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1 A bill to be entitled
 2 An act relating to insurance; creating s. 627.7361, F.S.;
 3 providing emergency care coverage benefits security
 4 requirements for certain motor vehicle owners or
 5 registrants; providing an exemption for certain military
 6 personnel under certain circumstances; requiring the
 7 Department of Highway Safety and Motor Vehicles to suspend
 8 the registration and driver license of certain persons
 9 under certain circumstances; providing requirements and
 10 procedures for reinstatement; creating s. 627.7362, F.S.;
 11 providing requirements for proof of required security;
 12 providing a criminal penalty; creating s. 627.7363, F.S.;
 13 providing emergency care coverage requirements; specifying
 14 required benefits; providing definitions; providing
 15 limitations; providing requirements for payment of
 16 benefits; providing requirements and procedures for
 17 assignment of benefits; providing insurer data reporting
 18 requirements; amending s. 627.901, F.S.; providing
 19 criteria for installment payment service charges;
 20 providing an effective date.

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

23
 24 Section 1. Section 627.7361, Florida Statutes, is created
 25 to read:

26 627.7361 Required security.--

27 (1) (a) Every owner or registrant of a motor vehicle, other
 28 than a motor vehicle used as a school bus as defined in s.
 29 1006.25 or limousine, required to be registered and licensed in

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30 this state shall maintain security as required by subsection (3)
 31 in effect continuously throughout the registration or licensing
 32 period.

33 (b) Every owner or registrant of a motor vehicle used as a
 34 taxicab shall not be governed by paragraph (a) but shall maintain
 35 security as required under s. 324.032.

36 (2) Every nonresident owner or registrant of a motor
 37 vehicle that, whether operated or not, has been physically
 38 present within this state for more than 90 days during the
 39 preceding 365 days shall thereafter maintain security as defined
 40 by subsection (3) in effect continuously throughout the period
 41 such motor vehicle remains within this state.

42 (3) Such security shall be provided:

43 (a) By an insurance policy delivered or issued for delivery
 44 in this state by an authorized or eligible motor vehicle
 45 liability insurer that provides the emergency care coverage
 46 benefits and exemptions contained in s. 627.7363. Any policy of
 47 insurance represented or sold by an authorized or eligible motor
 48 vehicle liability insurer as providing the security required by
 49 this paragraph shall be deemed to provide insurance for the
 50 payment of the required benefits; or

51 (b) By any other method authorized by s. 324.031(2), (3),
 52 or (4) and approved by the Department of Highway Safety and Motor
 53 Vehicles as affording security equivalent to that afforded by a
 54 policy of insurance or by self-insuring as authorized by s.
 55 768.28(16). The person filing such security shall have all of the
 56 obligations and rights of an insurer under ss. 627.7361-627.7363.

57 (4) In addition to other persons who are not required to
 58 provide required security as required under this section and s.

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59 324.022, the owner, registrant, or operator of a motor vehicle is
 60 exempt from providing such proof of financial responsibility if
 61 he or she is a member of the United States Armed Forces and is
 62 called to or on active duty outside this state or the United
 63 States, or if the owner of the vehicle is the dependent spouse of
 64 such active duty member and is also residing with the active duty
 65 member at the place of posting of such member, and the vehicle is
 66 primarily maintained at such place of posting. The exemption
 67 provided by this subsection applies only as long as the member of
 68 the armed forces is on such active duty outside this state or the
 69 United States and the owner complies with the security
 70 requirements of the state of posting or any possession or
 71 territory of the United States. Upon receipt of a written request
 72 by the insured to whom the exemption provided in this subsection
 73 applies, the insurer shall cancel the coverages and return any
 74 unearned premium or suspend the security required by this section
 75 and s. 324.022. Notwithstanding subsection (6), the Department of
 76 Highway Safety and Motor Vehicles may not suspend the
 77 registration or operator's driver's license during the time she
 78 or he qualified for an exemption under this subsection. Any owner
 79 or registrant of a motor vehicle who qualifies for an exemption
 80 under this subsection shall immediately notify the department
 81 prior to and at the end of the expiration of the exemption.

82 (5) The Department of Highway Safety and Motor Vehicles
 83 shall suspend, after due notice and an opportunity to be heard,
 84 the registration and driver's license of any owner or registrant
 85 of a motor vehicle with respect to which security is required
 86 under this section and s. 324.022:

87 (a) Upon records of the department showing that the owner

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88 or registrant of such motor vehicle did not have in full force
 89 and effect when required security complying with the terms of
 90 this section; or

91 (b) Upon notification by the insurer to the department, in
 92 a form approved by the department, of cancellation or termination
 93 of the required security.

