interest shall be assessed from the day the claim
843 was submitted until the day the claim is paid. All claims denied
844 for suspected fraudulent insurance acts shall be reported to the
845 Division of Insurance Fraud.
846 (f) The insurer of the owner of a motor vehicle shall pay
847 medical care coverage benefits for accidental bodily injury:
848 1. Sustained in this state by the owner while occupying a
849 motor vehicle, or while not an occupant of a self-propelled
850 vehicle if the injury is caused by physical contact with a motor
851 vehicle.
852 2. Sustained outside this state, but within the United
853 States of America or its territories or possessions or Canada,
854 by the owner while occupying the owner's motor vehicle.
855 3. Sustained by a relative of the owner residing in the
856 insured's household, under the circumstances described in
857 subparagraph 1. or subparagraph 2., provided the relative at the
858 time of the accident is domiciled in the owner's household and
859 is not herself or himself the owner of a motor vehicle with
860 respect to which security is required under ss. 627.748-
861 627.7491.
862 4. Sustained in this state by any other person while
863 occupying the owner's motor vehicle or, if a resident of this
864 state, while not an occupant of a self-propelled vehicle, if the
865 injury is caused by physical contact with such motor vehicle,
866 provided the injured person is not herself or himself:
867 a. The owner of a motor vehicle for which security is

868 required under ss. 627.748-627.7491; or
869 b. Entitled to medical care coverage benefits from the
870 insurer of the owner or owners of such a motor vehicle.
871 (g) If two or more insurers are liable to pay medical
872 care coverage benefits for the same injury to any one person,
873 the maximum amount payable shall be as specified in subsection
874 (1), and any insurer paying the benefits shall be entitled to
875 recover from each of the other insurers an equitable pro rata
876 share of the benefits paid and expenses incurred in processing
877 the claim.
878 (h) It is a violation of the insurance code for an insurer
879 to fail to timely provide benefits as required by this section
880 with such frequency as to constitute a general business
881 practice, as determined by the office.
882 (i) Benefits are not due or payable to or on behalf of an
883 insured, claimant, medical provider, or attorney if the insured,
884 claimant, medical provider, or attorney has:
885 1. Submitted a false material statement, document, record,
886 or bill;
887 2. Submitted false material information; or
888 3. Otherwise committed or attempted to commit a fraudulent
889 insurance act as defined in s. 626.989.
890
891 A claimant who violates this paragraph is not entitled to any
892 medical care coverage benefits or payment for any bills and
893 services, regardless of whether a portion of the claim may be
894 legitimate. However, a medical provider who does not violate
895 this paragraph may not be denied benefits solely due to the

896 violation by another claimant.
897 (5) CHARGES FOR TREATMENT OF INJURED PERSONS.—
898 (a) Any person or entity lawfully rendering treatment to
899 an injured person for a bodily injury covered by medical care
900 coverage insurance may charge the insurer and injured party only
901 a reasonable amount pursuant to this section for the services,
902 treatment, and supplies rendered, and the insurer providing such
903 coverage may pay for such charges directly to such person or
904 entity lawfully rendering such treatment, if the insured
905 receiving such treatment or her or his guardian has
906 countersigned the properly completed invoice, bill, or claim
907 form approved by the office upon which such charges are to be
908 paid for as having actually been rendered, to the best of the
909 knowledge of the insured or her or his guardian. However, such a
910 charge may not exceed the amount the person or entity
911 customarily charges for like services, treatment, or supplies.
912 When determining whether a charge for a particular service,
913 treatment, or supply is reasonable, consideration may be given
914 to evidence of usual and customary charges and payments accepted
915 by the provider involved in the dispute, reimbursement levels in
916 the community and various federal and state medical fee
917 schedules applicable to motor vehicle and other insurance
918 coverages, and other information relevant to the reasonableness
919 of the reimbursement for the service, treatment, or supply.
920 1. When a health care provider or entity bills an insurer
921 in an amount less than indicated in the following schedule of
922 maximum charges and the insurer pays the amount billed, the
923 payment shall be considered reasonable. However, a payment made

924 by an insurer that limits reimbursement to 80 percent of the
925 following schedule of maximum charges is considered reasonable:
926 a. For emergency transport and treatment by providers
927 licensed under chapter 401, 200 percent of Medicare charges.
928 b. For emergency services and care provided by a hospital
929 licensed under chapter 395, 75 percent of the hospital's usual
930 and customary charges.
931 c. For emergency services and care provided in a facility
932 licensed under chapter 395 rendered by a physician or dentist,
933 and related hospital inpatient services rendered by a physician
934 or dentist, the usual and customary charges in the community.
935 d. For hospital inpatient services, other than emergency
936 services and care, 200 percent of the Medicare Part A
937 prospective payment applicable to the specific hospital
938 providing the inpatient services.
939 e. For hospital outpatient services, other than emergency
940 services and care, 200 percent of the Medicare Part A Ambulatory
941 Payment Classification for the specific hospital or ambulatory
942 surgical center providing the outpatient services.
943 f. For all other medical services, treatment, supplies,
944 and care, 200 percent of the allowable amount under the
945 participating physicians schedule of Medicare Part B; for
946 medical services, treatment, supplies, and care provided by
947 clinical laboratories, 200 percent of the allowable amount under
948 Medicare Part B; and for durable medical equipment, the amount
949 contained in the Durable Medical Equipment Prosthetics/Orthotics
950 & Supplies (DMEPOS) fee schedule of Medicare Part B. However, if
951 such services, treatment, or supplies, and care are not

952 reimbursable under Medicare Part B, the insurer may limit
953 reimbursement to 80 percent of the maximum reimbursable
954 allowance under workers' compensation, as determined under s.
955 440.13 and rules adopted thereunder that are in effect at the
956 time such services, treatment, supplies, or care are provided.
957 Services, treatment, or supplies that are not reimbursable under
958 Medicare or workers' compensation are not required to be
959 reimbursed by the insurer.
960 2. For purposes of subparagraph 1., the applicable fee
961 schedule or payment limitation under Medicare is the fee
962 schedule or payment limitation that was in effect as of March 1
963 of the year in which the services, treatment, supplies, or care
964 were provided and for the area in which such services were
965 rendered and shall apply until March 1 of the following year,
966 notwithstanding any subsequent changes made to such fee schedule
967 or payment limitation, except that it may not be less than the
968 allowable amount under the participating physicians schedule of
969 Medicare Part B for 2007 for medical services, treatment,
970 supplies, and care subject to Medicare Part B.
971 3. Subparagraph 2. does not allow the insurer to apply any
972 limitation on the number of treatments or other utilization
973 limits that apply under Medicare or workers' compensation. An
974 insurer that applies the allowable payment limitations of
975 subparagraph 1. must reimburse a provider who lawfully provided
976 care or treatment under the scope of her or his license
977 regardless of whether such provider is entitled to reimbursement
978 under Medicare due to restrictions or limitations on the types
979 or discipline of health care providers who may be reimbursed for

980 particular procedures or procedure codes. However, nothing in
981 subparagraph 1. prohibits an insurer from using any and all
982 Medicare coding policies and Centers for Medicare and Medicaid
983 Services (CMS) payment methodologies, including applicable
984 modifiers, to determine the appropriate amount of reimbursement
985 for medical services, treatment, supplies, or care.
986 4. If an insurer limits payment as authorized by
987 subparagraph 2., the person providing such services, treatment,
988 supplies, or care may not bill or attempt to collect from the
989 insured any amount in excess of such limits, except for amounts
990 that are not covered by the insured's medical care coverage
991 insurance due to the coinsurance amount or maximum policy
992 limits.
993 (b)1. An insurer or insured is not required to pay a claim
994 or charges:
995 a. Made by a broker or by a person making a claim on
996 behalf of a broker;
997 b. For any service or treatment that was not lawful at the
998 time rendered;
999 c. To any person who knowingly submits a false material
1000 statement relating to the claim or charges;
1001 d. With respect to a bill or statement that does not
1002 substantially meet the applicable requirements of paragraph (d);
1003 e. For any treatment or service that is upcoded, or that
1004 is unbundled when such treatment or services should be bundled,
1005 in accordance with paragraph (d). To facilitate prompt payment
1006 of lawful services, an insurer may change billing codes that it
1007 determines to have been improperly or incorrectly upcoded or

1008 unbundled, and may make payment based on the changed billing
1009 codes, without affecting the right of the provider to dispute
1010 the change by the insurer; however, before doing so, the insurer
1011 must contact the health care provider and discuss the reasons
1012 for the insurer's change and the health care provider's reason
1013 for the coding or make a reasonable good faith effort to do so
1014 as documented in the insurer's file; or
1015 f. For medical services or treatment billed by a physician
1016 and not provided in a hospital unless such services are rendered
1017 by the physician or are incident to her or his professional
1018 services and are included on the physician's bill, including
1019 documentation verifying that the physician is responsible for
1020 the medical services that were rendered and billed.
1021 2. The Department of Health, in consultation with the
1022 appropriate professional licensing boards, shall adopt, by rule,
1023 a list of diagnostic tests deemed not to be medically necessary
1024 for use in the treatment of persons sustaining bodily injury
1025 covered by medical care coverage benefits under this section.
1026 The list shall be revised from time to time as determined by the
1027 Department of Health in consultation with the respective
1028 professional licensing boards. Inclusion of a test on the list
1029 shall be based on lack of demonstrated medical value and a level
1030 of general acceptance by the relevant provider community and may
1031 not be dependent entirely upon subjective patient response.
1032 Notwithstanding its inclusion on a fee schedule in this
1033 subsection, an insurer or insured is not required to pay any
1034 charges or reimburse claims for any diagnostic test deemed not
1035 medically necessary by the Department of Health.

1036 (c)1. With respect to any treatment or service, other than
1037 medical services billed by a hospital or other provider for
1038 emergency services and care or inpatient services rendered at a
1039 hospital-owned facility, the statement of charges must be
1040 furnished to the insurer by the provider and may not include,
1041 and the insurer is not required to pay, charges for treatment or
1042 services rendered more than 35 days before the postmark date or
1043 electronic transmission date of the statement, except for past
1044 due amounts previously billed on a timely basis under this
1045 paragraph, and except that, if the provider submits to the
1046 insurer a notice of initiation of treatment within 21 days after
1047 its first examination or treatment of the claimant, the
1048 statement may include charges for treatment or services rendered
1049 up to, but not more than, 75 days before the postmark date of
1050 the statement. The injured party is not liable for, and the
1051 provider may not bill the injured party for, charges that are
1052 unpaid because of the provider's failure to comply with this
1053 paragraph. Any agreement requiring the injured person or insured
1054 to pay for such charges is unenforceable.
1055 2. If, however, the insured fails to furnish the provider
1056 with the correct name and address of the insured's medical care
1057 coverage insurer, the provider has 35 days from the date the
1058 provider obtains the correct information to furnish the insurer
1059 with a statement of the charges. The insurer is not required to
1060 pay for such charges unless the provider includes with the
1061 statement documentary evidence that was provided by the insured
1062 during the 35-day period demonstrating that the provider
1063 reasonably relied on erroneous information from the insured and

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

1064 either:
1065 a. A denial letter from the incorrect insurer; or
1066 b. Proof of mailing, which may include an affidavit under
1067 penalty of perjury, reflecting timely mailing to the incorrect
1068 address or insurer.
1069 3. For emergency services and care rendered in a hospital
1070 emergency department or for transport and treatment rendered by
1071 an ambulance provider licensed pursuant to part III of chapter
1072 401, the provider is not required to furnish the statement of
1073 charges within the time periods established by this paragraph,
1074 and the insurer may not be considered to have been furnished
1075 with notice of the amount of the covered loss for purposes of
1076 paragraph (4)(b) until it receives a statement complying with
1077 paragraph (d), or a copy thereof, that specifically identifies
1078 the place of service as a hospital emergency department or an
1079 ambulance in accordance with billing standards recognized by the
1080 Health Care Finance Administration.
1081 4. Each notice of insured's rights under s. 627.7488 must
1082 include the following statement in type no smaller than 12
1083 points:
1084
1085 BILLING REQUIREMENTS.—Florida Statutes provide that with
1086 respect to any treatment or services, other than certain
1087 hospital and emergency services, the statement of charges
1088 furnished to the insurer by the provider may not include,
1089 and the insurer and the injured party are not required to
1090 pay, charges for treatment or services rendered more than
1091 35 days before the postmark date of the statement, except

1092 for past due amounts previously billed on a timely basis,
1093 and except that, if the provider submits to the insurer a
1094 notice of initiation of treatment within 21 days after its
1095 first examination or treatment of the claimant, the
1096 statement may include charges for treatment or services
1097 rendered up to, but not more than, 75 days before the
1098 postmark date of the statement.
1099
1100 (d) All statements and bills for medical services rendered
1101 by a person or entity shall be submitted to the insurer on a
1102 properly completed Centers for Medicare and Medicaid Services
1103 (CMS) 1500 form, UB 92 form, or any other standard form approved
1104 by the office or adopted by the commission for purposes of this
1105 paragraph. All billings for such services rendered by providers
1106 shall, to the extent applicable, follow the Physicians' Current
1107 Procedural Terminology (CPT) or Healthcare Correct Procedural
1108 Coding System (HCPCS), or ICD-9 in effect for the year in which
1109 services are rendered and comply with the Centers for Medicare
1110 and Medicaid Services (CMS) 1500 form instructions and the
1111 American Medical Association Current Procedural Terminology
1112 (CPT) Editorial Panel and Healthcare Correct Procedural Coding
1113 System (HCPCS). All providers other than hospitals shall include
1114 on the applicable claim form the professional license number of
1115 the provider in the line or space provided for "Signature of
1116 Physician or Supplier, Including Degrees or Credentials." In
1117 determining compliance with applicable CPT and HCPCS coding,
1118 guidance shall be provided by the Physicians' Current Procedural
1119 Terminology (CPT) or the Healthcare Correct Procedural Coding

