

1 A bill to be entitled

2 An act relating to property and casualty insurance;  
3 amending s. 627.3518, F.S.; conforming a cross-  
4 reference; amending s. 627.4133, F.S.; increasing the  
5 amount of prior notice required with respect to the  
6 nonrenewal, cancellation, or termination of certain  
7 insurance policies; deleting certain provisions that  
8 require extended periods of prior notice with respect  
9 to the nonrenewal, cancellation, or termination of  
10 certain insurance policies; prohibiting the  
11 cancellation of certain policies that have been in  
12 effect for a specified amount of time except under  
13 certain circumstances; amending s. 627.7074, F.S.;  
14 revising notification requirements for participation  
15 in the neutral evaluation program; amending s.  
16 627.736, F.S.; revising the period for applicability  
17 of certain Medicare fee schedules or payment  
18 limitations; amending s. 627.744, F.S.; revising  
19 preinsurance inspection requirements for private  
20 passenger motor vehicles; providing an effective date.

21  
22 Be It Enacted by the Legislature of the State of Florida:

23  
24 Section 1. Subsection (9) of section 627.3518, Florida  
25 Statutes, is amended to read:

26 627.3518 Citizens Property Insurance Corporation

27 | policyholder eligibility clearinghouse program.—The purpose of  
 28 | this section is to provide a framework for the corporation to  
 29 | implement a clearinghouse program by January 1, 2014.

30 | (9) The 45-day notice of nonrenewal requirement set forth  
 31 | in s. 627.4133(2)(b)5. ~~627.4133(2)(b)5.b.~~ applies when a policy  
 32 | is nonrenewed by the corporation because the risk has received  
 33 | an offer of coverage pursuant to this section which renders the  
 34 | risk ineligible for coverage by the corporation.

35 | Section 2. Paragraph (b) of subsection (2) of section  
 36 | 627.4133, Florida Statutes, is amended to read:

37 | 627.4133 Notice of cancellation, nonrenewal, or renewal  
 38 | premium.—

39 | (2) With respect to any personal lines or commercial  
 40 | residential property insurance policy, including, but not  
 41 | limited to, any homeowner, mobile home owner, farmowner,  
 42 | condominium association, condominium unit owner, apartment  
 43 | building, or other policy covering a residential structure or  
 44 | its contents:

45 | (b) The insurer shall give the first-named insured written  
 46 | notice of nonrenewal, cancellation, or termination at least 120  
 47 | ~~100~~ days before the effective date of the nonrenewal,  
 48 | cancellation, or termination. ~~However, the insurer shall give at~~  
 49 | ~~least 100 days' written notice, or written notice by June 1,~~  
 50 | ~~whichever is earlier, for any nonrenewal, cancellation, or~~  
 51 | ~~termination that would be effective between June 1 and November~~  
 52 | ~~30.~~ The notice must include the reason for the nonrenewal,

53 cancellation, or termination, except that:

54 ~~1. The insurer shall give the first named insured written~~  
55 ~~notice of nonrenewal, cancellation, or termination at least 120~~  
56 ~~days before the effective date of the nonrenewal, cancellation,~~  
57 ~~or termination for a first named insured whose residential~~  
58 ~~structure has been insured by that insurer or an affiliated~~  
59 ~~insurer for at least 5 years before the date of the written~~  
60 ~~notice.~~

61 1.2. If cancellation is for nonpayment of premium, at  
62 least 10 days' written notice of cancellation accompanied by the  
63 reason therefor must be given. As used in this subparagraph, the  
64 term "nonpayment of premium" means failure of the named insured  
65 to discharge when due her or his obligations for paying the  
66 premium on a policy or an installment of such premium, whether  
67 the premium is payable directly to the insurer or its agent or  
68 indirectly under a premium finance plan or extension of credit,  
69 or failure to maintain membership in an organization if such  
70 membership is a condition precedent to insurance coverage. The  
71 term also means the failure of a financial institution to honor  
72 an insurance applicant's check after delivery to a licensed  
73 agent for payment of a premium even if the agent has previously  
74 delivered or transferred the premium to the insurer. If a  
75 dishonored check represents the initial premium payment, the  
76 contract and all contractual obligations are void ab initio  
77 unless the nonpayment is cured within the earlier of 5 days  
78 after actual notice by certified mail is received by the

79 applicant or 15 days after notice is sent to the applicant by  
80 certified mail or registered mail. If the contract is void, any  
81 premium received by the insurer from a third party must be  
82 refunded to that party in full.