94 (6) Any operator or owner whose driver's license or
 95 registration has been suspended pursuant to this section or s.
 96 316.646 may effect reinstatement of the license or registration
 97 upon compliance with the requirements of this section and upon
 98 payment to the department of a nonrefundable reinstatement fee of
 99 \$150 for the first reinstatement. Such reinstatement fee shall be
 100 \$250 for the second reinstatement and \$500 for each subsequent
 101 reinstatement during the 3 years following the first
 102 reinstatement. If the person does not have a second reinstatement
 103 within 3 years after her or his initial reinstatement, the
 104 reinstatement fee shall be \$150 for the first reinstatement after
 105 that 3-year period. If a person's license and registration are
 106 suspended pursuant to this section or s. 316.646, only one
 107 reinstatement fee shall be paid to reinstate the license and the
 108 registration. All fees shall be collected by the department at
 109 the time of reinstatement. The department shall issue proper
 110 receipts for such fees and shall promptly deposit those fees into
 111 the Highway Safety Operating Trust Fund. One-third of the fee
 112 collected under this subsection shall be distributed from the
 113 Highway Safety Operating Trust Fund to the local government
 114 entity or state agency that employed the law enforcement officer
 115 who seized a license plate pursuant to s. 324.201. Such funds may
 116 be used by the local government entity or state agency for any

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117 authorized purpose.

118 Section 2. Section 627.7362, Florida Statutes, is created
119 to read:

120 627.7362 Proof of security; security requirements;
121 penalties.--

122 (1) The provisions of chapter 324 that pertain to the
123 method of giving and maintaining proof of financial
124 responsibility and that govern and define a motor vehicle
125 liability policy shall apply to filing and maintaining proof of
126 security required by ss. 627.7361-627.7363.

127 (2) Any person who:

128 (a) Gives information required in a report or otherwise as
129 provided for in ss. 627.7361-627.7363, knowing or having reason
130 to believe that such information is false;

131 (b) Forges or, without authority, signs any evidence of
132 proof of security; or

133 (c) Files, or offers for filing, any such evidence of
134 proof, knowing or having reason to believe that such evidence of
135 proof of security is forged or signed without authority, commits
136 a misdemeanor of the first degree, punishable as provided in s.
137 775.082 or s. 775.083.

138 Section 3. Section 627.7363, Florida Statutes, is created
139 to read:

140 627.7363 Required emergency care coverage.--

141 (1) REQUIRED BENEFITS.--Each insurance policy complying
142 with the security requirements of s. 627.7361 shall provide
143 emergency care coverage to the named insured, relatives residing
144 in the same household, persons operating the insured motor
145 vehicle, passengers in such motor vehicle, and other persons

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146 struck by such motor vehicle and suffering bodily injury while
 147 not an occupant of a self-propelled vehicle, subject to the terms
 148 and limitations of this chapter and the insurance policy, to a
 149 limit of \$15,000 for loss sustained by any such person as a
 150 result of bodily injury, sickness, disease, or death arising out
 151 of the ownership, maintenance, or use of a motor vehicle for one
 152 hundred percent of all allowable charges for medically necessary
 153 emergency care consisting of but not limited to medical,
 154 surgical, X-ray, dental, rehabilitative services, prosthetic
 155 devices, ambulance, hospital, and nursing services for the
 156 following services:

157 1. Emergency transport and treatment rendered by an
 158 ambulance provider licensed pursuant to part III of chapter 401
 159 within 12 hours after the motor vehicle accident.

160 2. Emergency services and care, as defined in s.
 161 395.002(10), rendered within 72 hours after the motor vehicle
 162 accident, by physicians, dentists, and hospitals in a hospital
 163 emergency department, trauma center, or inpatient department
 164 licensed pursuant to chapter 395.

165 3. Subsequent medically necessary hospital, dental, and
 166 physician inpatient care resulting from a motor vehicle accident,
 167 provided the patient is admitted within 72 hours after the motor
 168 vehicle accident.