1120 System (HCPCS) in effect for the year in which services were
1121 rendered, the Office of the Inspector General (OIG), Physicians
1122 Compliance Guidelines, and other authoritative treatises
1123 designated by rule by the Agency for Health Care Administration.
1124 No statement of medical services may include charges for medical
1125 services of a person or entity that performed such services
1126 without possessing the valid licenses required to perform such
1127 services. For purposes of paragraph (4)(b), an insurer may not
1128 be considered to have been furnished with notice of the amount
1129 of the covered loss or medical bills due unless the statements
1130 or bills comply with this paragraph and are properly completed
1131 in their entirety as to all material provisions, with all
1132 relevant information being provided therein.
1133 (e)1. At the time the initial treatment or service is
1134 provided, each person or entity providing medical services upon
1135 which a claim for medical care coverage benefits is based shall
1136 require an insured person or her or his guardian to execute a
1137 disclosure and acknowledgment form that reflects at a minimum
1138 that:
1139 a. The insured or her or his guardian must countersign the
1140 form attesting to the fact that the services set forth in the
1141 form were actually rendered.
1142 b. The insured or her or his guardian has both the right
1143 and the affirmative duty to confirm that the services were
1144 actually rendered.
1145 c. The insured or her or his guardian was not solicited by
1146 any person to seek any services from the medical provider.
1147 d. The person or entity rendering services for which

1148 payment is being claimed explained the services to the insured
1149 or her or his guardian.
1150 e. If the insured notifies the insurer in writing of a
1151 billing error, the insured may be entitled to a certain
1152 percentage of a reduction in the amounts paid by the insured's
1153 motor vehicle insurer.
1154 2. The person or entity rendering services for which
1155 payment is being claimed has the affirmative duty to explain the
1156 services rendered to the insured or her or his guardian so that
1157 the insured or her or his guardian countersigns the form with
1158 informed consent.
1159 3. Countersignature by the insured or her or his guardian
1160 is not required for the reading of diagnostic tests or other
1161 services of such a nature that they are not required to be
1162 performed in the presence of the insured.
1163 4. The licensed medical professional rendering treatment
1164 for which payment is being claimed must sign, by her or his own
1165 hand, the form complying with this paragraph.
1166 5. The original completed disclosure and acknowledgment
1167 form shall be furnished to the insurer pursuant to paragraph
1168 (4)(b) and may not be electronically furnished.
1169 6. This disclosure and acknowledgment form is not required
1170 for services billed by a provider for emergency services and
1171 care rendered in a hospital emergency department or for
1172 transport and treatment rendered by an ambulance provider
1173 licensed pursuant to part III of chapter 401.
1174 7. The Financial Services Commission shall adopt, by rule,
1175 a standard disclosure and acknowledgment form that shall be used

1176 to fulfill the requirements of this paragraph, effective 90 days
1177 after such form is adopted and becomes final. The commission
1178 shall adopt a proposed rule by January 1, 2013. Until the rule
1179 is final, the provider may use a form of its own that otherwise
1180 complies with the requirements of this paragraph.
1181 8. As used in this paragraph, the term "countersigned"
1182 means bearing a second or verifying signature, as on a
1183 previously signed document, and is not satisfied by the
1184 statement "signature on file" or any similar statement.
1185 9. This paragraph applies only with respect to the initial
1186 treatment or service of the insured by a provider. For
1187 subsequent treatments or service, the provider must maintain a
1188 patient log signed by the patient, in chronological order by
1189 date of service, that is consistent with the services being
1190 rendered to the patient as claimed. The requirements of this
1191 subparagraph for maintaining a patient log signed by the patient
1192 may be met by a hospital that maintains medical records as
1193 required by s. 395.3025 and applicable rules and makes such
1194 records available to the insurer upon request.
1195 (f) Upon written notification by any person, an insurer
1196 shall investigate any claim of improper billing by a physician
1197 or other medical provider. The insurer shall determine whether
1198 the insured was properly billed for only those services and
1199 treatments that the insured actually received. If the insurer
1200 determines that the insured has been improperly billed, the
1201 insurer shall notify the insured, the person making the written
1202 notification, and the provider of its findings and shall reduce
1203 the amount of payment to the provider by the amount determined

1204 to be improperly billed. If a reduction is made due to such
1205 written notification by any person, the insurer shall pay to the
1206 person 20 percent of the amount of the reduction, up to $500. If
1207 the provider is arrested due to the improper billing, the
1208 insurer shall pay to the person 40 percent of the amount of the
1209 reduction, up to $500.
1210 (g) An insurer may not systematically downcode with the
1211 intent to deny reimbursement otherwise due. Such action
1212 constitutes a material misrepresentation under s.
1213 626.9541(1)(i)2.
1214 (6) DISCOVERY OF FACTS ABOUT AN INJURED PERSON; DISPUTES.—
1215 (a) An insured seeking benefits under ss. 627.748-
1216 627.7491, including omnibus insureds, must comply with the terms
1217 of the policy, which include, but are not limited to, submitting
1218 to an examination under oath. The scope of questioning during
1219 the examination under oath is limited to relevant information or
1220 information that could reasonably be expected to lead to
1221 relevant information. Compliance with this paragraph is a
1222 condition precedent to receiving benefits. An insurer that, as a
1223 general business practice, as determined by the office, requests
1224 an examination under oath of an insured or an omnibus insured
1225 without a reasonable basis is subject to s. 626.9541.
1226 (b) Every employer shall, if a request is made by an
1227 insurer providing medical care coverage under ss. 627.748-
1228 627.7491 against whom a claim has been made, furnish in a form
1229 approved by the office a sworn statement of the earnings, since
1230 the time of the bodily injury and for a reasonable period before
1231 the injury, of the person upon whose injury the claim is based.

1232 (c) Every person or entity providing, before or after
1233 bodily injury upon which a claim for medical care coverage
1234 benefits is based, any products, services, or accommodations in
1235 relation to that or any other injury, or in relation to a
1236 condition claimed to be connected with that or any other injury,
1237 shall, if requested to do so by the insurer against whom the
1238 claim has been made, permit the insurer or the insurer's
1239 representative to conduct an onsite physical review and
1240 examination of the treatment location, treatment apparatuses,
1241 diagnostic devices, and any other medical equipment used for the
1242 services rendered within 10 days after the insurer's request and
1243 furnish forthwith a written report of the history, condition,
1244 treatment, dates, and costs of such treatment of the injured
1245 person and why the items identified by the insurer were
1246 reasonable in amount and medically necessary, together with a
1247 sworn statement that the treatment or services rendered were
1248 reasonable and necessary with respect to the bodily injury
1249 sustained and identifying which portion of the expenses for such
1250 treatment or services was incurred as a result of such bodily
1251 injury, and produce forthwith, and permit the inspection and
1252 copying of, her or his or its records regarding such history,
1253 condition, treatment, dates, and costs of treatment; however,
1254 this does not limit the introduction of evidence at trial. Such
1255 sworn statement shall read as follows:
1256
1257 "Under penalty of perjury, I declare that I have read the
1258 foregoing, and the facts alleged are true to the best of my
1259 knowledge and belief."

1260

1261 No cause of action for violation of the physician-patient
1262 privilege or invasion of the right of privacy may be permitted
1263 against any person or entity complying with this paragraph. The
1264 person requesting such records and such sworn statement shall
1265 pay all reasonable costs connected therewith. If an insurer
1266 makes a written request for documentation or information under
1267 this paragraph within 30 days after having received notice of
1268 the amount of a covered loss under paragraph (4)(a), the amount
1269 or the partial amount that is the subject of the insurer's
1270 inquiry shall become overdue if the insurer does not pay in
1271 accordance with paragraph (4)(b) or within 10 days after the
1272 insurer's receipt of the requested documentation or information,
1273 whichever occurs later. For purposes of this paragraph, the term
1274 "receipt" includes, but is not limited to, inspection and
1275 copying pursuant to this paragraph. Any insurer that requests
1276 documentation or information pertaining to reasonableness of
1277 charges or medical necessity under this paragraph without a
1278 reasonable basis for such requests as a general business
1279 practice, as determined by the office, is engaging in an unfair
1280 trade practice under the insurance code. Section 626.989(4)(d)
1281 applies to the sharing of information related to reviews and
1282 examinations conducted pursuant to this section.
1283 (d) In the event of any dispute regarding an insurer's
1284 right to discovery of facts under this section, the insurer may
1285 petition a court of competent jurisdiction to enter an order
1286 permitting such discovery. The order may be made only on motion
1287 for good cause shown and upon notice to all persons having an

1288 interest, and it shall specify the time, place, manner,
1289 conditions, and scope of the discovery. Such court may, in order
1290 to protect against annoyance, embarrassment, or oppression, as
1291 justice requires, enter an order refusing discovery or
1292 specifying conditions of discovery and may order payments of
1293 costs and expenses of the proceeding, including reasonable fees
1294 for the appearance of attorneys at the proceedings, as justice
1295 requires.
1296 (e) The injured person shall be furnished, upon request, a
1297 copy of all information obtained by the insurer under this
1298 section and shall pay a reasonable charge if required by the
1299 insurer.
1300 (f) Notice to an insurer of the existence of a claim may
1301 not be unreasonably withheld by an insured.
1302 (7) MENTAL AND PHYSICAL EXAMINATION OF INJURED PERSON;
1303 REPORTS.—
1304 (a) Whenever the mental or physical condition of an
1305 injured person covered by medical care coverage insurance is
1306 material to any claim that has been or may be made for past or
1307 future medical care coverage insurance benefits, such person
1308 shall, upon the request of an insurer, submit to mental or
1309 physical examination by a physician or physicians. The costs of
1310 any examinations requested by an insurer shall be borne entirely
1311 by the insurer. Such examination shall be conducted within the
1312 municipality where the insured is receiving treatment, or in a
1313 location reasonably accessible to the insured, which, for
1314 purposes of this paragraph, means any location within the
1315 municipality in which the insured resides or any location within

1316 10 miles by road of the insured's residence provided such
1317 location is within the county in which the insured resides. If
1318 the examination is to be conducted in a location reasonably
1319 accessible to the insured, and if there is no qualified
1320 physician to conduct the examination in a location reasonably
1321 accessible to the insured, such examination shall be conducted
1322 in an area of the closest proximity to the insured's residence.
1323 Medical care coverage insurers are authorized to include
1324 reasonable provisions in medical care coverage insurance
1325 policies for mental and physical examination of those claiming
1326 medical care coverage insurance benefits. An insurer may not
1327 withdraw payment of a treating physician without the consent of
1328 the injured person covered by the medical care coverage
1329 insurance unless the insurer first obtains a valid report by a
1330 physician located in this state licensed under the same chapter
1331 as the treating physician whose treatment authorization is
1332 sought to be withdrawn stating that treatment was not
1333 reasonable, related, or necessary. A valid report is one that is
1334 prepared and signed by the physician examining the injured
1335 person or reviewing the treatment records of the injured person,
1336 is factually supported by the examination and treatment records,
1337 if reviewed, and has not been modified by anyone other than the
1338 physician. The physician preparing the report must be in active
1339 practice unless the physician is physically disabled. Active
1340 practice means that during the 3 years immediately preceding the
1341 date of the physical examination or review of the treatment
1342 records, the physician must have devoted professional time to
1343 the active clinical practice of evaluation, diagnosis, or

1344 treatment of medical conditions or to the instruction of
1345 students in an accredited health professional school or
1346 accredited residency program or a clinical research program that
1347 is affiliated with an accredited health professional school or
1348 teaching hospital or accredited residency program. The physician
1349 preparing a report at the request of an insurer and physicians
1350 rendering expert opinions on behalf of persons claiming medical
1351 benefits for medical care coverage, or on behalf of an insured
1352 through an attorney or another entity, shall maintain, for at
1353 least 3 years, copies of all examination reports as medical
1354 records and shall maintain, for at least 3 years, records of all
1355 payments for the examinations and reports. Neither an insurer
1356 nor any person acting at the direction of or on behalf of an
1357 insurer may materially change an opinion in a report prepared
1358 under this paragraph or direct the physician preparing the
1359 report to change such opinion. The denial of a payment as the
1360 result of such a changed opinion constitutes a material
1361 misrepresentation under s. 626.9541(1)(i)2.; however, this
1362 paragraph does not preclude the insurer from calling to the
1363 attention of the physician errors of fact in the report based
1364 upon information in the claim file.
1365 (b) If requested by the person examined, a party causing
1366 an examination to be made shall deliver to her or him a copy of
1367 every written report concerning the examination rendered by an
1368 examining physician, at least one of which must set out the
1369 examining physician's findings and conclusions in detail. After
1370 such request and delivery, the party causing the examination to
1371 be made is entitled, upon request, to receive from the person

1372 examined every written report available to her or him or her or
1373 his representative concerning any examination, previously or
1374 thereafter made, of the same mental or physical condition. By
1375 requesting and obtaining a report of the examination so ordered,
1376 or by taking the deposition of the examiner, the person examined
1377 waives any privilege she or he may have, in relation to the
1378 claim for benefits, regarding the testimony of every other
1379 person who has examined, or may thereafter examine, her or him
1380 with respect to the same mental or physical condition. If a
1381 person unreasonably refuses to submit to or fails to appear at
1382 an examination, the medical care coverage insurer is no longer
1383 liable for subsequent medical care coverage benefits. Refusal or
1384 failure to appear for two examinations raises a rebuttable
1385 presumption that such refusal or failure was unreasonable.
1386 (8) APPLICABILITY OF PROVISION REGULATING ATTORNEY FEES.—
1387 (a) With respect to any dispute under ss. 627.748-627.7491
1388 between the insured and the insurer, or between an assignee of
1389 an insured's rights and the insurer, s. 627.428 applies, except
1390 as provided in paragraphs (b) and (c) and subsections (9) and
1391 (13) and except that any attorney fees recovered are limited to
1392 the lesser of the actual fee incurred based upon a rate for
1393 attorney services not to exceed $200 per billable hour or:
1394 1. For any disputed amount of less than $500, 15 times any
1395 disputed amount recovered by the attorney under ss. 627.748-
1396 627.7491, not to exceed $5,000.
1397 2. For any disputed amount of $500 or more and less than
1398 $5,000, 10 times any disputed amount recovered by the attorney
1399 under ss. 627.748-627.7491, not to exceed $10,000.

