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# Insurance & Banking Subcommittee

Tuesday, February 17, 2015  
2:00 PM  
Sumner Hall (404 HOB)

**MEETING PACKET**



# **The Florida House of Representatives**

**Regulatory Affairs Committee**

**Insurance & Banking Subcommittee**

**Steve Crisafulli**  
**Speaker**

**John Wood**  
**Chair**

## **AGENDA**

**Tuesday, February 17, 2015**

**404 HOB**

**2:00 pm – 3:00 pm**

- I. Call to Order
- II. Roll Call
- III. Consideration of the following bill(s):
  - a. HB 405 Regulation of Not-for-profit Self-insurance Funds by La Rosa
  - b. PCS for HB 165 Property and Casualty Insurance by Santiago
- IV. Adjournment

# Committee Meeting Notice

## HOUSE OF REPRESENTATIVES

### Insurance & Banking Subcommittee

**Start Date and Time:** Tuesday, February 17, 2015 02:00 pm  
**End Date and Time:** Tuesday, February 17, 2015 03:00 pm  
**Location:** Sumner Hall (404 HOB)  
**Duration:** 1.00 hrs

**Consideration of the following bill(s):**

HB 405 Regulation of Not-for-profit Self-insurance Funds by La Rosa

**Consideration of the following proposed committee substitute(s):**

PCS for HB 165 -- Property and Casualty Insurance

Pursuant to rule 7.12, the filing deadline for amendments to bills on the agenda by a member who is not a member of the committee or subcommittee considering the bill is 6:00 p.m., Monday, February 16, 2015.

By request of the Chair, all Insurance & Banking Subcommittee members are asked to have amendments to bills on the agenda submitted to staff by 6:00 p.m., Monday, February 16, 2015.

**NOTICE FINALIZED on 02/10/2015 15:59 by McCloskey.Michele**

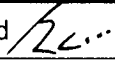



HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 405 Regulation of Not-for-profit Self-insurance Funds

SPONSOR(S): La Rosa

TIED BILLS: IDEN./SIM. BILLS: SB 830

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee		Lloyd 	Cooper 
2) Government Operations Appropriations Subcommittee			
3) Regulatory Affairs Committee			

SUMMARY ANALYSIS

In general, self-insurance is the assumption of some or all on one's financial risk oneself, rather than paying an insurance company to assume it. Florida law recognizes many different types of self-insurance funds. Two or more corporations not for profit wanting to pool together their property or casualty risks can form a self-insurance fund under s. 624.4625, F.S. This statute outlines many requirements and parameters for the fund and the corporation not for profit members. One requirement is that a fund member must receive at least 75 percent of its revenue from local, state, or federal government sources.

There is one corporation not for profit self-insurance fund in the state, though others may be formed at any time, if done so in compliance with the law. This fund has approximately 150 members. It relies on the member's federal tax returns to determine whether the members meet the governmental revenue threshold. The fund offers: Property General Liability; Professional Liability; Medical Practice Liability; Medical Legal Liability; Directors & Officers Liability; Workers' Compensation; Commercial Automobile; and, Employee Health Benefits.

Members of such a fund are also typically federally tax-exempt organizations. An entity must be determined by the Internal Revenue Service (IRS) to be a tax-exempt organization following the filing of an IRS application form prior to filing its returns as a tax-exempt organization. Most federally tax-exempt organizations must file Form 990 with the IRS. Schedule A to Form 990 or 990EZ requires organizations to indicate the reason the organization is a "public charity" for the tax year, which may be dependent upon public support. Whether an organization is a publically supported organization is determined using Schedule A to IRS Form 990 or 990EZ . The available reasons on Schedule A include organizations that normally receive a substantial part of its support from a governmental unit or from the general public.

The bill allows a corporation not for profit that is a publically supported organization for IRS purposes due to receipt of a substantial part of support from a governmental unit or from the general public to be a member of a corporation not for profit self-insurance fund. This federal tax return based test is presented as an alternative to qualifying under the standard requiring 75 percent of the corporation's revenue to come from governmental sources (which is retained in the law).

The bill expands the types of corporations not for profit qualifying for membership in such a fund. It takes revenue from the general public into account; presently, only governmental support is considered in regard to revenue.

The bill has an unknown, but possibly negative, impact on state premium tax revenues. The bill should have a positive impact on the private sector. The bill is effective July 1, 2015.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

In general, self-insurance is the assumption of some or all on one's financial risk oneself, rather than paying an insurance company to assume it.<sup>1</sup> Florida law recognizes many different types of self-insurance funds.<sup>2</sup> Two or more corporations not for profit<sup>3</sup> wanting to pool their property or casualty risks together can form a self-insurance fund under s. 624.4625, F.S.<sup>4</sup> This statute outlines many requirements and parameters for the fund and the corporation not for profit members. One requirement set out is that each fund member receives at least 75 percent of its revenue from local, state, or federal government sources.

There is at least one corporation not for profit self-insurance fund in Florida, the Florida Insurance Trust (FIT), with approximately 150 members.<sup>5</sup> The FIT currently offers multiple lines of coverage in their self-insurance fund.<sup>6</sup> According to the FIT, Form 990<sup>7</sup> from the Internal Revenue Service (IRS) is what the fund uses to determine if potential members receive 75 percent of funding from governmental sources. In addition, most current members of the FIT indicate on Schedule A for Form 990 that they are an organization that normally receives a substantial part of its support from a governmental unit or from the general public and qualify as a publically supported organization for IRS purposes.

