

1 A bill to be entitled
2 An act relating to property and casualty insurance;
3 amending s. 627.062, F.S.; restricting to certain
4 property rate filings a requirement that the chief
5 executive officer or chief financial officer and chief
6 actuary of a property insurer certify the information
7 contained in a rate filing; amending s. 627.0645,
8 F.S.; exempting commercial nonresidential multiperil
9 insurance from annual base rate filing; amending s.
10 627.3518, F.S.; conforming a cross-reference; amending
11 s. 627.4133, F.S.; increasing the amount of prior
12 notice required with respect to the nonrenewal,
13 cancellation, or termination of certain insurance
14 policies; deleting certain provisions that require
15 extended periods of prior notice with respect to the
16 nonrenewal, cancellation, or termination of certain
17 insurance policies; prohibiting the cancellation of
18 certain policies that have been in effect for a
19 specified amount of time except under certain
20 circumstances; amending s. 627.7074, F.S.; revising
21 notification requirements for participation in the
22 neutral evaluation program; amending s. 627.736, F.S.;
23 revising the period for applicability of certain
24 Medicare fee schedules or payment limitations;
25 amending s. 627.744, F.S.; revising preinsurance
26 inspection requirements for private passenger motor

27 | vehicles; providing an effective date.

28 |

29 | Be It Enacted by the Legislature of the State of Florida:

30 |

31 | Section 1. Paragraph (a) of subsection (8) of section
32 | 627.062, Florida Statutes, is amended to read:

33 | 627.062 Rate standards.—

34 | (8) (a) The chief executive officer or chief financial
35 | officer of a property insurer and the chief actuary of a
36 | property insurer must certify under oath and subject to the
37 | penalty of perjury, on a form approved by the commission, the
38 | following information, which must accompany a property rate
39 | filing subject to paragraph (2) (a):

40 | 1. The signing officer and actuary have reviewed the rate
41 | filing;

42 | 2. Based on the signing officer's and actuary's knowledge,
43 | the rate filing does not contain any untrue statement of a
44 | material fact or omit to state a material fact necessary to make
45 | the statements made, in light of the circumstances under which
46 | such statements were made, not misleading;

47 | 3. Based on the signing officer's and actuary's knowledge,
48 | the information and other factors described in paragraph (2) (b),
49 | including, but not limited to, investment income, fairly present
50 | in all material respects the basis of the rate filing for the
51 | periods presented in the filing; and

52 | 4. Based on the signing officer's and actuary's knowledge,

53 the rate filing reflects all premium savings that are reasonably
 54 expected to result from legislative enactments and are in
 55 accordance with generally accepted and reasonable actuarial
 56 techniques.

57 Section 2. Paragraph (b) of subsection (1) of section
 58 627.0645, Florida Statutes, is amended to read:

59 627.0645 Annual filings.—

60 (1) Each rating organization filing rates for, and each
 61 insurer writing, any line of property or casualty insurance to
 62 which this part applies, except:

63 (b) ~~Commercial property and casualty~~ Insurance as defined
 64 in ss. 624.604 and 624.605, limited to coverage of commercial
 65 risks ~~s. 627.0625(1)~~ other than commercial residential
 66 multi-peril multiple line and commercial motor vehicle,

67
 68 shall make an annual base rate filing for each such line with
 69 the office no later than 12 months after its previous base rate
 70 filing, demonstrating that its rates are not inadequate.

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

73 627.3518 Citizens Property Insurance Corporation
 74 policyholder eligibility clearinghouse program.—The purpose of
 75 this section is to provide a framework for the corporation to
 76 implement a clearinghouse program by January 1, 2014.

77 (9) The 45-day notice of nonrenewal requirement set forth
 78 in s. 627.4133(2)(b)5. ~~627.4133(2)(b)5.b.~~ applies when a policy

79 is nonrenewed by the corporation because the risk has received
 80 an offer of coverage pursuant to this section which renders the
 81 risk ineligible for coverage by the corporation.