83 ~~2.3.~~ If cancellation or termination occurs during the  
84 first 90 days the insurance is in force and the insurance is  
85 canceled or terminated for reasons other than nonpayment of  
86 premium, at least 20 days' written notice of cancellation or  
87 termination accompanied by the reason therefor must be given  
88 unless there has been a material misstatement or  
89 misrepresentation or a failure to comply with the underwriting  
90 requirements established by the insurer.

91 3. After the policy has been in effect for 90 days, the  
92 policy may not be canceled by the insurer unless there has been  
93 a material misstatement; a nonpayment of premium; a failure to  
94 comply, within 90 days after the date of effectuation of  
95 coverage, with underwriting requirements established by the  
96 insurer before the date of effectuation of coverage; or a  
97 substantial change in the risk covered by the policy or unless  
98 the cancellation is for all insureds under such policies for a  
99 given class of insureds. This subparagraph does not apply to  
100 individually rated risks that have a policy term of less than 90  
101 days.

102 4. After a policy or contract has been in effect for more  
103 than 90 days, the insurer may not cancel or terminate the policy  
104 or contract based on credit information available in public

105 records.

106 ~~5. The requirement for providing written notice by June 1~~  
107 ~~of any nonrenewal that would be effective between June 1 and~~  
108 ~~November 30 does not apply to the following situations, but the~~  
109 ~~insurer remains subject to the requirement to provide such~~  
110 ~~notice at least 100 days before the effective date of~~  
111 ~~nonrenewal:~~

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

115 ~~5.b.~~ A policy that is nonrenewed by Citizens Property  
116 Insurance Corporation, pursuant to s. 627.351(6), for a policy  
117 that has been assumed by an authorized insurer offering  
118 replacement coverage to the policyholder is exempt from the  
119 notice requirements of paragraph (a) and this paragraph. In such  
120 cases, the corporation must give the named insured written  
121 notice of nonrenewal at least 45 days before the effective date  
122 of the nonrenewal.

123  
124 ~~After the policy has been in effect for 90 days, the policy may~~  
125 ~~not be canceled by the insurer unless there has been a material~~  
126 ~~misstatement, a nonpayment of premium, a failure to comply with~~  
127 ~~underwriting requirements established by the insurer within 90~~  
128 ~~days after the date of effectuation of coverage, a substantial~~  
129 ~~change in the risk covered by the policy, or the cancellation is~~  
130 ~~for all insureds under such policies for a given class of~~

131 ~~insureds. This paragraph does not apply to individually rated~~  
 132 ~~risks that have a policy term of less than 90 days.~~

133         6. Notwithstanding any other provision of law, an insurer  
 134 may cancel or nonrenew a property insurance policy after at  
 135 least 45 days' notice if the office finds that the early  
 136 cancellation of some or all of the insurer's policies is  
 137 necessary to protect the best interests of the public or  
 138 policyholders and the office approves the insurer's plan for  
 139 early cancellation or nonrenewal of some or all of its policies.  
 140 The office may base such finding upon the financial condition of  
 141 the insurer, lack of adequate reinsurance coverage for hurricane  
 142 risk, or other relevant factors. The office may condition its  
 143 finding on the consent of the insurer to be placed under  
 144 administrative supervision pursuant to s. 624.81 or to the  
 145 appointment of a receiver under chapter 631.