Members of such a fund are also typically federally tax-exempt organizations. An entity must be determined by the IRS to be a tax-exempt organization following the filing of an IRS application form<sup>8</sup> prior to filing its returns as a tax-exempt organization. Most federally tax-exempt organizations must file Form 990 with the IRS. Schedule A to Form 990 or 990EZ requires organizations to indicate the reason the organization is a "public charity" for the tax year, which may hinge upon public support. The determination whether a public charity is also a publically supported organization for IRS purposes is determined by the results of a computation of public support percentage set out on Schedule A.<sup>9</sup> The computation takes into account certain receipts of the public charity for the past five years. Specifically, Schedule A requires organizations to disclose their aggregate receipts from the past five years from gifts; grants; contributions; membership fees; tax revenue; services or facilities furnished to the organization from a governmental unit; gross income from interest, dividends, payments received on securities loans, rents, royalties and income from other sources; net income from unrelated business activities; and other income. The amount of these receipts for certain tax years is used in the computation of a public support percentage, the result of which determines whether the organization qualifies as a publically supported organization for IRS purposes.<sup>10</sup>

The bill maintains current law allowing membership for corporations not for profit that receive at least 75 percent of their revenue from local, state, or federal government sources. By retaining current law in this regard, all current members of corporation not for profit self-insurance funds are essentially

<sup>1</sup> Glossary, <http://www.iii.org/services/glossary> (last viewed February 13, 2015).

<sup>2</sup> See s. 624.462, F.S., relating to commercial self-insurance funds; s. 624.4621, F.S., relating to group self-insurance funds; s. 624.4622, F.S., relating to local government self-insurance funds; s. 624.46226, F.S., relating to public housing authorities self-insurance funds; s. 624.4623, F.S., relating to independent nonprofit colleges or universities self-insurance fund; and s. 624.4626, relating to electric cooperative self-insurance fund.

<sup>3</sup> Corporations not for profit are organized under Chapter 617, F.S. A corporation not for profit "means a corporation no part of the income or profit of which is distributable to its members, directors, or officers, except as otherwise provided under [ch. 617]." s. 617.01401(5), F.S.

<sup>4</sup> The Office of Insurance Regulation reports that there is only one fund operating under s. 624.4625, F.S. (agency bill analysis on file with the Insurance and Banking Subcommittee).

<sup>5</sup> <http://floridainsurancetrust.com/index.php> (last viewed February 13, 2015). The FIT has been in existence since 2007.

<sup>6</sup> The FIT offers: Property General Liability; Professional Liability; Medical Practice Liability; Medical Legal Liability; Directors & Officers Liability; Workers' Compensation; Commercial Automobile; and, Employee Health Benefits. See <http://floridainsurancetrust.com/coverage.html> (last viewed on February 13, 2015).

<sup>7</sup> Non-profits whose incomes were less than \$500,000 and their assets less than \$1.25 million can file a Form 990EZ.

<sup>8</sup> Form 1023, *Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code*, Form 1023-EZ, *Streamlined Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code*.

<sup>9</sup> There are two ways an organization can qualify as a publically supported one: the 33 1/3 support test and the 10 percent facts and circumstances test. Calculations for both tests are set forth on Schedule A, Form 990 or Form 990EZ).

<sup>10</sup> Schedule A (Form 990 or 990-EZ and Instructions for Schedule A available at [http://www.irs.gov/uac/About-Schedule-A-\(Form-990-or-990EZ\)](http://www.irs.gov/uac/About-Schedule-A-(Form-990-or-990EZ)) (last viewed on February 13, 2015).

grandfathered in and thus, will be able to continue to qualify for fund membership, as long as their governmental funding level does not fall below 75 percent.

Presently, a member qualifies for a corporation not for profit self-insurance fund by drawing at least 75 percent of its revenue from governmental sources. The calculation of public support for purposes of IRS form 1099, Schedule A, includes support from the general public. Accordingly, the bill expands the potential membership of the fund(s) to include corporations not for profit that gather substantial support from the general public, rather than just those that receive at least 75 percent of their revenue from governments. Additionally, current law does not average the threshold 75 percent governmental funding over time. The revision proposed by the bill differs from the current standard in that under Schedule A, Part II, the level of funding necessary to determine public support is averaged over the preceding five tax years.

**B. SECTION DIRECTORY:**

Section 1: Amends s. 624.4625(1)(b), F.S., relating to corporation not for profit self-insurance funds eligibility criteria.

Section 2: Provides an effective date of July 1, 2015.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

**1. Revenues:**

Premium tax revenues will be impacted to the extent that increased participation in corporation not for profit self-insurance funds moves premiums from the generally applicable rate of 1.75 percent of premium to the 1.6 percent of premium applicable to funds organized under s. 624.4625, F.S. However, this would be mitigated if corporations not for profit choose to obtain self-insurance for lines that they do not currently carry, thus increasing premium tax revenue. The amount of this impact has not been estimated.

**2. Expenditures:**

None.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

**1. Revenues:**

None.

**2. Expenditures:**

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

Corporations not for profit that choose to self-insure their risks by joining or forming a corporation not for profit self-insurance fund should be able to obtain savings over purchasing coverage of these risks in the general market. This would reduce their fundraising burdens and/or allow revenues to be redirected to other purposes. The extent of the savings has not been estimated.

**D. FISCAL COMMENTS:**

See comment in Section II, A., 1., Revenues.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

##### 2. Other:

None.

#### B. RULE-MAKING AUTHORITY:

None.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES



1                                    A bill to be entitled  
2                    An act relating to the regulation of not-for-profit  
3                    self-insurance funds; amending s. 624.4625, F.S.;  
4                    revising requirements for the formation of corporation  
5                    not for profit self-insurance funds; providing an  
6                    effective date.

7  
8                    Be It Enacted by the Legislature of the State of Florida:

9  
10                    Section 1. Paragraph (b) of subsection (1) of section  
11                    624.4625, Florida Statutes, is amended to read:

12                    624.4625 Corporation not for profit self-insurance funds.-

13                    (1) Notwithstanding any other provision of law, any two or  
14                    more corporations not for profit located in and organized under  
15                    the laws of this state may form a self-insurance fund for the  
16                    purpose of pooling and spreading liabilities of its group  
17                    members in any one or combination of property or casualty risk,  
18                    provided the corporation not for profit self-insurance fund that  
19                    is created:

20                    (b) Requires for qualification that each participating  
21                    member receive at least 75 percent of its revenues from local,  
22                    state, or federal governmental sources or a combination of such  
23                    sources or qualify as a publicly supported organization under s.  
24                    501(c)(3) or s. 4947(a)(1) of the United States Internal Revenue  
25                    Code which normally receives a substantial part of its support  
26                    from a governmental unit or from the general public as evidenced

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27 | on the organization's most recently filed Internal Revenue  
28 | Service Form 990 or 990EZ, Schedule A.