1400 3. For any disputed amount of $5,000 or more and up to
1401 $10,000, 5 times any disputed amount recovered by the attorney
1402 under ss. 627.748-627.7491, not to exceed $15,000.
1403
1404 Fees incurred in litigating or quantifying the amount of fees
1405 due to the prevailing party under ss. 627.748-627.7491 are not
1406 recoverable.
1407 (b) Notwithstanding s. 627.428, the attorney fees
1408 recovered under ss. 627.748-627.7491 shall be calculated without
1409 regard to any contingency risk multiplier.
1410 (c) Attorney fees in a class action under ss. 627.748-
1411 627.7491 are limited to the lesser of $50,000 or 3 times the
1412 total of any disputed amount recovered in the class action
1413 proceeding.
1414 (d) Nothing in this subsection limits the attorney fees an
1415 insured may pay her or his attorney.
1416 (9) DEMAND LETTER.—
1417 (a) As a condition precedent to filing any action for
1418 benefits under this section, the insurer must be provided with
1419 written notice of an intent to initiate litigation. Such notice
1420 may not be sent until the claim is overdue, including any
1421 additional time the insurer has to pay the claim pursuant to
1422 paragraph (4)(b).
1423 (b) The notice required shall state that it is a "demand
1424 letter under s. 627.7485(9), F.S.," and shall state with
1425 specificity:
1426 1. The name of the insured upon whom such benefits are
1427 being sought, including a copy of the assignment giving rights

1428 to the claimant if the claimant is not the insured.
1429 2. The claim number or policy number upon which such claim
1430 was originally submitted to the insurer.
1431 3. To the extent applicable, the name of any medical
1432 provider who rendered to an insured the treatment, services,
1433 accommodations, or supplies that form the basis of such claim
1434 and an itemized statement specifying each exact amount, the date
1435 of treatment, service, or accommodation, and the type of benefit
1436 claimed to be due. A completed form satisfying the requirements
1437 of paragraph (5)(d) or the lost-wage statement previously
1438 submitted may be used as the itemized statement. To the extent
1439 that the demand involves an insurer's withdrawal of payment
1440 under paragraph (7)(a) for future treatment not yet rendered,
1441 the claimant shall attach a copy of the insurer's notice
1442 withdrawing such payment and an itemized statement of the type,
1443 frequency, and duration of future treatment claimed to be
1444 reasonable and medically necessary.
1445 (c) Each notice required by this subsection must be
1446 delivered to the insurer by United States certified or
1447 registered mail, return receipt requested. If so requested by
1448 the claimant in the notice, such postal costs shall be
1449 reimbursed by the insurer when the insurer pays the claim. Such
1450 notice must be sent to the person and address specified by the
1451 insurer for the purposes of receiving notices under this
1452 subsection. Each licensed insurer, whether domestic, foreign, or
1453 alien, shall file with the office designation of the name and
1454 address of the person to whom notices pursuant to this
1455 subsection shall be sent, which the office shall make available

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

1456 on its website. The name and address on file with the office
1457 pursuant to s. 624.422 shall be deemed the authorized
1458 representative to accept notice pursuant to this subsection in
1459 the event no other designation has been made.
1460 (d) If, within 30 days after receipt of notice by the
1461 insurer, the overdue claim specified in the notice is paid by
1462 the insurer together with applicable interest and a penalty of
1463 10 percent of the overdue amount paid by the insurer, subject to
1464 a maximum penalty of $250, no action may be brought against the
1465 insurer. If the demand involves an insurer's withdrawal of
1466 payment under paragraph (7)(a) for future treatment not yet
1467 rendered, no action may be brought against the insurer if,
1468 within 30 days after its receipt of the notice, the insurer
1469 mails to the person filing the notice a written statement of the
1470 insurer's agreement to pay for such treatment in accordance with
1471 the notice and to pay a penalty of 10 percent, subject to a
1472 maximum penalty of $250, when it pays for such future treatment
1473 in accordance with the requirements of this section. To the
1474 extent the insurer determines not to pay any amount demanded,
1475 the penalty is not payable in any subsequent action. For
1476 purposes of this paragraph, payment or the insurer's agreement
1477 shall be considered made on the date a draft or other valid
1478 instrument that is equivalent to payment, or the insurer's
1479 written statement of agreement, is placed in the United States
1480 mail in a properly addressed, postpaid envelope, or if not so
1481 posted, on the date of delivery. The insurer is not obligated to
1482 pay any attorney fees if the insurer pays the claim or mails its
1483 agreement to pay for future treatment within the time prescribed

1484 by this paragraph.
1485 (e) The applicable statute of limitation for an action
1486 under this section shall be tolled for a period of 30 business
1487 days by the mailing of the notice required by this subsection.
1488 (f) Any insurer making a general business practice, as
1489 determined by the office, of not paying valid claims until
1490 receipt of the notice required by this subsection is engaging in
1491 an unfair trade practice under the insurance code.
1492 (10) FAILURE TO PAY VALID CLAIMS; UNFAIR OR DECEPTIVE
1493 PRACTICE.—
1494 (a) If an insurer fails to pay valid claims for medical
1495 care coverage with such frequency so as to indicate a general
1496 business practice, as determined by the office, the insurer is
1497 engaging in a prohibited unfair or deceptive practice that is
1498 subject to the penalties provided in s. 626.9521, and the office
1499 has the powers and duties specified in ss. 626.9561-626.9601
1500 with respect thereto.
1501 (b) Notwithstanding s. 501.212, the Department of Legal
1502 Affairs may investigate and initiate actions for a violation of
1503 this subsection, including, but not limited to, the powers and
1504 duties specified in part II of chapter 501.
1505 (11) CIVIL ACTION FOR INSURANCE FRAUD.—An insurer shall
1506 have a cause of action against any person convicted of, or who,
1507 regardless of adjudication of guilt, pleads guilty or nolo
1508 contendere to, insurance fraud under s. 817.234, patient
1509 brokering under s. 817.505, or kickbacks under s. 456.054,
1510 associated with a claim for medical care coverage benefits in
1511 accordance with this section. An insurer prevailing in an action

1512 brought under this subsection may recover compensatory,
1513 consequential, and punitive damages subject to the requirements
1514 and limitations of part II of chapter 768 and attorney fees and
1515 costs incurred in litigating a cause of action against any
1516 person convicted of, or who, regardless of adjudication of
1517 guilt, pleads guilty or nolo contendere to, insurance fraud
1518 under s. 817.234, patient brokering under s. 817.505, or
1519 kickbacks under s. 456.054, associated with a claim for medical
1520 care coverage benefits in accordance with this section.
1521 (12) FRAUD ADVISORY NOTICE.—Upon receiving notice of a
1522 claim under this section, an insurer shall provide a notice to
1523 the insured or to a person for whom a claim for reimbursement
1524 for diagnosis or treatment of injuries has been filed advising
1525 that:
1526 (a) Pursuant to s. 626.9892, the Department of Financial
1527 Services may pay rewards of up to $25,000 to persons providing
1528 information leading to the arrest and conviction of persons
1529 committing crimes investigated by the Division of Insurance
1530 Fraud arising from violations of s. 440.105, s. 624.15, s.
1531 626.9541, s. 626.989, or s. 817.234.
1532 (b) Solicitation of a person injured in a motor vehicle
1533 crash for purposes of filing medical care coverage or tort
1534 claims could be a violation of s. 817.234, s. 817.505, or the
1535 rules regulating The Florida Bar and, if such conduct has taken
1536 place, it should be immediately reported to the Division of
1537 Insurance Fraud.
1538 (13) ALL CLAIMS BROUGHT IN A SINGLE ACTION.—In any civil
1539 action to recover medical care coverage benefits brought by a

1540 claimant pursuant to this section against an insurer, all claims
1541 related to the same health care provider for the same injured
1542 person shall be brought in one action unless good cause is shown
1543 why such claims should be brought separately. If the court
1544 determines that a civil action is filed for a claim that should
1545 have been brought in a prior civil action, the court may not
1546 award attorney fees to the claimant.
1547 (14) SECURE ELECTRONIC DATA TRANSFER.—If all parties
1548 mutually and expressly agree, a notice, documentation,
1549 transmission, or communication of any kind required or
1550 authorized under ss. 627.748-627.7491 may be transmitted
1551 electronically if it is transmitted by secure electronic data
1552 transfer that is consistent with state and federal privacy and
1553 security laws.
1554 Section 10. Section 627.7486, Florida Statutes, is created
1555 to read:
1556 627.7486 Tort exemption; limitation on right to damages;
1557 punitive damages.—
1558 (1) Every owner, registrant, operator, or occupant of a
1559 motor vehicle for which security has been provided as required
1560 by ss. 627.748-627.7491, and every person or organization
1561 legally responsible for her or his acts or omissions, is exempt
1562 from tort liability for damages because of bodily injury,
1563 sickness, or disease arising out of the ownership, operation,
1564 maintenance, or use of such motor vehicle in this state to the
1565 extent that the benefits described in s. 627.7485(1) are payable
1566 for such injury, or would be payable but for any exclusion
1567 authorized by ss. 627.748-627.7491, under any insurance policy

1568 or other method of security complying with s. 627.7483, or by an
1569 owner personally liable under s. 627.7483 for the payment of
1570 such benefits, unless a person is entitled to maintain an action
1571 for pain, suffering, mental anguish, and inconvenience for such
1572 injury under subsection (2).
1573 (2) In any action of tort brought against the owner,
1574 registrant, operator, or occupant of a motor vehicle for which
1575 security has been provided as required by ss. 627.748-627.7491,
1576 or against any person or organization legally responsible for
1577 her or his acts or omissions, a plaintiff may recover damages in
1578 tort for pain, suffering, mental anguish, and inconvenience
1579 because of bodily injury, sickness, or disease arising out of
1580 the ownership, maintenance, operation, or use of such motor
1581 vehicle only in the event that the injury or disease consists in
1582 whole or in part of:
1583 (a) Significant and permanent loss of an important bodily
1584 function;
1585 (b) Permanent injury within a reasonable degree of medical
1586 probability, other than scarring or disfigurement;
1587 (c) Significant and permanent scarring or disfigurement;
1588 or
1589 (d) Death.
1590 (3) When a defendant in a proceeding brought pursuant to
1591 ss. 627.748-627.7491 questions whether the plaintiff has met the
1592 requirements of subsection (2), the defendant may file an
1593 appropriate motion with the court, and the court shall, on a
1594 one-time basis only, 30 days before the date set for the trial
1595 or the pretrial hearing, whichever is first, by examining the

1596 pleadings and the evidence before it, ascertain whether the
1597 plaintiff will be able to submit some evidence that the
1598 plaintiff will meet the requirements of subsection (2). If the
1599 court finds that the plaintiff will not be able to submit such
1600 evidence, the court shall dismiss the plaintiff's claim without
1601 prejudice.
1602 (4) In any action brought against a motor vehicle
1603 liability insurer for damages in excess of its policy limits, no
1604 claim for punitive damages shall be allowed.
1605 Section 11. Section 627.7487, Florida Statutes, is created
1606 to read:
1607 627.7487 Medical care coverage; optional limitations;
1608 deductibles.—
1609 (1) The named insured may elect a deductible or modified
1610 coverage or combination thereof to apply to the named insured
1611 alone or to the named insured and dependent relatives residing
1612 in the insured's household but may not elect a deductible or
1613 modified coverage to apply to any other person covered under the
1614 policy.
1615 (2) An insurer shall offer to each applicant and to each
1616 policyholder, upon the renewal of an existing policy,
1617 deductibles in amounts of $250, $500, and $1,000. The deductible
1618 amount must be applied to 100 percent of the expenses and losses
1619 described in s. 627.7485. After the deductible is met, each
1620 insured is eligible to receive up to $10,000 in total benefits
1621 described in s. 627.7485(1). However, this subsection may not be
1622 applied to reduce the amount of any benefits received in
1623 accordance with s. 627.7485(1)(d).

1624 (3) An insurer shall offer coverage wherein, at the
1625 election of the named insured, the benefits for loss of gross
1626 income and loss of earning capacity described in s.
1627 627.7485(1)(c) shall be excluded.
1628 (4) The named insured may not be prevented from electing a
1629 deductible under subsection (2) and modified coverage under
1630 subsection (3). Each election made by the named insured under
1631 this section shall result in an appropriate reduction of premium
1632 associated with that election.
1633 (5) All such offers shall be made in clear and unambiguous
1634 language at the time the initial application is taken and before
1635 each annual renewal and shall indicate that a premium reduction
1636 will result from each election. At the option of the insurer,
1637 such requirement may be met by using forms of notice approved by
1638 the office or by providing the following notice in 10-point type
1639 in the insurer's application for initial issuance of a policy of
1640 motor vehicle insurance and the insurer's annual notice of
1641 renewal premium:
1642
1643 For medical care coverage insurance, the named insured may
1644 elect a deductible and to exclude coverage for loss of
1645 gross income and loss of earning capacity ("lost wages").
1646 These elections apply to the named insured alone, or to the
1647 named insured and all dependent resident relatives. A
1648 premium reduction will result from these elections. The
1649 named insured is hereby advised not to elect the lost wage
1650 exclusion if the named insured or dependent resident

1651 relatives are employed, since lost wages will not be
1652 payable in the event of an accident.
1653
1654 Section 12. Section 627.7488, Florida Statutes, is created
1655 to read:
1656 627.7488 Notice of insured's rights.—
1657 (1) The commission, by rule, shall adopt a form for the
1658 notification of insureds of their right to receive medical care
1659 coverage under the Florida Motor Vehicle No-Fault Medical Care
1660 Coverage Law. Such notice shall include:
1661 (a) A description of the benefits provided by medical
1662 care coverage insurance, including, but not limited to, the
1663 specific types of services for which medical benefits are paid,
1664 disability benefits, death benefits, significant exclusions from
1665 and limitations on medical care coverage benefits, when payments
1666 are due, how benefits are coordinated with other insurance
1667 benefits that the insured may have, penalties and interest that
1668 may be imposed on insurers for failure to make timely payments
1669 of benefits, and rights of parties regarding disputes as to
1670 benefits.
1671 (b) An advisory informing insureds that:
1672 1. Pursuant to s. 626.9892, the Department of Financial
1673 Services may pay rewards of up to $25,000 to persons providing
1674 information leading to the arrest and conviction of persons
1675 committing crimes investigated by the Division of Insurance
1676 Fraud arising from violations of s. 440.105, s. 624.15, s.
1677 626.9541, s. 626.989, or s. 817.234.
1678 2. Pursuant to s. 627.7485(5)(e)1.e., if the insured

1679 notifies the insurer in writing of a billing error, the insured
1680 may be entitled to a certain percentage of a reduction in the
1681 amounts paid by the insured's motor vehicle insurer.
1682 (c) A notice that solicitation of a person injured in a
1683 motor vehicle crash for purposes of filing medical care coverage
1684 or tort claims could be a violation of s. 817.234, s. 817.505,
1685 or the rules regulating The Florida Bar and, if such conduct has
1686 taken place, it should be immediately reported to the Division
1687 of Insurance Fraud.
1688 (2) Each insurer issuing a policy in this state providing
1689 medical care coverage benefits must mail or deliver the notice
1690 as specified in subsection (1) to an insured within 21 days
1691 after receiving from the insured notice of a motor vehicle
1692 accident or claim involving personal injury to an insured who is
1693 covered under the policy. The office may allow an insurer
1694 additional time, not to exceed 30 days, to provide the notice
1695 specified in subsection (1) upon a showing by the insurer that
1696 an emergency justifies an extension of time.
1697 (3) The notice required by this section does not alter or
1698 modify the terms of the insurance contract or other requirements
1699 of ss. 627.748-627.7491.
1700 Section 13. Section 627.7489, Florida Statutes, is created
1701 to read:
1702 627.7489 Mandatory joinder of derivative claim.—In any
1703 action brought pursuant to s. 627.7486 claiming personal
1704 injuries, all claims arising out of the plaintiff's injuries,
1705 including all derivative claims, shall be brought together,