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

149         Section 3. Subsection (3) of section 627.7074, Florida  
 150 Statutes, is amended to read:

151         627.7074 Alternative procedure for resolution of disputed  
 152 sinkhole insurance claims.—

153         (3) If there is coverage available under the policy and  
 154 the claim was submitted within the timeframe provided in s.  
 155 627.706(5), following the receipt of the report provided under  
 156 s. 627.7073 or the denial of a claim for a sinkhole loss, the

157 insurer shall notify the policyholder of his or her right to  
 158 participate in the neutral evaluation program under this  
 159 section. Neutral evaluation supersedes the alternative dispute  
 160 resolution process under s. 627.7015 but does not invalidate the  
 161 appraisal clause of the insurance policy. The insurer shall  
 162 provide to the policyholder the consumer information pamphlet  
 163 prepared by the department pursuant to subsection (1)  
 164 electronically or by United States mail.

165 Section 4. Paragraph (a) of subsection (5) of section  
 166 627.736, Florida Statutes, is amended to read:

167 627.736 Required personal injury protection benefits;  
 168 exclusions; priority; claims.—

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

170 (a) A physician, hospital, clinic, or other person or  
 171 institution lawfully rendering treatment to an injured person  
 172 for a bodily injury covered by personal injury protection  
 173 insurance may charge the insurer and injured party only a  
 174 reasonable amount pursuant to this section for the services and  
 175 supplies rendered, and the insurer providing such coverage may  
 176 pay for such charges directly to such person or institution  
 177 lawfully rendering such treatment if the insured receiving such  
 178 treatment or his or her guardian has countersigned the properly  
 179 completed invoice, bill, or claim form approved by the office  
 180 upon which such charges are to be paid for as having actually  
 181 been rendered, to the best knowledge of the insured or his or  
 182 her guardian. However, such a charge may not exceed the amount

183 the person or institution customarily charges for like services  
184 or supplies. In determining whether a charge for a particular  
185 service, treatment, or otherwise is reasonable, consideration  
186 may be given to evidence of usual and customary charges and  
187 payments accepted by the provider involved in the dispute,  
188 reimbursement levels in the community and various federal and  
189 state medical fee schedules applicable to motor vehicle and  
190 other insurance coverages, and other information relevant to the  
191 reasonableness of the reimbursement for the service, treatment,  
192 or supply.

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

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

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

200 c. For emergency services and care as defined by s.  
201 395.002 provided in a facility licensed under chapter 395  
202 rendered by a physician or dentist, and related hospital  
203 inpatient services rendered by a physician or dentist, the usual  
204 and customary charges in the community.

205 d. For hospital inpatient services, other than emergency  
206 services and care, 200 percent of the Medicare Part A  
207 prospective payment applicable to the specific hospital  
208 providing the inpatient services.

209 e. For hospital outpatient services, other than emergency  
 210 services and care, 200 percent of the Medicare Part A Ambulatory  
 211 Payment Classification for the specific hospital providing the  
 212 outpatient services.

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

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

218 (II) Medicare Part B, in the case of services, supplies,  
 219 and care provided by ambulatory surgical centers and clinical  
 220 laboratories.

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

224  
 225 However, if such services, supplies, or care is not reimbursable  
 226 under Medicare Part B, as provided in this sub-subparagraph, the  
 227 insurer may limit reimbursement to 80 percent of the maximum  
 228 reimbursable allowance under workers' compensation, as  
 229 determined under s. 440.13 and rules adopted thereunder which  
 230 are in effect at the time such services, supplies, or care is  
 231 provided. Services, supplies, or care that is not reimbursable  
 232 under Medicare or workers' compensation is not required to be  
 233 reimbursed by the insurer.