29 |       Section 2. This act shall take effect July 1, 2015.





## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** PCS for HB 165 Property and Casualty Insurance

**SPONSOR(S):** Santiago

**TIED BILLS:** IDEN./SIM. **BILLS:** SB 258

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee		Lloyd 	Cooper 
2) Government Operations Appropriations Subcommittee			
3) Regulatory Affairs Committee			

### SUMMARY ANALYSIS

The Proposed Committee Substitute (PCS) contains changes for various types of property and casualty insurance. Issues addressed include:

- **Motor Vehicle Insurance Rating** – currently, the use of a single zip code as a rating territory for motor vehicle insurance rates is deemed unfairly discriminatory and is thus prohibited; subject to certain conditions, the PCS allows single zip code rating territories on a “file and use” basis, rather than deeming them unfairly discriminatory in all instances;
- **Nonrenewal Notice for Property Insurance** – presently, personal lines or commercial lines residential property insurers must give policyholders a notice of cancellation, nonrenewal, or termination at least 100 days prior to the effective date of the action, except, for such actions during hurricane season (Jun 1-Nov1), notice must be given by June 1, also insureds who have been covered by the insurer for 5 years must receive 120 days notice; the PCS changes and makes uniform the due date for a notice of cancellation, nonrenewal, or termination – all will get at least a 120-day notice, however, with this change, some may receive such notice during hurricane season, instead of by June 1;
- **Delivery of Insurance Policies Electronically** – current law provides that every insurance policy must be mailed or delivered to the insured within 60 days after the insurance takes effect; the PCS permits electronic delivery of personal lines policies in lieu of delivery by mail upon the affirmative election of the policyholder;
- **Neutral Evaluation in Sinkhole Claims** – currently, a notice of right to participate in the neutral evaluation program must be issued by the insurer upon receipt of the sinkhole testing report or when a claim denial is issued; the PCS requires such notices to be issued only if there is sinkhole coverage under the policy and if the sinkhole claim was submitted timely;
- **Personal Injury Protection (PIP) Insurance** – reimbursements for medical services are currently made consistent with the Medicare fee schedule in effect on March 1 of the year the service is rendered and the schedule in effect on March 1 applies for the remainder of that year; it is unclear what period “remainder of that year” describes; the PCS aligns the period in which services were rendered with the year the applicable fee schedule is in effect and states precisely the beginning and end of the year (March 1 through the end of the following February); and
- **Preinsurance Inspection of Private Passenger Motor Vehicles** – under current law, there are exemptions from required preinsurance inspections for “purchased” cars, if certain documents are provided; the PCS adds leased vehicles to the exemptions; allows insurers to elect to receive the documents; revises the types of documents that insurers may require; and, limits claim reimbursement and property damage coverage suspension based on the timing of document delivery.

The PCS has no fiscal impact on state or local government expenditures. The PCS should have a positive impact on the private sector. The PCS is effective July 1, 2015.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: pcs0165.IBS.docx

DATE: 2/13/2015

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Zip Codes and Rating Territories for Motor Vehicle Insurance**

Section 627.062, F.S., is Florida's rating law. Among other requirements, it provides that insurance rates cannot be excessive, inadequate, or unfairly discriminatory. Insurer rate filings that comply with the law and are adequately supported by actuarial justification must be accepted by the OIR.

Pursuant to s. 627.0651, F.S., the use of a single zip code as a rating territory for motor vehicle insurance rates is deemed unfairly discriminatory and is thus prohibited. OIR informs that this provision was most likely enacted as an anti-redlining measure, and at that time it was probably considered unlikely that defining a territory consisting of less than two zip codes had a legitimate purpose. However, OIR notes that given the increasing role of "big data" in rating insurance, it may become more common for models including demographic data and insurance data to be used in the determination of rating territory boundaries in the future.<sup>1</sup>

The Proposed Committee Substitute (PCS) amends s. 627.0651, F.S., deeming motor vehicle rating territories that are based on a single zip code to be unfairly discriminatory, unless submitted to OIR for review prior to use and the proposed rating territory has sufficient actual or expected loss and loss adjustment expense experience to be actuarially measurable and credible.

##### **Nonrenewal Notice for Property Insurance**

Under current law,<sup>2</sup> personal lines or commercial lines residential property insurers must give policyholders a notice of cancellation, nonrenewal, or termination at least 100 days prior to the effective date of the cancellation, nonrenewal, or termination.<sup>3</sup> Further, for any cancellation, nonrenewal, or termination that takes effect between June 1<sup>st</sup> and November 30<sup>th</sup>, an insurer must provide at least 100 days written notice, or notice by June 1<sup>st</sup>, whichever is earlier. The June 1<sup>st</sup> notice deadline ensures policyholders whose property insurance policies will be cancelled, nonrenewed, or terminated during hurricane season (June 1<sup>st</sup> – November 30<sup>th</sup>) will receive notice of the cancellation, nonrenewal, or termination by the start of hurricane season.

The PCS repeals the required notice by June 1<sup>st</sup> for policies being cancelled, nonrenewed, or terminated between June 1<sup>st</sup> and November 30<sup>th</sup>. The PCS also lengthens the notice time period under current law from 100 days to 120 days. Under the PCS, policyholders with a policy renewal date from June 1<sup>st</sup> to November 30<sup>th</sup> will receive 120 days' notice before the policy's cancellation, nonrenewal, or termination date. This change means some property insurance policyholders will receive notice of cancellation, nonrenewal, or termination during hurricane season (June 1<sup>st</sup>–November 30<sup>th</sup>). Under the PCS, policies renewing September 28<sup>th</sup>–November 30<sup>th</sup> that are being nonrenewed, cancelled or terminated by the insurer will receive notice of nonrenewal, cancellation or termination during hurricane season.