1706 unless good cause is shown why such claims should be brought
1707 separately.
1708 Section 14. Section 627.749, Florida Statutes, is created
1709 to read:
1710 627.749 Insurers' right of reimbursement.—Notwithstanding
1711 any other provisions of ss. 627.748-627.7491, any insurer
1712 providing medical care coverage benefits on a private passenger
1713 motor vehicle shall have, to the extent of any medical care
1714 coverage benefits paid to any person as a benefit arising out of
1715 such private passenger motor vehicle insurance, a right of
1716 reimbursement against the owner or the insurer of the owner of a
1717 commercial motor vehicle if the benefits paid result from such
1718 person having been an occupant of the commercial motor vehicle
1719 or having been struck by the commercial motor vehicle while not
1720 an occupant of any self-propelled vehicle.
1721 Section 15. Section 627.7491, Florida Statutes, is created
1722 to read:
1723 627.7491 Application of the Florida Motor Vehicle No-Fault
1724 Medical Care Coverage Law.—
1725 (1) All forms and rates for policies issued or renewed on
1726 or after December 1, 2012, for purposes of maintaining security
1727 as required by s. 627.7483 must reflect ss. 627.748-627.7491 and
1728 must be approved by the office prior to their use.
1729 (2) After the effective date of this act, insurers must
1730 provide notice of the Florida Motor Vehicle No-Fault Medical
1731 Care Coverage Law to existing policyholders at least 30 days
1732 before the policy expiration date and to applicants for no-fault
1733 coverage upon receipt of the application. The notice is not

1734 subject to approval by the office and must clearly inform the
1735 policyholder or applicant of the following:
1736 (a) That no-fault motor vehicle insurance requirements are
1737 governed by the Florida Motor Vehicle No-Fault Medical Care
1738 Coverage Law and must provide an explanation of medical care
1739 coverage. Current policyholders, with respect to the initial
1740 renewal after the effective date of this act, must also be
1741 provided with an explanation of differences between their
1742 current policies and the coverage provided under medical care
1743 coverage policies.
1744 (b) That failure to maintain required medical care
1745 coverage and $10,000 in property damage liability coverage may
1746 result in suspension of the policyholder's driver license and
1747 vehicle registration by the State of Florida.
1748 (c) The name and telephone number of a person to contact
1749 with any questions she or he may have.
1750 Section 16. Subsection (1) of section 316.646, Florida
1751 Statutes, is amended to read:
1752 316.646 Security required; proof of security and display
1753 thereof; dismissal of cases.—
1754 (1) Any person required by s. 324.022 to maintain property
1755 damage liability security, required by s. 324.023 to maintain
1756 liability security for bodily injury or death, or required by s.
1757 627.733 or s. 627.7483 to maintain personal injury protection
1758 security or medical care coverage security, as applicable, on a
1759 motor vehicle shall have in his or her immediate possession at
1760 all times while operating such motor vehicle proper proof of
1761 maintenance of the required security. Such proof shall be a

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

1762 uniform proof-of-insurance card in a form prescribed by the
1763 department, a valid insurance policy, an insurance policy
1764 binder, a certificate of insurance, or such other proof as may
1765 be prescribed by the department.
1766 Section 17. Paragraph (b) of subsection (2) of section
1767 318.18, Florida Statutes, is amended to read:
1768 318.18 Amount of penalties.—The penalties required for a
1769 noncriminal disposition pursuant to s. 318.14 or a criminal
1770 offense listed in s. 318.17 are as follows:
1771 (2) Thirty dollars for all nonmoving traffic violations
1772 and:
1773 (b) For all violations of ss. 320.0605, 320.07(1),
1774 322.065, and 322.15(1). Any person who is cited for a violation
1775 of s. 320.07(1) shall be charged a delinquent fee pursuant to s.
1776 320.07(4).
1777 1. If a person who is cited for a violation of s. 320.0605
1778 or s. 320.07 can show proof of having a valid registration at
1779 the time of arrest, the clerk of the court may dismiss the case
1780 and may assess a dismissal fee of up to $10. A person who finds
1781 it impossible or impractical to obtain a valid registration
1782 certificate must submit an affidavit detailing the reasons for
1783 the impossibility or impracticality. The reasons may include,
1784 but are not limited to, the fact that the vehicle was sold,
1785 stolen, or destroyed; that the state in which the vehicle is
1786 registered does not issue a certificate of registration; or that
1787 the vehicle is owned by another person.
1788 2. If a person who is cited for a violation of s. 322.03,
1789 s. 322.065, or s. 322.15 can show a driver ~~driver's~~ license

1790 issued to him or her and valid at the time of arrest, the clerk
1791 of the court may dismiss the case and may assess a dismissal fee
1792 of up to $10.
1793 3. If a person who is cited for a violation of s. 316.646
1794 can show proof of security as required by s. 627.733 or s.
1795 627.7483, as applicable, issued to the person and valid at the
1796 time of arrest, the clerk of the court may dismiss the case and
1797 may assess a dismissal fee of up to $10. A person who finds it
1798 impossible or impractical to obtain proof of security must
1799 submit an affidavit detailing the reasons for the
1800 impracticality. The reasons may include, but are not limited to,
1801 the fact that the vehicle has since been sold, stolen, or
1802 destroyed; that the owner or registrant of the vehicle is not
1803 required by s. 627.733 or s. 627.7483 to maintain personal
1804 injury protection insurance or medical care coverage insurance,
1805 as applicable; or that the vehicle is owned by another person.
1806 Section 18. Paragraphs (a) and (d) of subsection (5) of
1807 section 320.02, Florida Statutes, are amended to read:
1808 320.02 Registration required; application for
1809 registration; forms.—
1810 (5)(a) Proof that personal injury protection benefits or
1811 medical care coverage benefits, as applicable, have been
1812 purchased when required under s. 627.733 or s. 627.7483, as
1813 applicable, that property damage liability coverage has been
1814 purchased as required under s. 324.022, that bodily injury or
1815 death coverage has been purchased if required under s. 324.023,
1816 and that combined bodily liability insurance and property damage
1817 liability insurance have been purchased when required under s.

1818 627.7415 shall be provided in the manner prescribed by law by
1819 the applicant at the time of application for registration of any
1820 motor vehicle that is subject to such requirements. The issuing
1821 agent shall refuse to issue registration if such proof of
1822 purchase is not provided. Insurers shall furnish uniform proof-
1823 of-purchase cards in a form prescribed by the department and
1824 shall include the name of the insured's insurance company, the
1825 coverage identification number, and the make, year, and vehicle
1826 identification number of the vehicle insured. The card shall
1827 contain a statement notifying the applicant of the penalty
1828 specified in s. 316.646(4). The card or insurance policy,
1829 insurance policy binder, or certificate of insurance or a
1830 photocopy of any of these; an affidavit containing the name of
1831 the insured's insurance company, the insured's policy number,
1832 and the make and year of the vehicle insured; or such other
1833 proof as may be prescribed by the department shall constitute
1834 sufficient proof of purchase. If an affidavit is provided as
1835 proof, it shall be in substantially the following form:
1836
1837 Under penalty of perjury, I ...(Name of insured)... do hereby
1838 certify that I have ...(Personal Injury Protection or Medical
1839 Care Coverage, as applicable, Property Damage Liability, and,
1840 when required, Bodily Injury Liability)... Insurance currently
1841 in effect with ...(Name of insurance company)... under
1842 ...(policy number)... covering ...(make, year, and vehicle
1843 identification number of vehicle).... ...(Signature of
1844 Insured)...
1845

1846 Such affidavit shall include the following warning:
1847
1848 WARNING: GIVING FALSE INFORMATION IN ORDER TO OBTAIN A VEHICLE
1849 REGISTRATION CERTIFICATE IS A CRIMINAL OFFENSE UNDER FLORIDA
1850 LAW. ANYONE GIVING FALSE INFORMATION ON THIS AFFIDAVIT IS
1851 SUBJECT TO PROSECUTION.
1852
1853 When an application is made through a licensed motor vehicle
1854 dealer as required in s. 319.23, the original or a photostatic
1855 copy of such card, insurance policy, insurance policy binder, or
1856 certificate of insurance or the original affidavit from the
1857 insured shall be forwarded by the dealer to the tax collector of
1858 the county or the Department of Highway Safety and Motor
1859 Vehicles for processing. By executing the aforesaid affidavit,
1860 no licensed motor vehicle dealer will be liable in damages for
1861 any inadequacy, insufficiency, or falsification of any statement
1862 contained therein. A card shall also indicate the existence of
1863 any bodily injury liability insurance voluntarily purchased.
1864 (d) The verifying of proof of personal injury protection
1865 insurance or medical care coverage insurance, as applicable,
1866 proof of property damage liability insurance, proof of combined
1867 bodily liability insurance and property damage liability
1868 insurance, or proof of financial responsibility insurance and
1869 the issuance or failure to issue the motor vehicle registration
1870 under ~~the provisions of~~ this chapter may not be construed in any
1871 court as a warranty of the reliability or accuracy of the
1872 evidence of such proof. Neither the department nor any tax
1873 collector is liable in damages for any inadequacy,

1874 insufficiency, falsification, or unauthorized modification of
1875 any item of the proof of personal injury protection insurance or
1876 medical care coverage insurance, as applicable, proof of
1877 property damage liability insurance, proof of combined bodily
1878 liability insurance and property damage liability insurance, or
1879 proof of financial responsibility insurance prior to, during, or
1880 subsequent to the verification of the proof. The issuance of a
1881 motor vehicle registration does not constitute prima facie
1882 evidence or a presumption of insurance coverage.
1883 Section 19. Paragraph (b) of subsection (1) of section
1884 320.0609, Florida Statutes, is amended to read:
1885 320.0609 Transfer and exchange of registration license
1886 plates; transfer fee.—
1887 (1)
1888 (b) The transfer of a license plate from a vehicle
1889 disposed of to a newly acquired vehicle does not constitute a
1890 new registration. The application for transfer shall be accepted
1891 without requiring proof of personal injury protection insurance
1892 or medical care coverage insurance, as applicable, or liability
1893 insurance.
1894 Section 20. Subsection (3) of section 320.27, Florida
1895 Statutes, is amended to read:
1896 320.27 Motor vehicle dealers.—
1897 (3) APPLICATION AND FEE.—The application for the license
1898 shall be in such form as may be prescribed by the department and
1899 shall be subject to such rules with respect thereto as may be so
1900 prescribed by it. Such application shall be verified by oath or
1901 affirmation and shall contain a full statement of the name and

1902 birth date of the person or persons applying therefor; the name
1903 of the firm or copartnership, with the names and places of
1904 residence of all members thereof, if such applicant is a firm or
1905 copartnership; the names and places of residence of the
1906 principal officers, if the applicant is a body corporate or
1907 other artificial body; the name of the state under whose laws
1908 the corporation is organized; the present and former place or
1909 places of residence of the applicant; and prior business in
1910 which the applicant has been engaged and the location thereof.
1911 Such application shall describe the exact location of the place
1912 of business and shall state whether the place of business is
1913 owned by the applicant and when acquired, or, if leased, a true
1914 copy of the lease shall be attached to the application. The
1915 applicant shall certify that the location provides an adequately
1916 equipped office and is not a residence; that the location
1917 affords sufficient unoccupied space upon and within which
1918 adequately to store all motor vehicles offered and displayed for
1919 sale; and that the location is a suitable place where the
1920 applicant can in good faith carry on such business and keep and
1921 maintain books, records, and files necessary to conduct such
1922 business, which will be available at all reasonable hours to
1923 inspection by the department or any of its inspectors or other
1924 employees. The applicant shall certify that the business of a
1925 motor vehicle dealer is the principal business which shall be
1926 conducted at that location. Such application shall contain a
1927 statement that the applicant is either franchised by a
1928 manufacturer of motor vehicles, in which case the name of each
1929 motor vehicle that the applicant is franchised to sell shall be

1930 included, or an independent (nonfranchised) motor vehicle
1931 dealer. Such application shall contain such other relevant
1932 information as may be required by the department, including
1933 evidence that the applicant is insured under a garage liability
1934 insurance policy or a general liability insurance policy coupled
1935 with a business automobile policy, which shall include, at a
1936 minimum, $25,000 combined single-limit liability coverage
1937 including bodily injury and property damage protection and
1938 $10,000 personal injury protection or medical care coverage, as
1939 applicable. Franchise dealers must submit a garage liability
1940 insurance policy, and all other dealers must submit a garage
1941 liability insurance policy or a general liability insurance
1942 policy coupled with a business automobile policy. Such policy
1943 shall be for the license period, and evidence of a new or
1944 continued policy shall be delivered to the department at the
1945 beginning of each license period. Upon making initial
1946 application, the applicant shall pay to the department a fee of
1947 $300 in addition to any other fees now required by law; upon
1948 making a subsequent renewal application, the applicant shall pay
1949 to the department a fee of $75 in addition to any other fees now
1950 required by law. Upon making an application for a change of
1951 location, the person shall pay a fee of $50 in addition to any
1952 other fees now required by law. The department shall, in the
1953 case of every application for initial licensure, verify whether
1954 certain facts set forth in the application are true. Each
1955 applicant, general partner in the case of a partnership, or
1956 corporate officer and director in the case of a corporate
1957 applicant, must file a set of fingerprints with the department