234 2. For purposes of subparagraph 1., the applicable fee

235 | schedule or payment limitation under Medicare is the fee  
 236 | schedule or payment limitation in effect on March 1 of the  
 237 | service year in which the services, supplies, or care is  
 238 | rendered and for the area in which such services, supplies, or  
 239 | care is rendered, and the applicable fee schedule or payment  
 240 | limitation applies to services, supplies, or care rendered  
 241 | during ~~throughout the remainder of~~ that service year,  
 242 | notwithstanding any subsequent change made to the fee schedule  
 243 | or payment limitation, except that it may not be less than the  
 244 | allowable amount under the applicable schedule of Medicare Part  
 245 | B for 2007 for medical services, supplies, and care subject to  
 246 | Medicare Part B. For purposes of this subparagraph, the term  
 247 | "service year" means the period from March 1 through the end of  
 248 | February of the following year.

249 |         3. Subparagraph 1. does not allow the insurer to apply any  
 250 | limitation on the number of treatments or other utilization  
 251 | limits that apply under Medicare or workers' compensation. An  
 252 | insurer that applies the allowable payment limitations of  
 253 | subparagraph 1. must reimburse a provider who lawfully provided  
 254 | care or treatment under the scope of his or her license,  
 255 | regardless of whether such provider is entitled to reimbursement  
 256 | under Medicare due to restrictions or limitations on the types  
 257 | or discipline of health care providers who may be reimbursed for  
 258 | particular procedures or procedure codes. However, subparagraph  
 259 | 1. does not prohibit an insurer from using the Medicare coding  
 260 | policies and payment methodologies of the federal Centers for

261 Medicare and Medicaid Services, including applicable modifiers,  
 262 to determine the appropriate amount of reimbursement for medical  
 263 services, supplies, or care if the coding policy or payment  
 264 methodology does not constitute a utilization limit.

265 4. If an insurer limits payment as authorized by  
 266 subparagraph 1., the person providing such services, supplies,  
 267 or care may not bill or attempt to collect from the insured any  
 268 amount in excess of such limits, except for amounts that are not  
 269 covered by the insured's personal injury protection coverage due  
 270 to the coinsurance amount or maximum policy limits.

271 5. ~~Effective July 1, 2012,~~ An insurer may limit payment as  
 272 authorized by this paragraph only if the insurance policy  
 273 includes a notice at the time of issuance or renewal that the  
 274 insurer may limit payment pursuant to the schedule of charges  
 275 specified in this paragraph. A policy form approved by the  
 276 office satisfies this requirement. If a provider submits a  
 277 charge for an amount less than the amount allowed under  
 278 subparagraph 1., the insurer may pay the amount of the charge  
 279 submitted.

280 Section 5. Paragraphs (a) and (b) of subsection (2) of  
 281 section 627.744, Florida Statutes, are amended to read:

282 627.744 Required preinsurance inspection of private  
 283 passenger motor vehicles.—

284 (2) This section does not apply:

285 (a) To a policy for a policyholder who has been insured  
 286 for 2 years or longer, without interruption, under a private

287 passenger motor vehicle policy that ~~which~~ provides physical  
 288 damage coverage for any vehicle, if the agent of the insurer  
 289 verifies the previous coverage.

290 (b) To a new, unused motor vehicle purchased or leased  
 291 from a licensed motor vehicle dealer or leasing company, ~~if~~ The  
 292 insurer may require ~~is provided with~~:

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

296 2. A copy of the title or registration ~~that~~ ~~which~~  
 297 establishes transfer of ownership from the dealer or leasing  
 298 company to the customer and a copy of the window sticker ~~or the~~  
 299 ~~dealer invoice showing the itemized options and equipment and~~  
 300 ~~the total retail price of the vehicle~~.

301  
 302 For the purposes of this paragraph, the physical damage coverage  
 303 on the motor vehicle may not be suspended during the term of the  
 304 policy due to the applicant's failure to provide or the  
 305 insurer's option not to require the ~~required~~ documents. However,  
 306 if the insurer requires a document under this paragraph at the  
 307 time the policy is issued, payment of a claim may be ~~is~~  
 308 conditioned upon the receipt by the insurer of the required  
 309 documents, and no physical damage loss occurring after the  
 310 effective date of the coverage may be ~~is~~ payable until the  
 311 documents are provided to the insurer.

312 Section 6. This act shall take effect July 1, 2015.