Policyholders with property insured by the same insurer for five years or more receive 120 days' notice of cancellation, nonrenewal, or termination and the PCS does not change the notice period for these policyholders.

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<sup>1</sup> Correspondence from OIR dated February 7, 2014, on file with the Regulatory Affairs Committee.

<sup>2</sup> Section 627.4133(2), F.S.

<sup>3</sup> A 45-day notice of cancellation or nonrenewal, rather than the 100-day or 120-day notice is allowed if the OIR determines early cancellation of some or all of an insurer's property insurance policies is necessary to protect the best interest of the public or the policyholders. (s. 627.4133(2)(b)5., F.S.)

### **Delivery of Insurance Policies Electronically**

Section 627.421, F.S., requires every insurance policy<sup>4</sup> to be mailed or delivered to the insured (policyholder) within 60 days after the insurance takes effect. Insurance policies are typically only delivered when the policy is issued and are not delivered each time the policy is renewed. Regarding electronic transmission, the law also contains specific delivery parameters for insurance covering commercial risks. Also, subject to certain conditions, property and casualty insurers are allowed to post policies on the insurer's website instead of mailing, delivering or electronically transmitting the policies to insureds.

The Federal Electronic Signatures in Global and National Commerce Act (E-SIGN) applies to electronic transactions involving interstate commerce.<sup>5</sup> Insurance is specifically included in E-SIGN.<sup>6</sup> E-SIGN provides contracts formed using electronic signatures on electronic records will not be denied legal effect only because they are electronic. However, E-SIGN requires consumer disclosure and consent to electronic records in certain instances before electronic records will be given legal effect. Under E-SIGN, if a statute requires information to be provided or made available to a consumer in writing, the use of an electronic record to provide or make the information available to the consumer will satisfy the statute's requirement of writing if the consumer affirmatively consents to use of an electronic record. The consumer must also be provided with a statement notifying the consumer of the right to have the electronic information made available in a paper format and of the right to withdraw consent to electronic records, among other notifications.

Florida's Uniform Electronic Transaction Act (UETA)<sup>7</sup> is similar to the federal E-SIGN law. UETA specifically applies to insurance and provides a requirement in statute that information that must be delivered in writing to another person can be satisfied by delivering the information electronically if the parties have agreed to conduct a transaction by electronic means.

Current law allows all insurance policies to be electronically transmitted to the policyholder<sup>8</sup> and provides electronic delivery parameters for insurance covering commercial risks.

For personal lines insurance,<sup>9</sup> the PCS allows insurers to deliver insurance policies by electronic means in lieu of delivery by mail if the policyholder affirmatively elects electronic delivery. The PCS does not likely implicate E-SIGN or UETA because it requires the affirmative consent of the policyholder before the electronic delivery of insurance policy documents.

### **Neutral Evaluation in Sinkhole Claims**

Since 1981, insurers offering property coverage in Florida have been required by law to provide coverage for property damage from sinkholes.<sup>10</sup> Beginning in 2007, catastrophic ground cover collapse became the mandatory coverage under basic policies and sinkhole loss became a mandatory offering that may be elected by the insured.<sup>11</sup> A sinkhole is defined as a landform created by subsidence of soil, sediment, or rock as underlying strata are dissolved by groundwater.<sup>12</sup> Catastrophic ground cover collapse is also defined in the law<sup>13</sup> and it describes a more severe circumstance than sinkhole loss, primarily in that it renders the structure uninhabitable.

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<sup>4</sup> Section 627.402, F.S., defines policy to include endorsements, riders, and clauses. Reinsurance, wet marine and transportation insurance, title insurance, and credit life or credit disability insurance policies do not have to be mailed or delivered. (see s. 627.401, F.S.)

<sup>5</sup> Section 101, Electronic Signatures in Global and National Commerce Act, Pub. L. no. 106-229, 114 Stat 464 (2000). Many of the provisions of E-SIGN took effective October 1, 2000.

<sup>6</sup> *Id.*

<sup>7</sup> Section 668.50, F.S.

<sup>8</sup> Ch. 2013-190, L.O.F.

<sup>9</sup> Personal lines insurance is property and casualty insurance sold to individuals and families for non-commercial purposes. S. 626.015(15), F.S.

<sup>10</sup> Ch. 1981-280, L.O.F.

<sup>11</sup> Section 30, Ch. 2007-1, L.O.F.

<sup>12</sup> Section 627.706(2)(h), F.S.

<sup>13</sup> Catastrophic ground cover collapse is an abrupt ground cover collapse resulting in a depression that is clearly visible to the eye, with structural damage to building that is covered by the insurance, including the foundation, and the building is condemned and ordered vacated. S. 627.706(2)(a), F.S.

Sinkholes occur in certain parts of Florida due to the unique geological structure of the land. Sinkholes are geographic features formed by movement of rock or sediment into voids created by the dissolution of water-soluble rock. Sinkhole formation may be aggravated and accelerated by urbanization and suburbanization, by sub-surface water usage and changes in weather patterns.

Insurers must offer policyholders, for an appropriate additional premium, sinkhole loss coverage covering any structure, including personal property contents.<sup>14</sup> At a minimum, sinkhole loss coverage includes repairing the covered building, repairing the foundation, and stabilizing the underlying land. All property insurers can restrict catastrophic ground cover collapse and sinkhole loss coverage to the property's principal building.<sup>15</sup> Furthermore, insurers can require an inspection of the property before providing sinkhole loss coverage.

Pursuant to s. 627.707, F.S., upon receipt of a claim for sinkhole loss to a covered building, the insurer must inspect the property to determine if sinkhole activity has caused structural damage. If such damage exists and the insurer is unable to identify a valid cause of the damage or identifies damage consistent with sinkhole loss, the insurer is required to conduct testing to determine the cause. However, the testing is only required if the policy covers sinkhole loss. The testing must meet statutory standards and a report must be issued that contains required information. The Department of Financial Services (Department) states that testing under s. 627.707 is necessary to proceed with the neutral evaluation program operated by the Department, but that the Department does not determine when the testing must be performed.<sup>16</sup>

Under s. 627.7074(3), F.S., following the report or a denial of the claim, the insurer must inform the policyholder in writing of their right to participate in the neutral evaluation program and must include an informational brochure prepared by the Department.<sup>17</sup> In the context of that subsection, it is not readily apparent whether the term "denial of the claim" means all denials, denials involving the existence of a sinkhole, or something else. So, ineffectual or unwarranted notices may be going out to policyholders.