1958 for the purpose of determining any prior criminal record or any
1959 outstanding warrants. The department shall submit the
1960 fingerprints to the Department of Law Enforcement for state
1961 processing and forwarding to the Federal Bureau of Investigation
1962 for federal processing. The actual cost of state and federal
1963 processing shall be borne by the applicant and is in addition to
1964 the fee for licensure. The department may issue a license to an
1965 applicant pending the results of the fingerprint investigation,
1966 which license is fully revocable if the department subsequently
1967 determines that any facts set forth in the application are not
1968 true or correctly represented.
1969 Section 21. Paragraph (j) of subsection (3) of section
1970 320.771, Florida Statutes, is amended to read:
1971 320.771 License required of recreational vehicle dealers.—
1972 (3) APPLICATION.—The application for such license shall be
1973 in the form prescribed by the department and subject to such
1974 rules as may be prescribed by it. The application shall be
1975 verified by oath or affirmation and shall contain:
1976 (j) A statement that the applicant is insured under a
1977 garage liability insurance policy, which shall include, at a
1978 minimum, $25,000 combined single-limit liability coverage,
1979 including bodily injury and property damage protection, and
1980 $10,000 personal injury protection or medical care coverage, as
1981 applicable, if the applicant is to be licensed as a dealer in,
1982 or intends to sell, recreational vehicles.
1983
1984 The department shall, if it deems necessary, cause an
1985 investigation to be made to ascertain if the facts set forth in

1986 the application are true and shall not issue a license to the
1987 applicant until it is satisfied that the facts set forth in the
1988 application are true.
1989 Section 22. Subsection (1) of section 322.251, Florida
1990 Statutes, is amended to read:
1991 322.251 Notice of cancellation, suspension, revocation, or
1992 disqualification of license.—
1993 (1) All orders of cancellation, suspension, revocation, or
1994 disqualification issued under ~~the provisions of~~ this chapter,
1995 chapter 318, chapter 324, ~~or~~ ss. 627.732-627.734<u>, or ss.</u>
1996 <u>627.748-627.7491</u> shall be given either by personal delivery
1997 thereof to the licensee whose license is being canceled,
1998 suspended, revoked, or disqualified or by deposit in the United
1999 States mail in an envelope, first class, postage prepaid,
2000 addressed to the licensee at his or her last known mailing
2001 address furnished to the department. Such mailing by the
2002 department constitutes notification, and any failure by the
2003 person to receive the mailed order will not affect or stay the
2004 effective date or term of the cancellation, suspension,
2005 revocation, or disqualification of the licensee's driving
2006 privilege.
2007 Section 23. Paragraph (a) of subsection (8) of section
2008 322.34, Florida Statutes, is amended to read:
2009 322.34 Driving while license suspended, revoked, canceled,
2010 or disqualified.—
2011 (8)(a) Upon the arrest of a person for the offense of
2012 driving while the person's <u>driver</u> ~~driver's~~ license or driving
2013 privilege is suspended or revoked, the arresting officer shall

2014 determine:
2015 1. Whether the person's driver ~~driver's~~ license is
2016 suspended or revoked.
2017 2. Whether the person's driver ~~driver's~~ license has
2018 remained suspended or revoked since a conviction for the offense
2019 of driving with a suspended or revoked license.
2020 3. Whether the suspension or revocation was made under s.
2021 316.646, ~~or~~ s. 627.733, or s. 627.7483, relating to failure to
2022 maintain required security, or under s. 322.264, relating to
2023 habitual traffic offenders.
2024 4. Whether the driver is the registered owner or coowner
2025 of the vehicle.
2026 Section 24. Subsection (1) and paragraph (c) of subsection
2027 (9) of section 324.021, Florida Statutes, are amended to read:
2028 324.021 Definitions; minimum insurance required.—The
2029 following words and phrases when used in this chapter shall, for
2030 the purpose of this chapter, have the meanings respectively
2031 ascribed to them in this section, except in those instances
2032 where the context clearly indicates a different meaning:
2033 (1) MOTOR VEHICLE.—Every self-propelled vehicle which is
2034 designed and required to be licensed for use upon a highway,
2035 including trailers and semitrailers designed for use with such
2036 vehicles, except traction engines, road rollers, farm tractors,
2037 power shovels, and well drillers, and every vehicle which is
2038 propelled by electric power obtained from overhead wires but not
2039 operated upon rails, but not including any bicycle or moped.
2040 However, the term "motor vehicle" does ~~shall~~ not include any
2041 motor vehicle as defined in s. 627.732(3) or s. 627.7482, as

2042 applicable, when the owner of such vehicle has complied with the
2043 requirements of ss. 627.730-627.7405 or ss. 627.748-627.7491, as
2044 applicable, inclusive, unless ~~the provisions of~~ s. 324.051
2045 applies ~~apply~~; and, in such case, the applicable proof of
2046 insurance provisions of s. 320.02 apply.
2047 (9) OWNER; OWNER/LESSOR.—
2048 (c) Application.—
2049 1. The limits on liability in subparagraphs (b)2. and 3.
2050 do not apply to an owner of motor vehicles that are used for
2051 commercial activity in the owner's ordinary course of business,
2052 other than a rental company that rents or leases motor vehicles.
2053 For purposes of this paragraph, the term "rental company"
2054 includes only an entity that is engaged in the business of
2055 renting or leasing motor vehicles to the general public and that
2056 rents or leases a majority of its motor vehicles to persons with
2057 no direct or indirect affiliation with the rental company. The
2058 term also includes a motor vehicle dealer that provides
2059 temporary replacement vehicles to its customers for up to 10
2060 days. The term "rental company" also includes:
2061 a. A related rental or leasing company that is a
2062 subsidiary of the same parent company as that of the renting or
2063 leasing company that rented or leased the vehicle.
2064 b. The holder of a motor vehicle title or an equity
2065 interest in a motor vehicle title if the title or equity
2066 interest is held pursuant to or to facilitate an asset-backed
2067 securitization of a fleet of motor vehicles used solely in the
2068 business of renting or leasing motor vehicles to the general
2069 public and under the dominion and control of a rental company,

2070 as described in this subparagraph, in the operation of such
2071 rental company's business.
2072 2. Furthermore, with respect to commercial motor vehicles
2073 as defined in s. 627.732 or s. 627.7482, as applicable, the
2074 limits on liability in subparagraphs (b)2. and 3. do not apply
2075 if, at the time of the incident, the commercial motor vehicle is
2076 being used in the transportation of materials found to be
2077 hazardous for the purposes of the Hazardous Materials
2078 Transportation Authorization Act of 1994, as amended, 49 U.S.C.
2079 ss. 5101 et seq., and that is required pursuant to such act to
2080 carry placards warning others of the hazardous cargo, unless at
2081 the time of lease or rental either:
2082 a. The lessee indicates in writing that the vehicle will
2083 not be used to transport materials found to be hazardous for the
2084 purposes of the Hazardous Materials Transportation Authorization
2085 Act of 1994, as amended, 49 U.S.C. ss. 5101 et seq.; or
2086 b. The lessee or other operator of the commercial motor
2087 vehicle has in effect insurance with limits of at least
2088 $5,000,000 combined property damage and bodily injury liability.
2089 Section 25. Section 324.0221, Florida Statutes, is amended
2090 to read:
2091 324.0221 Reports by insurers to the department; suspension
2092 of driver ~~driver's~~ license and vehicle registrations;
2093 reinstatement.—
2094 (1)(a) Each insurer that has issued a policy providing
2095 personal injury protection or medical care coverage or property
2096 damage liability coverage shall report the renewal,
2097 cancellation, or nonrenewal thereof to the department within 45

2098 days after the effective date of each renewal, cancellation, or
2099 nonrenewal. Upon the issuance of a policy providing personal
2100 injury protection or medical care coverage or property damage
2101 liability coverage to a named insured not previously insured by
2102 the insurer during that calendar year, the insurer shall report
2103 the issuance of the new policy to the department within 30 days.
2104 The report shall be in the form and format and contain any
2105 information required by the department and must be provided in a
2106 format that is compatible with the data processing capabilities
2107 of the department. The department may adopt rules regarding the
2108 form and documentation required. Failure by an insurer to file
2109 proper reports with the department as required by this
2110 subsection or rules adopted with respect to the requirements of
2111 this subsection constitutes a violation of the Florida Insurance
2112 Code. These records shall be used by the department only for
2113 enforcement and regulatory purposes, including the generation by
2114 the department of data regarding compliance by owners of motor
2115 vehicles with the requirements for financial responsibility
2116 coverage.

2117 (b) With respect to an insurance policy providing personal
2118 injury protection or medical care coverage or property damage
2119 liability coverage, each insurer shall notify the named insured,
2120 or the first-named insured in the case of a commercial fleet
2121 policy, in writing that any cancellation or nonrenewal of the
2122 policy will be reported by the insurer to the department. The
2123 notice must also inform the named insured that failure to
2124 maintain personal injury protection or medical care coverage and
2125 property damage liability coverage on a motor vehicle when

2126 required by law may result in the loss of registration and
2127 driving privileges in this state and inform the named insured of
2128 the amount of the reinstatement fees required by this section.
2129 This notice is for informational purposes only, and an insurer
2130 is not civilly liable for failing to provide this notice.
2131 (2) The department shall suspend, after due notice and an
2132 opportunity to be heard, the registration and driver ~~driver's~~
2133 license of any owner or registrant of a motor vehicle with
2134 respect to which security is required under s. ~~ss.~~ 324.022 and
2135 either s. 627.733 or s. 627.7483, as applicable, upon:
2136 (a) The department's records showing that the owner or
2137 registrant of such motor vehicle did not have in full force and
2138 effect when required security that complies with the
2139 requirements of s. ~~ss.~~ 324.022 and either s. 627.733 or s.
2140 627.7483, as applicable; or
2141 (b) Notification by the insurer to the department, in a
2142 form approved by the department, of cancellation or termination
2143 of the required security.
2144 (3) An operator or owner whose driver ~~driver's~~ license or
2145 registration has been suspended under this section or s. 316.646
2146 may effect its reinstatement upon compliance with the
2147 requirements of this section and upon payment to the department
2148 of a nonrefundable reinstatement fee of $150 for the first
2149 reinstatement. The reinstatement fee is $250 for the second
2150 reinstatement and $500 for each subsequent reinstatement during
2151 the 3 years following the first reinstatement. A person
2152 reinstating her or his insurance under this subsection must also
2153 secure noncancelable coverage as described in ss. 324.021(8),

2154 324.023, and 627.7275(2) and present to the appropriate person
2155 proof that the coverage is in force on a form adopted by the
2156 department, and such proof shall be maintained for 2 years. If
2157 the person does not have a second reinstatement within 3 years
2158 after her or his initial reinstatement, the reinstatement fee is
2159 $150 for the first reinstatement after that 3-year period. If a
2160 person's license and registration are suspended under this
2161 section or s. 316.646, only one reinstatement fee must be paid
2162 to reinstate the license and the registration. All fees shall be
2163 collected by the department at the time of reinstatement. The
2164 department shall issue proper receipts for such fees and shall
2165 promptly deposit those fees in the Highway Safety Operating
2166 Trust Fund. One-third of the fees collected under this
2167 subsection shall be distributed from the Highway Safety
2168 Operating Trust Fund to the local governmental entity or state
2169 agency that employed the law enforcement officer seizing the
2170 license plate pursuant to s. 324.201. The funds may be used by
2171 the local governmental entity or state agency for any authorized
2172 purpose.
2173 Section 26. Paragraph (a) of subsection (1) of section
2174 324.032, Florida Statutes, is amended to read:
2175 324.032 Manner of proving financial responsibility; for-
2176 hire passenger transportation vehicles.—Notwithstanding the
2177 provisions of s. 324.031:
2178 (1)(a) A person who is either the owner or a lessee
2179 required to maintain insurance under s. 627.733(1)(b) or s.
2180 627.7483(1)(b), as applicable, and who operates one or more
2181 taxicabs, limousines, jitneys, or any other for-hire passenger

2182 transportation vehicles may prove financial responsibility by
2183 furnishing satisfactory evidence of holding a motor vehicle
2184 liability policy, but with minimum limits of
2185 $125,000/250,000/50,000.
2186
2187 Upon request by the department, the applicant must provide the
2188 department at the applicant's principal place of business in
2189 this state access to the applicant's underlying financial
2190 information and financial statements that provide the basis of
2191 the certified public accountant's certification. The applicant
2192 shall reimburse the requesting department for all reasonable
2193 costs incurred by it in reviewing the supporting information.
2194 The maximum amount of self-insurance permissible under this
2195 subsection is $300,000 and must be stated on a per-occurrence
2196 basis, and the applicant shall maintain adequate excess
2197 insurance issued by an authorized or eligible insurer licensed
2198 or approved by the Office of Insurance Regulation. All risks
2199 self-insured shall remain with the owner or lessee providing it,
2200 and the risks are not transferable to any other person, unless a
2201 policy complying with subsection (1) is obtained.
2202 Section 27. Subsection (2) of section 324.171, Florida
2203 Statutes, is amended to read:
2204 324.171 Self-insurer.—
2205 (2) The self-insurance certificate shall provide limits of
2206 liability insurance in the amounts specified under s. 324.021(7)
2207 or s. 627.7415 and shall provide personal injury protection or
2208 medical care coverage under s. 627.733(3)(b) or s.
2209 627.7483(3)(b), as applicable.

2210 Section 28. Paragraph (g) of subsection (1) of section
2211 400.9935, Florida Statutes, is amended to read:
2212 400.9935 Clinic responsibilities.—
2213 (1) Each clinic shall appoint a medical director or clinic
2214 director who shall agree in writing to accept legal
2215 responsibility for the following activities on behalf of the
2216 clinic. The medical director or the clinic director shall:
2217 (g) Conduct systematic reviews of clinic billings to
2218 ensure that the billings are not fraudulent or unlawful. Upon
2219 discovery of an unlawful charge, the medical director or clinic
2220 director shall take immediate corrective action. If the clinic
2221 performs only the technical component of magnetic resonance
2222 imaging, static radiographs, computed tomography, or positron
2223 emission tomography, and provides the professional
2224 interpretation of such services, in a fixed facility that is
2225 accredited by the Joint Commission on Accreditation of
2226 Healthcare Organizations or the Accreditation Association for
2227 Ambulatory Health Care, and the American College of Radiology;
2228 and if, in the preceding quarter, the percentage of scans
2229 performed by that clinic which was billed to all personal injury
2230 protection insurance or medical care coverage insurance carriers
2231 was less than 15 percent, the chief financial officer of the
2232 clinic may, in a written acknowledgment provided to the agency,
2233 assume the responsibility for the conduct of the systematic
2234 reviews of clinic billings to ensure that the billings are not
2235 fraudulent or unlawful.
2236 Section 29. Subsection (28) of section 409.901, Florida
2237 Statutes, is amended to read:

2238 409.901 Definitions; ss. 409.901-409.920.—As used in ss.
2239 409.901-409.920, except as otherwise specifically provided, the
2240 term:
2241 (28) "Third-party benefit" means any benefit that is or
2242 may be available at any time through contract, court award,
2243 judgment, settlement, agreement, or any arrangement between a
2244 third party and any person or entity, including, without
2245 limitation, a Medicaid recipient, a provider, another third
2246 party, an insurer, or the agency, for any Medicaid-covered
2247 injury, illness, goods, or services, including costs of medical
2248 services related thereto, for personal injury or for death of
2249 the recipient, but specifically excluding policies of life
2250 insurance on the recipient, unless available under terms of the
2251 policy to pay medical expenses prior to death. The term
2252 includes, without limitation, collateral, as defined in this
2253 section, health insurance, any benefit under a health
2254 maintenance organization, a preferred provider arrangement, a
2255 prepaid health clinic, liability insurance, uninsured motorist
2256 insurance or personal injury protection <u>or medical care</u>
2257 coverage, medical benefits under workers' compensation, and any
2258 obligation under law or equity to provide medical support.
2259 Section 30. Paragraph (f) of subsection (11) of section
2260 409.910, Florida Statutes, is amended to read:
2261 409.910 Responsibility for payments on behalf of Medicaid-
2262 eligible persons when other parties are liable.—
2263 (11) The agency may, as a matter of right, in order to
2264 enforce its rights under this section, institute, intervene in,
2265 or join any legal or administrative proceeding in its own name

CODING: Words ~~stricken~~ are deletions; words <u>underlined</u> are additions.