169 4. Subsequent medically necessary care and services
 170 directly related to a medical diagnosis rendered within 72 hours
 171 after the motor vehicle accident, subject to the following:

172 (i) The diagnosis shall be rendered in a hospital
 173 emergency department, trauma center, or inpatient department
 174 licensed pursuant to chapter 395 and rendered by a physician

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175 licensed under chapter 458; an osteopathic physician
 176 licensed under chapter 459; or dentist licensed under
 177 chapter 466; and

178 (ii) Medically necessary care and services shall be
 179 provided at a facility owned by either the hospital, the
 180 dentist, or the emergency physician and rendered by a
 181 physician licensed under chapter 458, an osteopathic
 182 physician licensed under chapter 459, a dentist licensed
 183 under chapter 466, a physician assistant licensed under
 184 chapter 458 or 459, or a registered nurse that meets the
 185 definition of section 464.003(4), Florida Statutes.

186
 187 All charges for emergency and subsequent medically necessary
 188 care, treatment, and services are subject to the provisions of
 189 section (5).

190 (2) DEFINITIONS.--As used in ss. 627.7361-627.7363, the
 191 term:

192 (a) "Hospital" means a facility that was licensed under
 193 chapter 395 at the time services or treatment were rendered.

194 (b) "Inpatient care" means medically necessary services
 195 provided for the medical care and treatment of an insured who is
 196 admitted as an inpatient to a hospital as defined in s.
 197 395.002(13).

198 (c) "Medically necessary" means a medical service,
 199 diagnostic test, or supply that a prudent physician would provide
 200 for the purpose of preventing, diagnosing, or treating an
 201 illness, injury, disease, or symptom in a manner that is:

202 1. In accordance with generally accepted standards of
 203 medical practice.

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204 2. Clinically appropriate in terms of type, frequency,
 205 extent, site, and duration.

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

208 (d) "Motor vehicle" means any vehicle with four or more
 209 wheels which is of a type both designed and required to be
 210 licensed for use on the highways of this state and any trailer or
 211 semitrailer designed for use with such vehicle.

212 (e) "Named insured" means a person, usually the owner of a
 213 vehicle, identified in a policy by name as the insured under the
 214 policy.

215 (f) "Owner" means a person who holds the legal title to a
 216 motor vehicle or a debtor or lessee who has the right to
 217 possession if a motor vehicle is the subject of a security
 218 agreement or lease with an option to purchase.

219 (g) "Relative residing in the same household" means a
 220 relative of any degree by blood or by marriage who at the time of
 221 injury makes his or her home in the same family unit, whether or
 222 not temporarily living elsewhere.

223 (h) "Rendered" means actual performance or a treatment or a
 224 service incident to the provider's professional services.

225 (i) "Self-propelled vehicle" means any vehicle which is not
 226 propelled solely by human power. The term includes, but is not
 227 limited to, motorcycles, ATVs, scooters, minibikes, golf carts,
 228 and similar vehicles.

229 (j) "Service" or "services" includes treatment, procedures,
 230 supplies, and equipment.

231 (3) LIMITATIONS.--Only insurers writing motor vehicle
 232 liability insurance in this state may provide the required

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233 benefits of this section, and such insurers may not require the
 234 purchase of any other motor vehicle coverage other than the
 235 purchase of property damage liability coverage as required by s.
 236 627.7275 as a condition for providing such required benefits.
 237 Insurers may not require that property damage liability insurance
 238 in an amount greater than \$10,000 be purchased in conjunction
 239 with emergency care coverage. Such insurers shall make benefits
 240 and required property damage liability insurance coverage
 241 available through normal marketing channels. Any insurer writing
 242 motor vehicle liability insurance in this state that fails to
 243 comply with such availability requirement as a general business
 244 practice violates part IX of chapter 626, and such violation
 245 constitutes an unfair method of competition or an unfair or
 246 deceptive act or practice involving the business of insurance.
 247 Any such insurer committing such violation is subject to the
 248 penalties imposed in such part, as well as applicable penalties
 249 that may be imposed elsewhere in the insurance code.

250 (4) BENEFITS.--Benefits due from an insurer under this
 251 section shall be primary, except benefits received under any
 252 workers' compensation law shall be credited against the benefits
 253 provided by subsection (1), and shall be due and payable as loss
 254 accrues, upon compliance with the terms and conditions of the
 255 insurance policy and this section.