The neutral evaluation program is mandatory once requested by either party.<sup>18</sup> The Department has received requests for neutral evaluation from individuals in cases where the insurer alleges that there is no sinkhole coverage or that the sinkhole claim is untimely filed. Since the testing, and the appurtenant report, is unlikely to be done until contests over coverage and timeliness are resolved, the insureds may receive notice of the right to neutral evaluation at a point in the process that neutral evaluation cannot be done.

The PCS requires an insurer to notify a policyholder of the right to participate in neutral evaluation of a sinkhole claim only if there is sinkhole coverage on the damaged property and if the sinkhole claim was submitted within the statute of limitations period,<sup>19</sup> which is two years after the policyholder knew or reasonably should have known about the sinkhole loss.

### **Personal Injury Protection Insurance**

House Bill 119, the personal injury protection insurance (PIP) reform bill enacted in 2012,<sup>20</sup> amended s. 627.736(5)(a)2., F.S., by establishing the date on which changes to the Medicare fee schedule or payment limitation are effective. The legislation provides in part that:

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<sup>14</sup> Section 627.706, F.S.

<sup>15</sup> By law, sinkhole loss coverage by Citizens Property Insurance Corporation (Citizens) does not cover sinkhole losses to appurtenant structures, driveways, sidewalks, decks, or patios. Citizens Property Insurance Corporation is a state-created, not-for-profit, tax-exempt governmental entity whose public purpose is to provide property insurance coverage to those unable to find affordable coverage in the voluntary admitted market. It is not a private insurance company.

<sup>16</sup> Department of Financial Services, Division of Consumer Services, letter dated February 13, 2015, on file with the Insurance and Banking Subcommittee.

<sup>17</sup> Section 627.7074(3)(d), F.S., and Rule 69J-8.006, F.A.C. The Department's sinkhole pamphlet is posted on the web at <http://www.myfloridacfo.com/division/Consumers/Mediation/documents/SettlingSinkholeClaim.pdf> (last accessed: February 12, 2015).

<sup>18</sup> Section 627.7074(4), F.S., and Rule 69J-8.007(3), F.A.C.

<sup>19</sup> Section 627.706(5), F.S.

<sup>20</sup> Ch. 2012-151, L.O.F.

[T]he applicable fee schedule or payment limitation under Medicare is the fee schedule or payment limitation in effect on March 1 of the year in which the services, supplies, or care is rendered... *and the applicable fee schedule or payment limitation applies throughout the remainder of that year* [italics added for emphasis]....”

The above-emphasized language created uncertainty as to whether the Medicare fee schedule in place on March 1<sup>st</sup> applied through the calendar year (through December 31<sup>st</sup>) or whether it applied through the end of February of the following year. On November 6, 2012, the OIR issued Informational Memorandum OIR-12-06M,<sup>21</sup> stating that the plain language of the section requires the fee schedule in place on March 1<sup>st</sup> to apply throughout the following 365 days, or until the following March 1<sup>st</sup>.

The PCS amends s. 627.736(5)(a)2., F.S., to define a “service year” for rendered services, supplies, or care. For this purpose, a “service year” is from March 1 through the end of the following February. The period for the applicable Medicare fee schedule is then applied to this same period. This should provide certainty that reimbursement for any medical services, supplies, or care under PIP will be reimbursed based on the applicable Medicare fee schedule in effect on the preceding March 1.

### **Preinsurance Inspection of Private Passenger Motor Vehicles**

Section 627.744, F.S., requires preinsurance inspections of private passenger motor vehicles, but lists various exemptions, including for new, unused motor vehicles “purchased” from a licensed motor vehicle dealer or leasing company when the insurer is provided with the bill of sale, buyer’s order, or copy of the title and certain other documentation. Despite the exemptions, an insurer may require a preinsurance inspection of any motor vehicle as a condition of issuance of physical damage coverage. Physical damage coverage may not be suspended during the policy period due to the applicant’s failure to provide the required documents. However, claim payments are conditioned upon and are not payable until the required documents are received by the insurer. Applicants for insurance may be required to pay the cost of the preinsurance inspection, not to exceed five dollars.

The PCS adds an exemption from preinsurance inspection for new, unused “leased” motor vehicles to the existing exemption for “purchased” vehicles, if the vehicle is leased from a licensed motor vehicle dealer or leasing company. If the insurer waives its right to a preinsurance inspection, it also provides an insurer the discretion to require persons who purchase or lease a new, unused motor vehicle to submit certain documents. Currently, such documents are required to be provided whenever the exemption is utilized. Persons who do not submit the required documentation, upon request, at the time the policy is issued are required to submit the document before any physical damage loss is payable under the policy. The PCS amends the list of documents that an insurer may require to include the vehicle registration in addition to the existing option of providing the vehicle title along with the window sticker and deletes from the list of documents the detailed dealer’s invoice. Failure of the insurer to request the documentation is added to the prohibition on suspending coverage due to the insured’s failure to provide documentation. Finally, the condition on claim payment pending receipt of documentation is revised to apply only if the carrier exercised its option to require the documentation.

#### **B. SECTION DIRECTORY:**

Section 1: Amends s. 627.0651, F.S., relating to making and use of rates for motor vehicle insurance.

Section 2: Amends s. 627.3518, F.S., relating to Citizens Property Insurance Corporation policyholder eligibility clearinghouse program to correct a cross reference.

Section 3: Amends s. 627.4133, F.S., relating to notice of cancellation, nonrenewal, or renewal premium.

Section 4: Amends s. 627.421, F.S., relating to delivery of policy.