82 Section 4. Paragraph (b) of subsection (2) of section
 83 627.4133, Florida Statutes, is amended to read:

84 627.4133 Notice of cancellation, nonrenewal, or renewal
 85 premium.—

86 (2) With respect to any personal lines or commercial
 87 residential property insurance policy, including, but not
 88 limited to, any homeowner, mobile home owner, farmowner,
 89 condominium association, condominium unit owner, apartment
 90 building, or other policy covering a residential structure or
 91 its contents:

92 (b) The insurer shall give the first-named insured written
 93 notice of nonrenewal, cancellation, or termination at least 120
 94 ~~100~~ days before the effective date of the nonrenewal,
 95 cancellation, or termination. ~~However, the insurer shall give at~~
 96 ~~least 100 days' written notice, or written notice by June 1,~~
 97 ~~whichever is earlier, for any nonrenewal, cancellation, or~~
 98 ~~termination that would be effective between June 1 and November~~
 99 ~~30.~~ The notice must include the reason for the nonrenewal,
 100 cancellation, or termination, except that:

101 ~~1. The insurer shall give the first-named insured written~~
 102 ~~notice of nonrenewal, cancellation, or termination at least 120~~
 103 ~~days before the effective date of the nonrenewal, cancellation,~~
 104 ~~or termination for a first-named insured whose residential~~

105 ~~structure has been insured by that insurer or an affiliated~~
106 ~~insurer for at least 5 years before the date of the written~~
107 ~~notice.~~

108 1.2. If cancellation is for nonpayment of premium, at
109 least 10 days' written notice of cancellation accompanied by the
110 reason therefor must be given. As used in this subparagraph, the
111 term "nonpayment of premium" means failure of the named insured
112 to discharge when due her or his obligations for paying the
113 premium on a policy or an installment of such premium, whether
114 the premium is payable directly to the insurer or its agent or
115 indirectly under a premium finance plan or extension of credit,
116 or failure to maintain membership in an organization if such
117 membership is a condition precedent to insurance coverage. The
118 term also means the failure of a financial institution to honor
119 an insurance applicant's check after delivery to a licensed
120 agent for payment of a premium even if the agent has previously
121 delivered or transferred the premium to the insurer. If a
122 dishonored check represents the initial premium payment, the
123 contract and all contractual obligations are void ab initio
124 unless the nonpayment is cured within the earlier of 5 days
125 after actual notice by certified mail is received by the
126 applicant or 15 days after notice is sent to the applicant by
127 certified mail or registered mail. If the contract is void, any
128 premium received by the insurer from a third party must be
129 refunded to that party in full.

130 2.3. If cancellation or termination occurs during the

131 first 90 days the insurance is in force and the insurance is
132 canceled or terminated for reasons other than nonpayment of
133 premium, at least 20 days' written notice of cancellation or
134 termination accompanied by the reason therefor must be given
135 unless there has been a material misstatement or
136 misrepresentation or a failure to comply with the underwriting
137 requirements established by the insurer.

138 3. After the policy has been in effect for 90 days, the
139 policy may not be canceled by the insurer unless there has been
140 a material misstatement; a nonpayment of premium; a failure to
141 comply, within 90 days after the date of effectuation of
142 coverage, with underwriting requirements established by the
143 insurer before the date of effectuation of coverage; or a
144 substantial change in the risk covered by the policy or unless
145 the cancellation is for all insureds under such policies for a
146 given class of insureds. This subparagraph does not apply to
147 individually rated risks that have a policy term of less than 90
148 days.

149 4. After a policy or contract has been in effect for more
150 than 90 days, the insurer may not cancel or terminate the policy
151 or contract based on credit information available in public
152 records.

153 ~~5. The requirement for providing written notice by June 1~~
154 ~~of any nonrenewal that would be effective between June 1 and~~
155 ~~November 30 does not apply to the following situations, but the~~
156 ~~insurer remains subject to the requirement to provide such~~

157 ~~notice at least 100 days before the effective date of~~
158 ~~nonrenewal:~~

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

162 5.b. A policy that is nonrenewed by Citizens Property
163 Insurance Corporation, pursuant to s. 627.351(6), for a policy
164 that has been assumed by an authorized insurer offering
165 replacement coverage to the policyholder is exempt from the
166 notice requirements of paragraph (a) and this paragraph. In such
167 cases, the corporation must give the named insured written
168 notice of nonrenewal at least 45 days before the effective date
169 of the nonrenewal.