256 (5) CHARGES FOR TREATMENT OF INJURED PERSONS.--
 257 Providers lawfully rendering treatment to an injured person
 258 pursuant to this section shall submit claims to insurers and
 259 insurers shall receive, process, and pay claims pursuant to the
 260 requirements of s. 627.6131. The insurer may reimburse health
 261 care facilities and providers for their billed charges or

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262 reimburse health care facilities and providers according to the
 263 following schedule:

264 (a) Emergency transport and treatment by providers licensed
 265 pursuant to Ch. 401 may be reimbursed at 150% of Medicare;

266 (b) Emergency services and care provided by hospitals
 267 licensed pursuant to Ch. 395 may be reimbursed at 75% of billed
 268 charges;

269 (c) Hospital inpatient services may be reimbursed at 150% of
 270 the Medicare Part A prospective payment applicable to the
 271 specific hospital providing the services;

272 (d) Other hospital outpatient services not associated with
 273 emergency services and care may be reimbursed at 150% of the
 274 Medicare Part A Ambulatory Payment Classification for the
 275 specific hospital providing the services;

276 (e) Physicians licensed pursuant to Chapter 458, 459, or 466
 277 rendering emergency services and care, inpatient services and
 278 care, and subsequent medically necessary services and care, may
 279 be reimbursed at 75% of their usual and customary charges as
 280 billed; and

281 (f) All other providers may be reimbursed at 150% of the
 282 applicable Medicare Part B fee schedule.

283
 284 However, if such treatment, care, procedure or service is not
 285 reimbursable under either Medicare Part A or Medicare B the
 286 insurer may apply a maximum limitation that is equal to the
 287 maximum reimbursable allowance under workers' compensation, as
 288 determined under s. 440.13 and rules adopted thereunder, which
 289 are in effect at the time such treatment, care, procedure, or
 290 service is performed. A treatment, care, procedure, or service

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291 that is not reimbursable by Medicare or workers' compensation is
 292 not reimbursable by the insurer.

293 (6) REQUIRED PAYMENT OF BENEFITS.--The insurer of the owner
 294 of a motor vehicle shall pay emergency care benefits for:

295 (a) Accidental bodily injury sustained in this state by the
 296 owner while occupying a motor vehicle, or while not an occupant
 297 of a self-propelled vehicle if the injury is caused by physical
 298 contact with a motor vehicle.

299 (b) Accidental bodily injury sustained outside this state,
 300 but within the United States or its territories or possessions or
 301 Canada, by the owner while occupying the owner's motor vehicle.

302 (c) Accidental bodily injury sustained by a relative of the
 303 owner residing in the same household, under the circumstances
 304 described in paragraph (a) or paragraph (b), provided the
 305 relative at the time of the accident is domiciled in the owner's
 306 household and is not the owner of a motor vehicle with respect to
 307 which security is required or has not waived such coverage under
 308 this section.

309 (d) Accidental bodily injury sustained in this state by any
 310 other person while occupying the owner's motor vehicle or, if a
 311 resident of this state, while not an occupant of a self-propelled
 312 vehicle, if the injury is caused by physical contact with such
 313 motor vehicle, provided the injured person is not:

314 1. The owner of a motor vehicle with respect to which
 315 security is required or has not waived such coverage under this
 316 section.

317 2. Entitled to emergency care benefits from the insurer of
 318 the owner or owners of such motor vehicle.

319 (e) If two or more insurers are liable for emergency care

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320 benefits for the same injury to any single person, the maximum
 321 amount payable shall be as specified in subsection (1), and any
 322 insurer paying the benefits shall be entitled to recover from
 323 each of the other insurers an equitable pro rata share of the
 324 benefits paid an expenses incurred in processing the claim.

325 (7) AUTHORIZED EXCLUSIONS.--Any insurance company may
 326 exclude emergency care benefits for any injury sustained by:

327 (a) The named insured and the named insured's spouse,
 328 parents by blood or marriage, and children natural or adopted
 329 residing in the same household while occupying another motor
 330 vehicle owned by the named insured and not insured under the
 331 policy.

332 (b) Any person operating the insured motor vehicle without
 333 the express or implied consent of the insured.

334 (c) Any injured person, if such person's conduct
 335 contributed to her or his injury under any of the following
 336 circumstances:

337 1. Intentionally causing injury or a claim for injury to
 338 herself or himself; or

339 2. Being injured while committing a felony.

340 3. Being injured while attempting to flee or elude arrest
 341 or detainment by a law enforcement officer.

342 (d) Any person while operating a self-propelled vehicle.

343 (8) ASSIGNMENT OF BENEFITS.--

344 (a) Emergency care benefits are assigned to a health care
 345 provider by the submission of a claim by a health care provider,
 346 with the consent of the insured. The insured shall have no right
 347 to receive any emergency care benefits directly or indirectly
 348 from the insurer.