<sup>21</sup> Available at <http://www.flair.com/Sections/PandC/ProductReview/PIPInfo.aspx> (last accessed: January 23, 2015).



Section 5: Amends s. 627.7074, F.S., relating to alternative procedure for resolution of disputed sinkhole insurance claims.

Section 6: Amends s. 627.736, F.S., relating to required personal injury protection benefits; exclusions; priority; claims.

Section 7: Amends s. 627.744, F.S., relating to required preinsurance inspection of private passenger motor vehicles.

Section 8: Provides an effective date of July 1, 2015.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Insurers emailing policies would likely save costs associated with printing and mailing insurance policies to policyholders. The exact amount of savings cannot be calculated as it is unknown how many insurers would opt to deliver their policies by email and how many policyholders would choose to obtain their policies by email rather than by mail. However, any savings realized by insurers should be passed through to policyholders.

Consolidating the notice of nonrenewal, cancellation, or termination into a uniform 120 day notice requirement would likely benefit insurers. Administering multiple conditions that set the notice period (currently the earlier of 100 days or June 1<sup>st</sup>, if the date falls between June 1 and November 30, or 120 days if the policyholder has been with the insurer for five or more years) would no longer be required. The extent of this benefit has not been calculated. However, any savings realized by insurers should be passed through to policyholders.

Limiting the issuance of notices of right to sinkhole neutral evaluators would likely benefit insurers by only requiring the notice in fewer instances. The extent of this benefit has not been calculated. However, any savings realized by insurers should be passed through to policyholders.

### D. FISCAL COMMENTS:

None.

### **III. COMMENTS**

#### **A. CONSTITUTIONAL ISSUES:**

##### **1. Applicability of Municipality/County Mandates Provision:**

Not applicable. This PCS does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties or municipalities.

##### **2. Other:**

None.

#### **B. RULE-MAKING AUTHORITY:**

None.

#### **C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

### **IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

1                                   A bill to be entitled  
2           An act relating to property and casualty insurance;  
3           amending s. 627.0651, F.S.; revising provisions for  
4           making and use of rates for motor vehicle insurance;  
5           amending s. 627.3518, F.S.; conforming a cross-  
6           reference; amending s. 627.4133, F.S.; increasing the  
7           amount of prior notice required with respect to the  
8           nonrenewal, cancellation, or termination of certain  
9           insurance policies; deleting certain provisions that  
10          require extended periods of prior notice with respect  
11          to the nonrenewal, cancellation, or termination of  
12          certain insurance policies; prohibiting the  
13          cancellation of certain policies that have been in  
14          effect for a specified amount of time except under  
15          certain circumstances; amending s. 627.421, F.S.;  
16          authorizing a policyholder of personal lines insurance  
17          to affirmatively elect delivery of policy documents by  
18          electronic means; amending s. 627.7074, F.S.; revising  
19          notification requirements for participation in the  
20          neutral evaluation program; amending s. 627.736, F.S.;  
21          revising the period for applicability of certain  
22          Medicare fee schedules or payment limitations;  
23          amending s. 627.744, F.S.; revising preinsurance  
24          inspection requirements for private passenger motor  
25          vehicles; providing an effective date.  
26

27 Be It Enacted by the Legislature of the State of Florida:

28

29 Section 1. Subsection (8) of section 627.0651, Florida  
30 Statutes, is amended to read:

31 627.0651 Making and use of rates for motor vehicle  
32 insurance.—

33 (8) Rates are not unfairly discriminatory if averaged  
34 broadly among members of a group; nor are rates unfairly  
35 discriminatory even though they are lower than rates for  
36 nonmembers of the group. However, such rates are unfairly  
37 discriminatory if they are not actuarially measurable and  
38 credible and sufficiently related to actual or expected loss and  
39 expense experience of the group so as to ensure ~~assure~~ that  
40 nonmembers of the group are not unfairly discriminated against.  
41 Use of a single United States Postal Service zip code as a  
42 rating territory shall be deemed unfairly discriminatory unless  
43 filed pursuant to paragraph (1)(a) and such territory  
44 incorporates sufficient actual or expected loss and loss  
45 adjustment expense experience so as to be actuarially measurable  
46 and credible.

47 Section 2. Subsection (9) of section 627.3518, Florida  
48 Statutes, is amended to read:

49 627.3518 Citizens Property Insurance Corporation  
50 policyholder eligibility clearinghouse program.—The purpose of  
51 this section is to provide a framework for the corporation to  
52 implement a clearinghouse program by January 1, 2014.

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

58 Section 3. Paragraph (b) of subsection (2) of section  
 59 627.4133, Florida Statutes, is amended to read:

60 627.4133 Notice of cancellation, nonrenewal, or renewal  
 61 premium.—

62 (2) With respect to any personal lines or commercial  
 63 residential property insurance policy, including, but not  
 64 limited to, any homeowner, mobile home owner, farmowner,  
 65 condominium association, condominium unit owner, apartment  
 66 building, or other policy covering a residential structure or  
 67 its contents:

68 (b) The insurer shall give the first-named insured written  
 69 notice of nonrenewal, cancellation, or termination at least 120  
 70 ~~100~~ days before the effective date of the nonrenewal,  
 71 cancellation, or termination. ~~However, the insurer shall give at~~  
 72 ~~least 100 days' written notice, or written notice by June 1,~~  
 73 ~~whichever is earlier, for any nonrenewal, cancellation, or~~  
 74 ~~termination that would be effective between June 1 and November~~  
 75 ~~30.~~ The notice must include the reason for the nonrenewal,  
 76 cancellation, or termination, except that:

77 1. ~~The insurer shall give the first-named insured written~~  
 78 ~~notice of nonrenewal, cancellation, or termination at least 120~~

79 ~~days before the effective date of the nonrenewal, cancellation,~~  
 80 ~~or termination for a first-named insured whose residential~~  
 81 ~~structure has been insured by that insurer or an affiliated~~  
 82 ~~insurer for at least 5 years before the date of the written~~  
 83 ~~notice.~~