2266 in one or more of the following capacities: individually, as
2267 subrogee of the recipient, as assignee of the recipient, or as
2268 lienholder of the collateral.
2269 (f) Notwithstanding any provision in this section to the
2270 contrary, in the event of an action in tort against a third
2271 party in which the recipient or his or her legal representative
2272 is a party which results in a judgment, award, or settlement
2273 from a third party, the amount recovered shall be distributed as
2274 follows:
2275 1. After attorney ~~attorney's~~ fees and taxable costs as
2276 defined by the Florida Rules of Civil Procedure, one-half of the
2277 remaining recovery shall be paid to the agency up to the total
2278 amount of medical assistance provided by Medicaid.
2279 2. The remaining amount of the recovery shall be paid to
2280 the recipient.
2281 3. For purposes of calculating the agency's recovery of
2282 medical assistance benefits paid, the fee for services of an
2283 attorney retained by the recipient or his or her legal
2284 representative shall be calculated at 25 percent of the
2285 judgment, award, or settlement.
2286 4. Notwithstanding any provision of this section to the
2287 contrary, the agency shall be entitled to all medical coverage
2288 benefits up to the total amount of medical assistance provided
2289 by Medicaid. For purposes of this paragraph, "medical coverage"
2290 means any benefits under health insurance, a health maintenance
2291 organization, a preferred provider arrangement, or a prepaid
2292 health clinic, and the portion of benefits designated for
2293 medical payments under coverage for workers' compensation,

2294 medical care, personal injury protection, and casualty.
2295 Section 31. Paragraph (k) of subsection (2) of section
2296 456.057, Florida Statutes, is amended to read:
2297 456.057 Ownership and control of patient records; report
2298 or copies of records to be furnished.—
2299 (2) As used in this section, the terms "records owner,"
2300 "health care practitioner," and "health care practitioner's
2301 employer" do not include any of the following persons or
2302 entities; furthermore, the following persons or entities are not
2303 authorized to acquire or own medical records, but are authorized
2304 under the confidentiality and disclosure requirements of this
2305 section to maintain those documents required by the part or
2306 chapter under which they are licensed or regulated:
2307 (k) Persons or entities practicing under s. 627.736(7) or
2308 s. 627.7485(7), as applicable.
2309 Section 32. Paragraphs (ee) and (ff) of subsection (1) of
2310 section 456.072, Florida Statutes, are amended to read:
2311 456.072 Grounds for discipline; penalties; enforcement.—
2312 (1) The following acts shall constitute grounds for which
2313 the disciplinary actions specified in subsection (2) may be
2314 taken:
2315 (ee) With respect to making a personal injury protection
2316 or a medical care coverage claim as required by s. 627.736 or s.
2317 627.7485, respectively, intentionally submitting a claim,
2318 statement, or bill that has been "upcoded" as defined in s.
2319 627.732 or s. 627.7482, as applicable.
2320 (ff) With respect to making a personal injury protection
2321 or a medical care coverage claim as required by s. 627.736 or s.

2322 627.7485, respectively, intentionally submitting a claim,
2323 statement, or bill for payment of services that were not
2324 rendered.
2325 Section 33. Paragraph (o) of subsection (1) of section
2326 626.9541, Florida Statutes, is amended to read:
2327 626.9541 Unfair methods of competition and unfair or
2328 deceptive acts or practices defined.—
2329 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE
2330 ACTS.—The following are defined as unfair methods of competition
2331 and unfair or deceptive acts or practices:
2332 (o) Illegal dealings in premiums; excess or reduced
2333 charges for insurance.—
2334 1. Knowingly collecting any sum as a premium or charge for
2335 insurance, which is not then provided, or is not in due course
2336 to be provided, subject to acceptance of the risk by the
2337 insurer, by an insurance policy issued by an insurer as
2338 permitted by this code.
2339 2. Knowingly collecting as a premium or charge for
2340 insurance any sum in excess of or less than the premium or
2341 charge applicable to such insurance, in accordance with the
2342 applicable classifications and rates as filed with and approved
2343 by the office, and as specified in the policy; or, in cases when
2344 classifications, premiums, or rates are not required by this
2345 code to be so filed and approved, premiums and charges collected
2346 from a Florida resident in excess of or less than those
2347 specified in the policy and as fixed by the insurer. This
2348 provision may ~~shall~~ not be deemed to prohibit the charging and
2349 collection, by surplus lines agents licensed under part VIII of

2350 this chapter, of the amount of applicable state and federal
2351 taxes, or fees as authorized by s. 626.916(4), in addition to
2352 the premium required by the insurer or the charging and
2353 collection, by licensed agents, of the exact amount of any
2354 discount or other such fee charged by a credit card facility in
2355 connection with the use of a credit card, as authorized by
2356 subparagraph (q)3., in addition to the premium required by the
2357 insurer. This subparagraph may ~~shall~~ not be construed to
2358 prohibit collection of a premium for a universal life or a
2359 variable or indeterminate value insurance policy made in
2360 accordance with the terms of the contract.
2361 3.a. Imposing or requesting an additional premium for a
2362 policy of motor vehicle liability, medical care coverage,
2363 personal injury protection, medical payment, or collision
2364 insurance or any combination thereof or refusing to renew the
2365 policy solely because the insured was involved in a motor
2366 vehicle accident unless the insurer's file contains information
2367 from which the insurer in good faith determines that the insured
2368 was substantially at fault in the accident.
2369 b. An insurer which imposes and collects such a surcharge
2370 or which refuses to renew such policy shall, in conjunction with
2371 the notice of premium due or notice of nonrenewal, notify the
2372 named insured that he or she is entitled to reimbursement of
2373 such amount or renewal of the policy under the conditions listed
2374 below and will subsequently reimburse him or her or renew the
2375 policy, if the named insured demonstrates that the operator
2376 involved in the accident was:
2377 (I) Lawfully parked;

2378 (II) Reimbursed by, or on behalf of, a person responsible
2379 for the accident or has a judgment against such person;
2380 (III) Struck in the rear by another vehicle headed in the
2381 same direction and was not convicted of a moving traffic
2382 violation in connection with the accident;
2383 (IV) Hit by a "hit-and-run" driver, if the accident was
2384 reported to the proper authorities within 24 hours after
2385 discovering the accident;
2386 (V) Not convicted of a moving traffic violation in
2387 connection with the accident, but the operator of the other
2388 automobile involved in such accident was convicted of a moving
2389 traffic violation;
2390 (VI) Finally adjudicated not to be liable by a court of
2391 competent jurisdiction;
2392 (VII) In receipt of a traffic citation which was dismissed
2393 or nolle prossed; or
2394 (VIII) Not at fault as evidenced by a written statement
2395 from the insured establishing facts demonstrating lack of fault
2396 which are not rebutted by information in the insurer's file from
2397 which the insurer in good faith determines that the insured was
2398 substantially at fault.
2399 c. In addition to the other provisions of this
2400 subparagraph, an insurer may not fail to renew a policy if the
2401 insured has had only one accident in which he or she was at
2402 fault within the current 3-year period. However, an insurer may
2403 nonrenew a policy for reasons other than accidents in accordance
2404 with s. 627.728. This subparagraph does not prohibit nonrenewal
2405 of a policy under which the insured has had three or more

2406 accidents, regardless of fault, during the most recent 3-year
2407 period.
2408 4. Imposing or requesting an additional premium for, or
2409 refusing to renew, a policy for motor vehicle insurance solely
2410 because the insured committed a noncriminal traffic infraction
2411 as described in s. 318.14 unless the infraction is:
2412 a. A second infraction committed within an 18-month
2413 period, or a third or subsequent infraction committed within a
2414 36-month period.
2415 b. A violation of s. 316.183, when such violation is a
2416 result of exceeding the lawful speed limit by more than 15 miles
2417 per hour.
2418 5. Upon the request of the insured, the insurer and
2419 licensed agent shall supply to the insured the complete proof of
2420 fault or other criteria which justifies the additional charge or
2421 cancellation.
2422 6. No insurer shall impose or request an additional
2423 premium for motor vehicle insurance, cancel or refuse to issue a
2424 policy, or refuse to renew a policy because the insured or the
2425 applicant is a handicapped or physically disabled person, so
2426 long as such handicap or physical disability does not
2427 substantially impair such person's mechanically assisted driving
2428 ability.
2429 7. No insurer may cancel or otherwise terminate any
2430 insurance contract or coverage, or require execution of a
2431 consent to rate endorsement, during the stated policy term for
2432 the purpose of offering to issue, or issuing, a similar or
2433 identical contract or coverage to the same insured with the same

2434 exposure at a higher premium rate or continuing an existing
2435 contract or coverage with the same exposure at an increased
2436 premium.
2437 8. No insurer may issue a nonrenewal notice on any
2438 insurance contract or coverage, or require execution of a
2439 consent to rate endorsement, for the purpose of offering to
2440 issue, or issuing, a similar or identical contract or coverage
2441 to the same insured at a higher premium rate or continuing an
2442 existing contract or coverage at an increased premium without
2443 meeting any applicable notice requirements.
2444 9. No insurer shall, with respect to premiums charged for
2445 motor vehicle insurance, unfairly discriminate solely on the
2446 basis of age, sex, marital status, or scholastic achievement.
2447 10. Imposing or requesting an additional premium for motor
2448 vehicle comprehensive or uninsured motorist coverage solely
2449 because the insured was involved in a motor vehicle accident or
2450 was convicted of a moving traffic violation.
2451 11. No insurer shall cancel or issue a nonrenewal notice
2452 on any insurance policy or contract without complying with any
2453 applicable cancellation or nonrenewal provision required under
2454 the Florida Insurance Code.
2455 12. No insurer shall impose or request an additional
2456 premium, cancel a policy, or issue a nonrenewal notice on any
2457 insurance policy or contract because of any traffic infraction
2458 when adjudication has been withheld and no points have been
2459 assessed pursuant to s. 318.14(9) and (10). However, this
2460 subparagraph does not apply to traffic infractions involving
2461 accidents in which the insurer has incurred a loss due to the

2462 fault of the insured.
2463 Section 34. Subsection (1) of section 627.06501, Florida
2464 Statutes, is amended to read:
2465 627.06501 Insurance discounts for certain persons
2466 completing driver improvement course.—
2467 (1) Any rate, rating schedule, or rating manual for the
2468 liability, medical care, personal injury protection, and
2469 collision coverages of a motor vehicle insurance policy filed
2470 with the office may provide for an appropriate reduction in
2471 premium charges as to such coverages when the principal operator
2472 on the covered vehicle has successfully completed a driver
2473 improvement course approved and certified by the Department of
2474 Highway Safety and Motor Vehicles which is effective in reducing
2475 crash or violation rates, or both, as determined pursuant to s.
2476 318.1451(5). Any discount, not to exceed 10 percent, used by an
2477 insurer is presumed to be appropriate unless credible data
2478 demonstrates otherwise.
2479 Section 35. Subsection (1) of section 627.0652, Florida
2480 Statutes, is amended to read:
2481 627.0652 Insurance discounts for certain persons
2482 completing safety course.—
2483 (1) Any rates, rating schedules, or rating manuals for the
2484 liability, medical care, personal injury protection, and
2485 collision coverages of a motor vehicle insurance policy filed
2486 with the office shall provide for an appropriate reduction in
2487 premium charges as to such coverages when the principal operator
2488 on the covered vehicle is an insured 55 years of age or older
2489 who has successfully completed a motor vehicle accident

2490 prevention course approved by the Department of Highway Safety
2491 and Motor Vehicles. Any discount used by an insurer is presumed
2492 to be appropriate unless credible data demonstrates otherwise.
2493 Section 36. Subsections (1) and (3) of section 627.0653,
2494 Florida Statutes, are amended to read:
2495 627.0653 Insurance discounts for specified motor vehicle
2496 equipment.—
2497 (1) Any rates, rating schedules, or rating manuals for the
2498 liability, medical care, personal injury protection, and
2499 collision coverages of a motor vehicle insurance policy filed
2500 with the office shall provide a premium discount if the insured
2501 vehicle is equipped with factory-installed, four-wheel antilock
2502 brakes.
2503 (3) Any rates, rating schedules, or rating manuals for
2504 medical care coverage, personal injury protection coverage, and
2505 medical payments coverage, if offered, of a motor vehicle
2506 insurance policy filed with the office shall provide a premium
2507 discount if the insured vehicle is equipped with one or more air
2508 bags which are factory installed.
2509 Section 37. Section 627.4132, Florida Statutes, is amended
2510 to read:
2511 627.4132 Stacking of coverages prohibited.—If an insured
2512 or named insured is protected by any type of motor vehicle
2513 insurance policy for liability, medical care, personal injury
2514 protection, or other coverage, the policy shall provide that the
2515 insured or named insured is protected only to the extent of the
2516 coverage she or he has on the vehicle involved in the accident.
2517 However, if none of the insured's or named insured's vehicles is