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349 (b) An insured may execute an assignment of benefits to
 350 different health care providers or authorize various health care
 351 providers to submit emergency care claims. The insurer is not
 352 required to reserve emergency care benefits for any provider
 353 during the investigation of the provider's bills and shall timely
 354 pay all bills in the insurer's possession that are properly
 355 payable. In the event of multiple competing assignments of
 356 benefits in which any single claim will exhaust benefits, the
 357 insurer may determine which bill to pay first.

358 (c) An assignment of emergency care benefits to the
 359 provider shall be deemed a novation. The insured is relieved of
 360 all obligations for the medical bills once an assignment of
 361 benefits is executed. Any agreement requiring the injured person
 362 or insured to pay for charges is unenforceable. Notwithstanding
 363 such assignment of benefits, the insured shall be responsible for
 364 the allowable amount of the provider's bills once benefits have
 365 been exhausted.

366 (9) DATA REPORTING.--

367 (a) Each insurer that has issued a policy providing
 368 emergency care coverage benefits shall report the renewal,
 369 cancellation, or nonrenewal of such policy to the Department of
 370 Highway Safety and Motor Vehicles within 45 days after the
 371 effective date of the renewal, cancellation, or nonrenewal. Upon
 372 the issuance of a policy providing emergency care coverage
 373 benefits to a named insured not previously insured by the insurer
 374 during that calendar year, the insurer shall report the issuance
 375 of the new policy to the Department of Highway Safety and Motor
 376 Vehicles within 30 days. The report must be in such form and
 377 format and contain such information as is required by the

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378 department and must include a format compatible with the data
 379 processing capabilities of the department. Failure by an insurer
 380 to file proper reports with the department constitutes a
 381 violation of the Florida Insurance Code. Reports of cancellations
 382 and policy renewals and reports of the issuance of new policies
 383 received by the department may be used for enforcement and
 384 regulatory purposes only, including the generation by the
 385 department of data regarding compliance by owners of motor
 386 vehicles with financial responsibility coverage requirements. In
 387 addition, the department shall release, upon a written request by
 388 a person involved in a motor vehicle accident, the name of the
 389 person's attorney or of a representative of the person's motor
 390 vehicle insurer, the name of the insurance company, and the
 391 policy number for the policy covering the vehicle named by the
 392 requesting party. The written request must include a copy of the
 393 appropriate accident form as provided in s. 316.065, s. 316.066,
 394 or s. 316.068.

395 (b) For each insurance policy providing emergency care
 396 coverage benefits, the insurer shall notify the named insured or,
 397 in the case of a commercial fleet policy, the first named insured
 398 in writing that any cancellation or nonrenewal of the policy will
 399 be reported by the insurer to the department. The notice must
 400 also inform the named insured that failure to maintain emergency
 401 care coverage and property damage liability insurance on a motor
 402 vehicle when required by law may result in the loss of
 403 registration and driving privileges in this state, and the notice
 404 must inform the named insured of the amount of the reinstatement
 405 fees required by s. 627.7361(6). This notice is for informational
 406 purposes only, and an insurer is not civilly liable for failing

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407 to provide this notice.

408 Section 4. Subsection (1) of section 627.901, Florida
 409 Statutes, is amended to read:

410 627.901 Premium financing by an insurance agent or agency.-
 411 -

412 (1) A general lines agent may make reasonable service
 413 charges for financing insurance premiums on policies issued or
 414 business produced by such an agent or agency, s. 626.9541
 415 notwithstanding. The service charge shall not exceed \$3 per
 416 installment. The maximum service charge shall not exceed \$36 per
 417 year. The service charge would also be permissible from the
 418 insured when the agent processes, as a convenience and
 419 accommodation to the insured, an installment payment from the
 420 insured to the insurance company or premium finance company when
 421 such payments can be made directly to the insurance company or
 422 premium finance company by the insured. In no case may an agent
 423 collect more than one service charge on any one payment. In lieu
 424 of such service charges, an insurance agent or agency, at the
 425 sole discretion of such agent or agency, may charge a rate of
 426 interest not to exceed 18 percent simple interest per year on:

427 (a) The unpaid balance; or

428 (b) The average unpaid balance as billed over the term of
 429 the policy and subject to endorsement changes. The interest
 430 authorized by this paragraph may be billed in equal installments.

431 Section 5. Any automobile insurance policy written prior to
 432 September 30, 2007, complying with the security requirement of s.
 433 627.733 shall be deemed to comply with the security requirements
 434 of s. 627.7361, as created by this act, until that policy expires
 435 or is terminated.

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Section 6. This act shall take effect October 1, 2007.