84 1.2. If cancellation is for nonpayment of premium, at  
 85 least 10 days' written notice of cancellation accompanied by the  
 86 reason therefor must be given. As used in this subparagraph, the  
 87 term "nonpayment of premium" means failure of the named insured  
 88 to discharge when due her or his obligations for paying the  
 89 premium on a policy or an installment of such premium, whether  
 90 the premium is payable directly to the insurer or its agent or  
 91 indirectly under a premium finance plan or extension of credit,  
 92 or failure to maintain membership in an organization if such  
 93 membership is a condition precedent to insurance coverage. The  
 94 term also means the failure of a financial institution to honor  
 95 an insurance applicant's check after delivery to a licensed  
 96 agent for payment of a premium even if the agent has previously  
 97 delivered or transferred the premium to the insurer. If a  
 98 dishonored check represents the initial premium payment, the  
 99 contract and all contractual obligations are void ab initio  
 100 unless the nonpayment is cured within the earlier of 5 days  
 101 after actual notice by certified mail is received by the  
 102 applicant or 15 days after notice is sent to the applicant by  
 103 certified mail or registered mail. If the contract is void, any  
 104 premium received by the insurer from a third party must be

105 | refunded to that party in full.

106 |       ~~2.3.~~ If cancellation or termination occurs during the  
 107 | first 90 days the insurance is in force and the insurance is  
 108 | canceled or terminated for reasons other than nonpayment of  
 109 | premium, at least 20 days' written notice of cancellation or  
 110 | termination accompanied by the reason therefor must be given  
 111 | unless there has been a material misstatement or  
 112 | misrepresentation or a failure to comply with the underwriting  
 113 | requirements established by the insurer.

114 |       3. After the policy has been in effect for 90 days, the  
 115 | policy may not be canceled by the insurer unless there has been  
 116 | a material misstatement, a nonpayment of premium, a failure to  
 117 | comply, within 90 days after the date of effectuation of  
 118 | coverage, with underwriting requirements established by the  
 119 | insurer prior to the effectuation of coverage, or a substantial  
 120 | change in the risk covered by the policy or unless the  
 121 | cancellation is for all insureds under such policies for a given  
 122 | class of insureds. This subparagraph does not apply to  
 123 | individually rated risks that have a policy term of less than 90  
 124 | days.

125 |       4. After a policy or contract has been in effect for more  
 126 | than 90 days, the insurer may not cancel or terminate the policy  
 127 | or contract based on credit information available in public  
 128 | records.

129 |       ~~5. The requirement for providing written notice by June 1~~  
 130 | ~~of any nonrenewal that would be effective between June 1 and~~

131 ~~November 30 does not apply to the following situations, but the~~  
 132 ~~insurer remains subject to the requirement to provide such~~  
 133 ~~notice at least 100 days before the effective date of~~  
 134 ~~nonrenewal:~~

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

138 5.b. A policy that is nonrenewed by Citizens Property  
 139 Insurance Corporation, pursuant to s. 627.351(6), for a policy  
 140 that has been assumed by an authorized insurer offering  
 141 replacement coverage to the policyholder is exempt from the  
 142 notice requirements of paragraph (a) and this paragraph. In such  
 143 cases, the corporation must give the named insured written  
 144 notice of nonrenewal at least 45 days before the effective date  
 145 of the nonrenewal.

146  
 147 ~~After the policy has been in effect for 90 days, the policy may~~  
 148 ~~not be canceled by the insurer unless there has been a material~~  
 149 ~~misstatement, a nonpayment of premium, a failure to comply with~~  
 150 ~~underwriting requirements established by the insurer within 90~~  
 151 ~~days after the date of effectuation of coverage, a substantial~~  
 152 ~~change in the risk covered by the policy, or the cancellation is~~  
 153 ~~for all insureds under such policies for a given class of~~  
 154 ~~insureds. This paragraph does not apply to individually rated~~  
 155 ~~risks that have a policy term of less than 90 days.~~

156 6. Notwithstanding any other provision of law, an insurer



157 | may cancel or nonrenew a property insurance policy after at  
 158 | least 45 days' notice if the office finds that the early  
 159 | cancellation of some or all of the insurer's policies is  
 160 | necessary to protect the best interests of the public or  
 161 | policyholders and the office approves the insurer's plan for  
 162 | early cancellation or nonrenewal of some or all of its policies.  
 163 | The office may base such finding upon the financial condition of  
 164 | the insurer, lack of adequate reinsurance coverage for hurricane  
 165 | risk, or other relevant factors. The office may condition its  
 166 | finding on the consent of the insurer to be placed under  
 167 | administrative supervision pursuant to s. 624.81 or to the  
 168 | appointment of a receiver under chapter 631.

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

172 |         Section 4. Subsection (1) of section 627.421, Florida  
 173 | Statutes, is amended to read:

174 |             627.421 Delivery of policy.—

175 |             (1) Subject to the insurer's requirement as to payment of  
 176 | premium, every policy shall be mailed, delivered, or  
 177 | electronically transmitted to the insured or to the person  
 178 | entitled thereto not later than 60 days after the effectuation  
 179 | of coverage. Notwithstanding any other provision of law, an  
 180 | insurer may allow a policyholder of personal lines insurance to  
 181 | affirmatively elect delivery of the policy documents, including,  
 182 | but not limited to, policies, endorsements, notices, or

183 documents, by electronic means in lieu of delivery by mail.  
 184 Electronic transmission of a policy for commercial risks,  
 185 including, but not limited to, workers' compensation and  
 186 employers' liability, commercial automobile liability,  
 187 commercial automobile physical damage, commercial lines  
 188 residential property, commercial nonresidential property,  
 189 farmowners insurance, and the types of commercial lines risks  
 190 set forth in s. 627.062(3)(d), constitutes ~~shall constitute~~  
 191 delivery to the insured or to the person entitled to delivery,  
 192 unless the insured or the person entitled to delivery  
 193 communicates to the insurer in writing or electronically that he  
 194 or she does not agree to delivery by electronic means.  
 195 Electronic transmission shall include a notice to the insured or  
 196 to the person entitled to delivery of a policy of his or her  
 197 right to receive the policy via United States mail rather than  
 198 via electronic transmission. A paper copy of the policy shall be  
 199 provided to the insured or to the person entitled to delivery at  
 200 his or her request.