2518 involved in the accident, coverage is available only to the
2519 extent of coverage on any one of the vehicles with applicable
2520 coverage. Coverage on any other vehicles may ~~shall~~ not be added
2521 to or stacked upon that coverage. This section does not apply:
2522 (1) To uninsured motorist coverage which is separately
2523 governed by s. 627.727.
2524 (2) To reduce the coverage available by reason of
2525 insurance policies insuring different named insureds.
2526 Section 38. Subsection (6) of section 627.6482, Florida
2527 Statutes, is amended to read:
2528 627.6482 Definitions.—As used in ss. 627.648-627.6498, the
2529 term:
2530 (6) "Health insurance" means any hospital and medical
2531 expense incurred policy, minimum premium plan, stop-loss
2532 coverage, health maintenance organization contract, prepaid
2533 health clinic contract, multiple-employer welfare arrangement
2534 contract, or fraternal benefit society health benefits contract,
2535 whether sold as an individual or group policy or contract. The
2536 term does not include any policy covering medical payment
2537 coverage or medical care or personal injury protection coverage
2538 in a motor vehicle policy, coverage issued as a supplement to
2539 liability insurance, or workers' compensation.
2540 Section 39. Section 627.7263, Florida Statutes, is amended
2541 to read:
2542 627.7263 Rental and leasing driver ~~driver's~~ insurance to
2543 be primary; exception.—
2544 (1) The valid and collectible liability insurance, medical
2545 care coverage insurance, or personal injury protection insurance

2546 providing coverage for the lessor of a motor vehicle for rent or
2547 lease is primary unless otherwise stated in at least 10-point
2548 type on the face of the rental or lease agreement. Such
2549 insurance is primary for the limits of liability and personal
2550 injury protection or medical care coverage as required by s. ~~ss.~~
2551 324.021(7) and either s. 627.736 or s. 627.7485, as applicable.
2552 (2) If the lessee's coverage is to be primary, the rental
2553 or lease agreement must contain the following language, in at
2554 least 10-point type:
2555
2556 "The valid and collectible liability insurance and personal
2557 injury protection insurance or medical care coverage
2558 insurance, as applicable, of any authorized rental or
2559 leasing driver is primary for the limits of liability and
2560 personal injury protection or medical care coverage, as
2561 applicable, required by s. ~~ss.~~ 324.021(7) and either s.
2562 627.736 or s. 627.7485, Florida Statutes, as applicable."
2563
2564 Section 40. Subsections (1) and (7) of section 627.727,
2565 Florida Statutes, are amended to read:
2566 627.727 Motor vehicle insurance; uninsured and
2567 underinsured vehicle coverage; insolvent insurer protection.—
2568 (1) No motor vehicle liability insurance policy which
2569 provides bodily injury liability coverage shall be delivered or
2570 issued for delivery in this state with respect to any
2571 specifically insured or identified motor vehicle registered or
2572 principally garaged in this state unless uninsured motor vehicle
2573 coverage is provided therein or supplemental thereto for the

2574 protection of persons insured thereunder who are legally
2575 entitled to recover damages from owners or operators of
2576 uninsured motor vehicles because of bodily injury, sickness, or
2577 disease, including death, resulting therefrom. However, the
2578 coverage required under this section is not applicable when, or
2579 to the extent that, an insured named in the policy makes a
2580 written rejection of the coverage on behalf of all insureds
2581 under the policy. When a motor vehicle is leased for a period of
2582 1 year or longer and the lessor of such vehicle, by the terms of
2583 the lease contract, provides liability coverage on the leased
2584 vehicle, the lessee of such vehicle shall have the sole
2585 privilege to reject uninsured motorist coverage or to select
2586 lower limits than the bodily injury liability limits, regardless
2587 of whether the lessor is qualified as a self-insurer pursuant to
2588 s. 324.171. Unless an insured, or lessee having the privilege of
2589 rejecting uninsured motorist coverage, requests such coverage or
2590 requests higher uninsured motorist limits in writing, the
2591 coverage or such higher uninsured motorist limits need not be
2592 provided in or supplemental to any other policy which renews,
2593 extends, changes, supersedes, or replaces an existing policy
2594 with the same bodily injury liability limits when an insured or
2595 lessee had rejected the coverage. When an insured or lessee has
2596 initially selected limits of uninsured motorist coverage lower
2597 than her or his bodily injury liability limits, higher limits of
2598 uninsured motorist coverage need not be provided in or
2599 supplemental to any other policy which renews, extends, changes,
2600 supersedes, or replaces an existing policy with the same bodily
2601 injury liability limits unless an insured requests higher

2602 uninsured motorist coverage in writing. The rejection or
2603 selection of lower limits shall be made on a form approved by
2604 the office. The form shall fully advise the applicant of the
2605 nature of the coverage and shall state that the coverage is
2606 equal to bodily injury liability limits unless lower limits are
2607 requested or the coverage is rejected. The heading of the form
2608 shall be in 12-point bold type and shall state: "You are
2609 electing not to purchase certain valuable coverage which
2610 protects you and your family or you are purchasing uninsured
2611 motorist limits less than your bodily injury liability limits
2612 when you sign this form. Please read carefully." If this form is
2613 signed by a named insured, it will be conclusively presumed that
2614 there was an informed, knowing rejection of coverage or election
2615 of lower limits on behalf of all insureds. The insurer shall
2616 notify the named insured at least annually of her or his options
2617 as to the coverage required by this section. Such notice shall
2618 be part of, and attached to, the notice of premium, shall
2619 provide for a means to allow the insured to request such
2620 coverage, and shall be given in a manner approved by the office.
2621 Receipt of this notice does not constitute an affirmative waiver
2622 of the insured's right to uninsured motorist coverage where the
2623 insured has not signed a selection or rejection form. The
2624 coverage described under this section shall be over and above,
2625 but may ~~shall~~ not duplicate, the benefits available to an
2626 insured under any workers' compensation law, medical care
2627 coverage or personal injury protection benefits, disability
2628 benefits law, or similar law; under any automobile medical
2629 expense coverage; under any motor vehicle liability insurance

2630 coverage; or from the owner or operator of the uninsured motor
2631 vehicle or any other person or organization jointly or severally
2632 liable together with such owner or operator for the accident;
2633 and such coverage shall cover the difference, if any, between
2634 the sum of such benefits and the damages sustained, up to the
2635 maximum amount of such coverage provided under this section. The
2636 amount of coverage available under this section may ~~shall~~ not be
2637 reduced by a setoff against any coverage, including liability
2638 insurance. Such coverage may ~~shall~~ not inure directly or
2639 indirectly to the benefit of any workers' compensation or
2640 disability benefits carrier or any person or organization
2641 qualifying as a self-insurer under any workers' compensation or
2642 disability benefits law or similar law.
2643 (7) The legal liability of an uninsured motorist coverage
2644 insurer does not include damages in tort for pain, suffering,
2645 mental anguish, and inconvenience unless the injury or disease
2646 is described in one or more of paragraphs (a)-(d) of s.
2647 627.737(2) or one or more of paragraphs (a)-(d) of s.
2648 627.7486(2), as applicable.
2649 Section 41. Subsection (1) of section 627.7275, Florida
2650 Statutes, is amended to read:
2651 627.7275 Motor vehicle liability.—
2652 (1) A motor vehicle insurance policy providing personal
2653 injury protection as set forth in s. 627.736 or medical care
2654 coverage as set forth in s. 627.7485 may not be delivered or
2655 issued for delivery in this state with respect to any
2656 specifically insured or identified motor vehicle registered or
2657 principally garaged in this state unless the policy also

2658 provides coverage for property damage liability as required by
2659 s. 324.022.
2660 Section 42. Paragraph (a) of subsection (1) of section
2661 627.728, Florida Statutes, is amended to read:
2662 627.728 Cancellations; nonrenewals.—
2663 (1) As used in this section, the term:
2664 (a) "Policy" means the bodily injury and property damage
2665 liability, medical care, personal injury protection, medical
2666 payments, comprehensive, collision, and uninsured motorist
2667 coverage portions of a policy of motor vehicle insurance
2668 delivered or issued for delivery in this state:
2669 1. Insuring a natural person as named insured or one or
2670 more related individuals resident of the same household; and
2671 2. Insuring only a motor vehicle of the private passenger
2672 type or station wagon type which is not used as a public or
2673 livery conveyance for passengers or rented to others; or
2674 insuring any other four-wheel motor vehicle having a load
2675 capacity of 1,500 pounds or less which is not used in the
2676 occupation, profession, or business of the insured other than
2677 farming; other than any policy issued under an automobile
2678 insurance assigned risk plan; insuring more than four
2679 automobiles; or covering garage, automobile sales agency, repair
2680 shop, service station, or public parking place operation
2681 hazards.
2682
2683 The term "policy" does not include a binder as defined in s.
2684 627.420 unless the duration of the binder period exceeds 60
2685 days.

2686 Section 43. Subsection (1), paragraph (a) of subsection
2687 (5), and subsections (6) and (7) of section 627.7295, Florida
2688 Statutes, are amended to read:
2689 627.7295 Motor vehicle insurance contracts.—
2690 (1) As used in this section, the term:
2691 (a) "Policy" means a motor vehicle insurance policy that
2692 provides personal injury protection or medical care coverage,
2693 property damage liability coverage, or both.
2694 (b) "Binder" means a binder that provides motor vehicle
2695 personal injury protection or medical care coverage and property
2696 damage liability coverage.
2697 (5)(a) A licensed general lines agent may charge a per-
2698 policy fee not to exceed $10 to cover the administrative costs
2699 of the agent associated with selling the motor vehicle insurance
2700 policy if the policy covers only personal injury protection or
2701 medical care coverage as provided by s. 627.736 or s. 627.7485,
2702 as applicable, and property damage liability coverage as
2703 provided by s. 627.7275 and if no other insurance is sold or
2704 issued in conjunction with or collateral to the policy. The fee
2705 is not considered part of the premium.
2706 (6) If a motor vehicle owner's driver license, license
2707 plate, and registration have previously been suspended pursuant
2708 to s. 316.646, ~~or~~ s. 627.733, or s. 627.7483, an insurer may
2709 cancel a new policy only as provided in s. 627.7275.
2710 (7) A policy of private passenger motor vehicle insurance
2711 or a binder for such a policy may be initially issued in this
2712 state only if, before the effective date of such binder or
2713 policy, the insurer or agent has collected from the insured an

2714 amount equal to 2 months' premium. An insurer, agent, or premium
2715 finance company may not, directly or indirectly, take any action
2716 resulting in the insured having paid from the insured's own
2717 funds an amount less than the 2 months' premium required by this
2718 subsection. This subsection applies without regard to whether
2719 the premium is financed by a premium finance company or is paid
2720 pursuant to a periodic payment plan of an insurer or an
2721 insurance agent. This subsection does not apply if an insured or
2722 member of the insured's family is renewing or replacing a policy
2723 or a binder for such policy written by the same insurer or a
2724 member of the same insurer group. This subsection does not apply
2725 to an insurer that issues private passenger motor vehicle
2726 coverage primarily to active duty or former military personnel
2727 or their dependents. This subsection does not apply if all
2728 policy payments are paid pursuant to a payroll deduction plan or
2729 an automatic electronic funds transfer payment plan from the
2730 policyholder. This subsection and subsection (4) do not apply if
2731 all policy payments to an insurer are paid pursuant to an
2732 automatic electronic funds transfer payment plan from an agent,
2733 a managing general agent, or a premium finance company and if
2734 the policy includes, at a minimum, personal injury protection or
2735 medical care coverage pursuant to ss. 627.730-627.7405 or ss.
2736 627.748-627.7491, as applicable; motor vehicle property damage
2737 liability pursuant to s. 627.7275; and bodily injury liability
2738 in at least the amount of $10,000 because of bodily injury to,
2739 or death of, one person in any one accident and in the amount of
2740 $20,000 because of bodily injury to, or death of, two or more
2741 persons in any one accident. This subsection and subsection (4)

2742 do not apply if an insured has had a policy in effect for at
2743 least 6 months, the insured's agent is terminated by the insurer
2744 that issued the policy, and the insured obtains coverage on the
2745 policy's renewal date with a new company through the terminated
2746 agent.

2747 Section 44. Section 627.8405, Florida Statutes, is amended
2748 to read:

2749 627.8405 Prohibited acts; financing companies.—No premium
2750 finance company shall, in a premium finance agreement or other
2751 agreement, finance the cost of or otherwise provide for the
2752 collection or remittance of dues, assessments, fees, or other
2753 periodic payments of money for the cost of:

2754 (1) A membership in an automobile club. The term
2755 "automobile club" means a legal entity which, in consideration
2756 of dues, assessments, or periodic payments of money, promises
2757 its members or subscribers to assist them in matters relating to
2758 the ownership, operation, use, or maintenance of a motor
2759 vehicle; however, this definition of "automobile club" does not
2760 include persons, associations, or corporations which are
2761 organized and operated solely for the purpose of conducting,
2762 sponsoring, or sanctioning motor vehicle races, exhibitions, or
2763 contests upon racetracks, or upon racecourses established and
2764 marked as such for the duration of such particular events. The
2765 words "motor vehicle" used herein have the same meaning as
2766 defined in chapter 320.