170
171 ~~After the policy has been in effect for 90 days, the policy may~~
172 ~~not be canceled by the insurer unless there has been a material~~
173 ~~misstatement, a nonpayment of premium, a failure to comply with~~
174 ~~underwriting requirements established by the insurer within 90~~
175 ~~days after the date of effectuation of coverage, a substantial~~
176 ~~change in the risk covered by the policy, or the cancellation is~~
177 ~~for all insureds under such policies for a given class of~~
178 ~~insureds. This paragraph does not apply to individually rated~~
179 ~~risks that have a policy term of less than 90 days.~~

180 6. Notwithstanding any other provision of law, an insurer
181 may cancel or nonrenew a property insurance policy after at
182 least 45 days' notice if the office finds that the early

183 cancellation of some or all of the insurer's policies is
184 necessary to protect the best interests of the public or
185 policyholders and the office approves the insurer's plan for
186 early cancellation or nonrenewal of some or all of its policies.
187 The office may base such finding upon the financial condition of
188 the insurer, lack of adequate reinsurance coverage for hurricane
189 risk, or other relevant factors. The office may condition its
190 finding on the consent of the insurer to be placed under
191 administrative supervision pursuant to s. 624.81 or to the
192 appointment of a receiver under chapter 631.

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

196 Section 5. Subsection (3) of section 627.7074, Florida
197 Statutes, is amended to read:

198 627.7074 Alternative procedure for resolution of disputed
199 sinkhole insurance claims.—

200 (3) If there is coverage available under the policy and
201 the claim was submitted within the timeframe provided in s.
202 627.706(5), following the receipt of the report provided under
203 s. 627.7073 or the denial of a claim for a sinkhole loss, the
204 insurer shall notify the policyholder of his or her right to
205 participate in the neutral evaluation program under this
206 section. Neutral evaluation supersedes the alternative dispute
207 resolution process under s. 627.7015 but does not invalidate the
208 appraisal clause of the insurance policy. The insurer shall

209 provide to the policyholder the consumer information pamphlet
 210 prepared by the department pursuant to subsection (1)
 211 electronically or by United States mail.

212 Section 6. Paragraph (a) of subsection (5) of section
 213 627.736, Florida Statutes, is amended to read:

214 627.736 Required personal injury protection benefits;
 215 exclusions; priority; claims.—

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

217 (a) A physician, hospital, clinic, or other person or
 218 institution lawfully rendering treatment to an injured person
 219 for a bodily injury covered by personal injury protection
 220 insurance may charge the insurer and injured party only a
 221 reasonable amount pursuant to this section for the services and
 222 supplies rendered, and the insurer providing such coverage may
 223 pay for such charges directly to such person or institution
 224 lawfully rendering such treatment if the insured receiving such
 225 treatment or his or her guardian has countersigned the properly
 226 completed invoice, bill, or claim form approved by the office
 227 upon which such charges are to be paid for as having actually
 228 been rendered, to the best knowledge of the insured or his or
 229 her guardian. However, such a charge may not exceed the amount
 230 the person or institution customarily charges for like services
 231 or supplies. In determining whether a charge for a particular
 232 service, treatment, or otherwise is reasonable, consideration
 233 may be given to evidence of usual and customary charges and
 234 payments accepted by the provider involved in the dispute,

235 reimbursement levels in the community and various federal and
236 state medical fee schedules applicable to motor vehicle and
237 other insurance coverages, and other information relevant to the
238 reasonableness of the reimbursement for the service, treatment,
239 or supply.

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

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

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

247 c. For emergency services and care as defined by s.
248 395.002 provided in a facility licensed under chapter 395
249 rendered by a physician or dentist, and related hospital
250 inpatient services rendered by a physician or dentist, the usual
251 and customary charges in the community.

252 d. For hospital inpatient services, other than emergency
253 services and care, 200 percent of the Medicare Part A
254 prospective payment applicable to the specific hospital
255 providing the inpatient services.

256 e. For hospital outpatient services, other than emergency
257 services and care, 200 percent of the Medicare Part A Ambulatory
258 Payment Classification for the specific hospital providing the
259 outpatient services.

260 f. For all other medical services, supplies, and care, 200

261 percent of the allowable amount under:

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

265 (II) Medicare Part B, in the case of services, supplies,
 266 and care provided by ambulatory surgical centers and clinical
 267 laboratories.

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

271
 272 However, if such services, supplies, or care is not reimbursable
 273 under Medicare Part B, as provided in this sub-subparagraph, the
 274 insurer may limit reimbursement to 80 percent of the maximum
 275 reimbursable allowance under workers' compensation, as
 276 determined under s. 440.13 and rules adopted thereunder which
 277 are in effect at the time such services, supplies, or care is
 278 provided. Services, supplies, or care that is not reimbursable
 279 under Medicare or workers' compensation is not required to be
 280 reimbursed by the insurer.