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

203 627.7074 Alternative procedure for resolution of disputed  
 204 sinkhole insurance claims.-

205 (3) Following the receipt of the report provided under s.  
 206 627.7073 or the denial of a claim for a sinkhole loss, the  
 207 insurer shall notify the policyholder of his or her right to  
 208 participate in the neutral evaluation program under this section

209 | if there is coverage available under the policy and the claim  
 210 | was submitted within the timeframe provided in s. 627.706(5).  
 211 | Neutral evaluation supersedes the alternative dispute resolution  
 212 | process under s. 627.7015 but does not invalidate the appraisal  
 213 | clause of the insurance policy. The insurer shall provide to the  
 214 | policyholder the consumer information pamphlet prepared by the  
 215 | department pursuant to subsection (1) electronically or by  
 216 | United States mail.

217 | Section 6. Paragraph (a) of subsection (5) of section  
 218 | 627.736, Florida Statutes, is amended to read:

219 | 627.736 Required personal injury protection benefits;  
 220 | exclusions; priority; claims.—

221 | (5) CHARGES FOR TREATMENT OF INJURED PERSONS.—

222 | (a) A physician, hospital, clinic, or other person or  
 223 | institution lawfully rendering treatment to an injured person  
 224 | for a bodily injury covered by personal injury protection  
 225 | insurance may charge the insurer and injured party only a  
 226 | reasonable amount pursuant to this section for the services and  
 227 | supplies rendered, and the insurer providing such coverage may  
 228 | pay for such charges directly to such person or institution  
 229 | lawfully rendering such treatment if the insured receiving such  
 230 | treatment or his or her guardian has countersigned the properly  
 231 | completed invoice, bill, or claim form approved by the office  
 232 | upon which such charges are to be paid for as having actually  
 233 | been rendered, to the best knowledge of the insured or his or  
 234 | her guardian. However, such a charge may not exceed the amount

235 | the person or institution customarily charges for like services  
236 | or supplies. In determining whether a charge for a particular  
237 | service, treatment, or otherwise is reasonable, consideration  
238 | may be given to evidence of usual and customary charges and  
239 | payments accepted by the provider involved in the dispute,  
240 | reimbursement levels in the community and various federal and  
241 | state medical fee schedules applicable to motor vehicle and  
242 | other insurance coverages, and other information relevant to the  
243 | reasonableness of the reimbursement for the service, treatment,  
244 | or supply.

245 |       1. The insurer may limit reimbursement to 80 percent of  
246 | the following schedule of maximum charges:

247 |       a. For emergency transport and treatment by providers  
248 | licensed under chapter 401, 200 percent of Medicare.

249 |       b. For emergency services and care provided by a hospital  
250 | licensed under chapter 395, 75 percent of the hospital's usual  
251 | and customary charges.

252 |       c. For emergency services and care as defined by s.  
253 | 395.002 provided in a facility licensed under chapter 395  
254 | rendered by a physician or dentist, and related hospital  
255 | inpatient services rendered by a physician or dentist, the usual  
256 | and customary charges in the community.

257 |       d. For hospital inpatient services, other than emergency  
258 | services and care, 200 percent of the Medicare Part A  
259 | prospective payment applicable to the specific hospital  
260 | providing the inpatient services.

261           e. For hospital outpatient services, other than emergency  
 262 services and care, 200 percent of the Medicare Part A Ambulatory  
 263 Payment Classification for the specific hospital providing the  
 264 outpatient services.

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

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

270           (II) Medicare Part B, in the case of services, supplies,  
 271 and care provided by ambulatory surgical centers and clinical  
 272 laboratories.

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

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

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

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

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

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

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

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

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

334       627.744 Required preinsurance inspection of private  
 335 passenger motor vehicles.—

336       (2) This section does not apply:

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

339 passenger motor vehicle policy that ~~which~~ provides physical  
 340 damage coverage for any vehicle, if the agent of the insurer  
 341 verifies the previous coverage.

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

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

348 2. A copy of the title or registration that ~~which~~  
 349 establishes transfer of ownership from the dealer or leasing  
 350 company to the customer and a copy of the window sticker ~~or the~~  
 351 ~~dealer invoice showing the itemized options and equipment and~~  
 352 ~~the total retail price of the vehicle.~~

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

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



## Insurance & Banking Subcommittee

### PCS for HB 165 by Insurance & Banking Subcommittee Property and Casualty Insurance

#### AMENDMENT SUMMARY February 17, 2015

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**Amendment 1 by Rep. Santiago (Line 205):** This is a clarifying amendment that is identical in substance to the language proposed in the PCS. The amendment moves the proposed conditions precedent to the issuance of the required notice to the beginning of the sentence.

**Amendment 2 by Rep. Plakon (Line 239):** This section of the bill relates to allowable charges for reimbursement of motor vehicle Personal Injury Protection insurance. The amendment adds an additional type of evidence that may be given weight when determining whether a charge is reasonable. Specifically, it would allow usual and customary charges in the community to be taken into account, which would be in addition to several other factors listed in the law.



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

---

1 Committee/Subcommittee hearing bill: Insurance & Banking  
2 Subcommittee

3 Representative Santiago offered the following:

**Amendment**

6 Remove lines 205-210 and insert:

7 (3) If there is coverage available under the policy and  
8 the claim was submitted within the timeframe provided in s.  
9 627.706(5), following the receipt of the report provided under  
10 s. 627.7073 or the denial of a claim for a sinkhole loss, the  
11 insurer shall notify the policyholder of his or her right to  
12 participate in the neutral evaluation program under this  
13 section.



Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Insurance & Banking  
 2 Subcommittee

3 Representative Plakon offered the following:

4

5 **Amendment**

6 Remove line 239 and insert:

7 payments accepted by the provider involved in the dispute, usual  
 8 and customary charges in the community,