2767 (2) An accidental death and dismemberment policy sold in
2768 combination with a personal injury protection and property
2769 damage only policy <u>or a medical care and property damage only</u>

2770 policy, as applicable.
2771 (3) Any product not regulated under ~~the provisions of~~ this
2772 insurance code.
2773
2774 This section also applies to premium financing by any insurance
2775 agent or insurance company under part XVI. The commission shall
2776 adopt rules to assure disclosure, at the time of sale, of
2777 coverages financed with personal injury protection or medical
2778 care coverage and shall prescribe the form of such disclosure.
2779 Section 45. Subsection (1) of section 627.915, Florida
2780 Statutes, is amended to read:
2781 627.915 Insurer experience reporting.—
2782 (1) Each insurer transacting private passenger automobile
2783 insurance in this state shall report certain information
2784 annually to the office. The information will be due on or before
2785 July 1 of each year. The information shall be divided into the
2786 following categories: bodily injury liability; property damage
2787 liability; uninsured motorist; medical care coverage or personal
2788 injury protection benefits; medical payments; comprehensive and
2789 collision. The information given shall be on direct insurance
2790 writings in the state alone and shall represent total limits
2791 data. The information set forth in paragraphs (a)-(f) is
2792 applicable to voluntary private passenger and Joint Underwriting
2793 Association private passenger writings and shall be reported for
2794 each of the latest 3 calendar-accident years, with an evaluation
2795 date of March 31 of the current year. The information set forth
2796 in paragraphs (g)-(j) is applicable to voluntary private
2797 passenger writings and shall be reported on a calendar-accident

2798 year basis ultimately seven times at seven different stages of
2799 development.
2800 (a) Premiums earned for the latest 3 calendar-accident
2801 years.
2802 (b) Loss development factors and the historic development
2803 of those factors.
2804 (c) Policyholder dividends incurred.
2805 (d) Expenses for other acquisition and general expense.
2806 (e) Expenses for agents' commissions and taxes, licenses,
2807 and fees.
2808 (f) Profit and contingency factors as utilized in the
2809 insurer's automobile rate filings for the applicable years.
2810 (g) Losses paid.
2811 (h) Losses unpaid.
2812 (i) Loss adjustment expenses paid.
2813 (j) Loss adjustment expenses unpaid.
2814 Section 46. Paragraph (d) of subsection (2) and paragraph
2815 (d) of subsection (3) of section 628.909, Florida Statutes, are
2816 amended to read:
2817 628.909 Applicability of other laws.—
2818 (2) The following provisions of the Florida Insurance Code
2819 shall apply to captive insurers who are not industrial insured
2820 captive insurers to the extent that such provisions are not
2821 inconsistent with this part:
2822 (d) Sections 627.730-627.7405 or ss. 627.748-627.7491, as
2823 applicable, when no-fault coverage is provided.
2824 (3) The following provisions of the Florida Insurance Code
2825 shall apply to industrial insured captive insurers to the extent

2826 that such provisions are not inconsistent with this part:
2827 (d) Sections 627.730-627.7405 or ss. 627.748-627.7491, as
2828 applicable, when no-fault coverage is provided.
2829 Section 47. Subsections (2) and (6) and paragraphs (a),
2830 (c), and (d) of subsection (7) of section 705.184, Florida
2831 Statutes, are amended to read:
2832 705.184 Derelict or abandoned motor vehicles on the
2833 premises of public-use airports.—
2834 (2) The airport director or the director's designee shall
2835 contact the Department of Highway Safety and Motor Vehicles to
2836 notify that department that the airport has possession of the
2837 abandoned or derelict motor vehicle and to determine the name
2838 and address of the owner of the motor vehicle, the insurance
2839 company insuring the motor vehicle, notwithstanding ~~the~~
2840 ~~provisions of~~ s. 627.736 or s. 627.7485, as applicable, and any
2841 person who has filed a lien on the motor vehicle. Within 7
2842 business days after receipt of the information, the director or
2843 the director's designee shall send notice by certified mail,
2844 return receipt requested, to the owner of the motor vehicle, the
2845 insurance company insuring the motor vehicle, notwithstanding
2846 ~~the provisions of~~ s. 627.736 or s. 627.7485, as applicable, and
2847 all persons of record claiming a lien against the motor vehicle.
2848 The notice shall state the fact of possession of the motor
2849 vehicle, that charges for reasonable towing, storage, and
2850 parking fees, if any, have accrued and the amount thereof, that
2851 a lien as provided in subsection (6) will be claimed, that the
2852 lien is subject to enforcement pursuant to law, that the owner
2853 or lienholder, if any, has the right to a hearing as set forth

2854 in subsection (4), and that any motor vehicle which, at the end
2855 of 30 calendar days after receipt of the notice, has not been
2856 removed from the airport upon payment in full of all accrued
2857 charges for reasonable towing, storage, and parking fees, if
2858 any, may be disposed of as provided in s. 705.182(2)(a), (b),
2859 (d), or (e), including, but not limited to, the motor vehicle
2860 being sold free of all prior liens after 35 calendar days after
2861 the time the motor vehicle is stored if any prior liens on the
2862 motor vehicle are more than 5 years of age or after 50 calendar
2863 days after the time the motor vehicle is stored if any prior
2864 liens on the motor vehicle are 5 years of age or less.
2865 (6) The airport pursuant to this section or, if used, a
2866 licensed independent wrecker company pursuant to s. 713.78 shall
2867 have a lien on an abandoned or derelict motor vehicle for all
2868 reasonable towing, storage, and accrued parking fees, if any,
2869 except that no storage fee shall be charged if the motor vehicle
2870 is stored less than 6 hours. As a prerequisite to perfecting a
2871 lien under this section, the airport director or the director's
2872 designee must serve a notice in accordance with subsection (2)
2873 on the owner of the motor vehicle, the insurance company
2874 insuring the motor vehicle, notwithstanding ~~the provisions of~~ s.
2875 627.736 or s. 627.7485, as applicable, and all persons of record
2876 claiming a lien against the motor vehicle. If attempts to notify
2877 the owner, the insurance company insuring the motor vehicle,
2878 notwithstanding ~~the provisions of~~ s. 627.736 or s. 627.7485, as
2879 applicable, or lienholders are not successful, the requirement
2880 of notice by mail shall be considered met. Serving of the notice
2881 does not dispense with recording the claim of lien.

2882 (7)(a) For the purpose of perfecting its lien under this
2883 section, the airport shall record a claim of lien which shall
2884 state:
2885 1. The name and address of the airport.
2886 2. The name of the owner of the motor vehicle, the
2887 insurance company insuring the motor vehicle, notwithstanding
2888 ~~the provisions of~~ s. 627.736 or s. 627.7485, as applicable, and
2889 all persons of record claiming a lien against the motor vehicle.
2890 3. The costs incurred from reasonable towing, storage, and
2891 parking fees, if any.
2892 4. A description of the motor vehicle sufficient for
2893 identification.
2894 (c) The claim of lien shall be sufficient if it is in
2895 substantially the following form:
2896 CLAIM OF LIEN
2897 State of ....
2898 County of ....
2899 Before me, the undersigned notary public, personally appeared
2900 ...., who was duly sworn and says that he/she is the
2901 .... of ...., whose address is........; and that the
2902 following described motor vehicle:
2903 ...(Description of motor vehicle)...
2904 owned by ...., whose address is ...., has accrued
2905 $........ in fees for a reasonable tow, for storage, and for
2906 parking, if applicable; that the lienor served its notice to the
2907 owner, the insurance company insuring the motor vehicle
2908 notwithstanding ~~the provisions of~~ s. 627.736 or s. 627.7485,
2909 Florida Statutes, as applicable, and all persons of record

2910 claiming a lien against the motor vehicle on ...., ...(year)...,
2911 by.........
2912 ...(Signature)...
2913 Sworn to (or affirmed) and subscribed before me this .... day of
2914 ...., ...(year)..., by ...(name of person making statement)....
2915 ...(Signature of Notary Public)......(Print, Type, or Stamp
2916 Commissioned name of Notary Public)...
2917 Personally Known....OR Produced....as identification.
2918
2919 However, the negligent inclusion or omission of any information
2920 in this claim of lien which does not prejudice the owner does
2921 not constitute a default that operates to defeat an otherwise
2922 valid lien.
2923 (d) The claim of lien shall be served on the owner of the
2924 motor vehicle, the insurance company insuring the motor vehicle,
2925 notwithstanding ~~the provisions of~~ s. 627.736 or s. 627.7485, as
2926 applicable, when no-fault coverage is provided, and all persons
2927 of record claiming a lien against the motor vehicle. If attempts
2928 to notify the owner, the insurance company insuring the motor
2929 vehicle notwithstanding ~~the provisions of~~ s. 627.736 or s.
2930 627.7485, as applicable, when no-fault coverage is provided, or
2931 lienholders are not successful, the requirement of notice by
2932 mail shall be considered met. The claim of lien shall be so
2933 served before recordation.
2934 Section 48. Paragraphs (a), (b), and (c) of subsection (4)
2935 of section 713.78, Florida Statutes, are amended to read:
2936 713.78 Liens for recovering, towing, or storing vehicles
2937 and vessels.—

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

2938 (4)(a) Any person regularly engaged in the business of
2939 recovering, towing, or storing vehicles or vessels who comes
2940 into possession of a vehicle or vessel pursuant to subsection
2941 (2), and who claims a lien for recovery, towing, or storage
2942 services, shall give notice to the registered owner, the
2943 insurance company insuring the vehicle notwithstanding ~~the~~
2944 ~~provisions of~~ s. 627.736 <u>or s. 627.7485, as applicable</u>, and to
2945 all persons claiming a lien thereon, as disclosed by the records
2946 in the Department of Highway Safety and Motor Vehicles or of a
2947 corresponding agency in any other state.

2948 (b) Whenever any law enforcement agency authorizes the
2949 removal of a vehicle or vessel or whenever any towing service,
2950 garage, repair shop, or automotive service, storage, or parking
2951 place notifies the law enforcement agency of possession of a
2952 vehicle or vessel pursuant to s. 715.07(2)(a)2., the law
2953 enforcement agency of the jurisdiction where the vehicle or
2954 vessel is stored shall contact the Department of Highway Safety
2955 and Motor Vehicles, or the appropriate agency of the state of
2956 registration, if known, within 24 hours through the medium of
2957 electronic communications, giving the full description of the
2958 vehicle or vessel. Upon receipt of the full description of the
2959 vehicle or vessel, the department shall search its files to
2960 determine the owner's name, the insurance company insuring the
2961 vehicle or vessel, and whether any person has filed a lien upon
2962 the vehicle or vessel as provided in s. 319.27(2) and (3) and
2963 notify the applicable law enforcement agency within 72 hours.
2964 The person in charge of the towing service, garage, repair shop,
2965 or automotive service, storage, or parking place shall obtain

2966 such information from the applicable law enforcement agency
2967 within 5 days after the date of storage and shall give notice
2968 pursuant to paragraph (a). The department may release the
2969 insurance company information to the requestor notwithstanding
2970 ~~the provisions of~~ s. 627.736 or s. 627.7485, as applicable.
2971 (c) Notice by certified mail, return receipt requested,
2972 shall be sent within 7 business days after the date of storage
2973 of the vehicle or vessel to the registered owner, the insurance
2974 company insuring the vehicle notwithstanding ~~the provisions of~~
2975 s. 627.736 or s. 627.7485, as applicable, and all persons of
2976 record claiming a lien against the vehicle or vessel. It shall
2977 state the fact of possession of the vehicle or vessel, that a
2978 lien as provided in subsection (2) is claimed, that charges have
2979 accrued and the amount thereof, that the lien is subject to
2980 enforcement pursuant to law, and that the owner or lienholder,
2981 if any, has the right to a hearing as set forth in subsection
2982 (5), and that any vehicle or vessel which remains unclaimed, or
2983 for which the charges for recovery, towing, or storage services
2984 remain unpaid, may be sold free of all prior liens after 35 days
2985 if the vehicle or vessel is more than 3 years of age or after 50
2986 days if the vehicle or vessel is 3 years of age or less.
2987 Section 49. Paragraph (c) of subsection (7), paragraphs
2988 (a), (b), and (c) of subsection (8), and subsection (9) of
2989 section 817.234, Florida Statutes, are amended to read:
2990 817.234 False and fraudulent insurance claims.—
2991 (7)
2992 (c) An insurer, or any person acting at the direction of
2993 or on behalf of an insurer, may not change an opinion in a

2994 mental or physical report prepared under s. 627.736(7) or s.
2995 627.7485(7), as applicable, ~~s. 627.736(8)~~ or direct the
2996 physician preparing the report to change such opinion; however,
2997 this provision does not preclude the insurer from calling to the
2998 attention of the physician errors of fact in the report based
2999 upon information in the claim file. Any person who violates this
3000 paragraph commits a felony of the third degree, punishable as
3001 provided in s. 775.082, s. 775.083, or s. 775.084.
3002 (8)(a) It is unlawful for any person intending to defraud
3003 any other person to solicit or cause to be solicited any
3004 business from a person involved in a motor vehicle accident for
3005 the purpose of making, adjusting, or settling motor vehicle tort
3006 claims or claims for personal injury protection or medical care
3007 coverage benefits required by s. 627.736 or s. 627.7485, as
3008 applicable. Any person who violates ~~the provisions of~~ this
3009 paragraph commits a felony of the second degree, punishable as
3010 provided in s. 775.082, s. 775.083, or s. 775.084. A person who
3011 is convicted of a violation of this subsection shall be
3012 sentenced to a minimum term of imprisonment of 2 years.
3013 (b) A person may not solicit or cause to be solicited any
3014 business from a person involved in a motor vehicle accident by
3015 any means of communication other than advertising directed to
3016 the public for the purpose of making motor vehicle tort claims
3017 or claims for personal injury protection or medical care
3018 coverage benefits required by s. 627.736 or s. 627.7485, as
3019 applicable, within 60 days after the occurrence of the motor
3020 vehicle accident. Any person who violates this paragraph commits
3021 a felony of the third degree, punishable as provided in s.

3022 775.082, s. 775.083, or s. 775.084.
3023 (c) A lawyer, health care practitioner as defined in s.
3024 456.001, or owner or medical director of a clinic required to be
3025 licensed pursuant to s. 400.9905 may not, at any time after 60
3026 days have elapsed from the occurrence of a motor vehicle
3027 accident, solicit or cause to be solicited any business from a
3028 person involved in a motor vehicle accident by means of in
3029 person or telephone contact at the person's residence, for the
3030 purpose of making motor vehicle tort claims or claims for
3031 personal injury protection or medical care coverage benefits
3032 required by s. 627.736 or s. 627.7485, as applicable. Any person
3033 who violates this paragraph commits a felony of the third
3034 degree, punishable as provided in s. 775.082, s. 775.083, or s.
3035 775.084.
3036 (9) A person may not organize, plan, or knowingly
3037 participate in an intentional motor vehicle crash or a scheme to
3038 create documentation of a motor vehicle crash that did not occur
3039 for the purpose of making motor vehicle tort claims or claims
3040 for personal injury protection or medical care coverage benefits
3041 as required by s. 627.736 or s. 627.7485, as applicable. Any
3042 person who violates this subsection commits a felony of the
3043 second degree, punishable as provided in s. 775.082, s. 775.083,
3044 or s. 775.084. A person who is convicted of a violation of this
3045 subsection shall be sentenced to a minimum term of imprisonment
3046 of 2 years.
3047 Section 50. The Division of Statutory Revision is directed
3048 to replace the phrase "the effective date of this act" wherever
3049 it occurs in this act with the date this act becomes a law.

3050 Section 51. If any provision of this act or its
3051 application to any person or circumstance is held invalid, the
3052 invalidity does not affect other provisions or applications of
3053 this act which can be given effect without the invalid
3054 provision or application, and to this end the provisions of this
3055 act are severable.
3056 Section 52. Except as otherwise expressly provided in this
3057 act and except for this section, which shall take effect upon
3058 this act becoming a law, this act shall take effect December 1,
3059 2012, and shall apply to policies issued or renewed on or after
3060 that date.