281 2. For purposes of subparagraph 1., the applicable fee
 282 schedule or payment limitation under Medicare is the fee
 283 schedule or payment limitation in effect on March 1 of the
 284 service year in which the services, supplies, or care is
 285 rendered and for the area in which such services, supplies, or
 286 care is rendered, and the applicable fee schedule or payment

287 | limitation applies to services, supplies, or care rendered
288 | during ~~throughout the remainder of~~ that service year,
289 | notwithstanding any subsequent change made to the fee schedule
290 | or payment limitation, except that it may not be less than the
291 | allowable amount under the applicable schedule of Medicare Part
292 | B for 2007 for medical services, supplies, and care subject to
293 | Medicare Part B. For purposes of this subparagraph, the term
294 | "service year" means the period from March 1 through the end of
295 | February of the following year.

296 | 3. Subparagraph 1. does not allow the insurer to apply any
297 | limitation on the number of treatments or other utilization
298 | limits that apply under Medicare or workers' compensation. An
299 | insurer that applies the allowable payment limitations of
300 | subparagraph 1. must reimburse a provider who lawfully provided
301 | care or treatment under the scope of his or her license,
302 | regardless of whether such provider is entitled to reimbursement
303 | under Medicare due to restrictions or limitations on the types
304 | or discipline of health care providers who may be reimbursed for
305 | particular procedures or procedure codes. However, subparagraph
306 | 1. does not prohibit an insurer from using the Medicare coding
307 | policies and payment methodologies of the federal Centers for
308 | Medicare and Medicaid Services, including applicable modifiers,
309 | to determine the appropriate amount of reimbursement for medical
310 | services, supplies, or care if the coding policy or payment
311 | methodology does not constitute a utilization limit.

312 | 4. If an insurer limits payment as authorized by

313 subparagraph 1., the person providing such services, supplies,
 314 or care may not bill or attempt to collect from the insured any
 315 amount in excess of such limits, except for amounts that are not
 316 covered by the insured's personal injury protection coverage due
 317 to the coinsurance amount or maximum policy limits.

318 5. ~~Effective July 1, 2012,~~ An insurer may limit payment as
 319 authorized by this paragraph only if the insurance policy
 320 includes a notice at the time of issuance or renewal that the
 321 insurer may limit payment pursuant to the schedule of charges
 322 specified in this paragraph. A policy form approved by the
 323 office satisfies this requirement. If a provider submits a
 324 charge for an amount less than the amount allowed under
 325 subparagraph 1., the insurer may pay the amount of the charge
 326 submitted.

327 Section 7. Paragraphs (a) and (b) of subsection (2) of
 328 section 627.744, Florida Statutes, are amended to read:

329 627.744 Required preinsurance inspection of private
 330 passenger motor vehicles.—

331 (2) This section does not apply:

332 (a) To a policy for a policyholder who has been insured
 333 for 2 years or longer, without interruption, under a private
 334 passenger motor vehicle policy that ~~which~~ provides physical
 335 damage coverage for any vehicle, if the agent of the insurer
 336 verifies the previous coverage.

337 (b) To a new, unused motor vehicle purchased or leased
 338 from a licensed motor vehicle dealer or leasing company. ~~if~~ The

339 insurer may require ~~is provided with~~:

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

343 2. A copy of the title or registration that ~~which~~
344 establishes transfer of ownership from the dealer or leasing
345 company to the customer and a copy of the window sticker ~~or the~~
346 ~~dealer invoice showing the itemized options and equipment and~~
347 ~~the total retail price of the vehicle.~~

348

349 For the purposes of this paragraph, the physical damage coverage
350 on the motor vehicle may not be suspended during the term of the
351 policy due to the applicant's failure to provide or the
352 insurer's option not to require the ~~required~~ documents. However,
353 if the insurer requires a document under this paragraph at the
354 time the policy is issued, payment of a claim may be ~~is~~
355 conditioned upon the receipt by the insurer of the required
356 documents, and no physical damage loss occurring after the
357 effective date of the coverage may be ~~is~~ payable until the
358 documents are provided to the insurer.

359 Section 8. This act shall take effect July 1, 2015.