



Journal of the Senate

Number 30

Wednesday, May 18, 1977

The Senate was called to order by the President at 9:00 a.m.
A quorum present—39:

Mr. President	Gorman	Peterson	Thomas, Pat
Barron	Graham	Plante	Tobiassen
Castor	Hair	Poston	Trask
Chamberlin	Henderson	Renick	Vogt
Childers, Don	Holloway	Sayler	Ware
Childers, W. D.	Johnston	Scarborough	Williamson
Dunn	Lewis	Scott	Wilson
Firestone	MacKay	Skinner	Winn
Gallen	McClain	Spicola	Zinkil
Glisson	Myers	Thomas, Jon	

Respectfully submitted,
Tom Gallen, Chairman

HB 779	CS for SB 97	SB 1014
SB 147	CS for SCR 77	CS for SB 73
SB 919	SB 506	SB 14
SB 575	CS for SB 545	HB 545

The Committee on Education recommends the following pass:
SB 1307

The Committee on Natural Resources and Conservation recommends the following pass: SB 900 with 2 amendments

The Committee on Transportation recommends the following pass: SB 1089 with 2 amendments

The bills contained in the foregoing reports were referred to the Committee on Commerce under the original reference.

The Committee on Natural Resources and Conservation recommends the following pass: SB 772 with 4 amendments

The bill was referred to the Committee on Economic, Community and Consumer Affairs under the original reference.

The Committee on Judiciary-Civil recommends the following pass: SB 528 with 2 amendments

The Committee on Natural Resources and Conservation recommends the following pass: SB 728 with 6 amendments

The Committee on Transportation recommends the following pass: HB 1601 with 1 amendment

The Committee on Natural Resources and Conservation recommends the following pass: SB 1125

The bills contained in the foregoing reports were referred to the Committee on Governmental Operations under the original reference.

The Committee on Transportation recommends the following pass: SB 1090

The bill was referred to the Committee on Judiciary-Civil under the original reference.

The Committee on Appropriations recommends the following pass:

SB 60	SB 413 with 1 amendment
SB 196	SB 658 with 1 amendment
SB 256 with 2 amendments	SB 782 with 2 amendments
SB 315 with 3 amendments	

The Committee on Education recommends the following pass:

SB 944 with 1 amendment	SB 896 with 2 amendments
SB 976 with 1 amendment	SB 1201 with 2 amendments

The Committee on Judiciary-Civil recommends the following pass:

SB 965	HB 161
SB 1007	CS for HB 1159
SB 1207	HB 2155 with 2 amendments

Excused: Senator Gordon because of illness

Prayer by the Rev. Robert B. Culp, Second Presbyterian Church, Ft. Lauderdale:

Gracious God, our Father, as we gather ourselves afresh on this mid-week morning, we give pause to express our gratitude for the many gifts upon which our myriad of deliberations and actions depend.

The gifts of searching minds and inquisitive souls which seek to discover the way that is best and right; the gift of a sensitive spirit which lobbies to place all our actions within the context of human need and responsibility; the gift of humor which redeems our limited perspectives and the gift of laughter which allows us to give expression to a needed child-like sense of wonder and play; and the gift of your divine forgiveness by which we are freed to serve you, our families, our own selves even as we would serve our constituents.

Lord God, stab us broad awake to the challenging responsibilities that are attendant to the position of being a public servant. I would pray that these men and women gathered in this room not only seek to realize the great gifts by which you have blessed their lives, but also seek to realize the deep meaning of servitude.

Teach them that servitude involves the art of attentive listening more than it does the fine art of elocution; help them to know that the heart of servitude lies in being responsive and not reactive; and open their eyes and hearts to the high hope that the fruits of their servitude are to be experienced within the emerging patterns of society which they are helping to create.

O God, infuse this body with your wisdom in difficult decisions; strengthen these servants and make bold their initiatives when harried schedules and conflicting motives sap their energies; allow them to set straight personal priorities and professional responsibilities; and undergird them always with your liberating and redeeming love which sets them free.

To listen and support, to lobby and to laugh, to love and to serve—all these we pray in your strong name, dear Father, and for your sake. Amen.

REPORTS OF COMMITTEES

The Committee on Rules and Calendar recommends the following bills be placed on Special Order Calendar for Wednesday, May 18, 1977:

CS for SB 1181	SB 488	SB 580
SB 48	SB 1357	SB 989
SB 1016	SB 425	SB 997
SB 643	SB 293	SB 998

REQUESTS FOR EXTENSION OF TIME

The Committee on Commerce requests an extension of 15 days for the consideration of the following:

- | | |
|-------------------------------|---|
| SB 615 by Senator Gordon | SB 1415 by Senator W. D. Childers |
| SB 623 by Senator Pat Thomas | SB 1426 by Senator Vogt |
| SB 628 by Senator Vogt | SB 1428 by Senator Wilson |
| SB 620 by Senator Lewis | SB 1429 by Senator Hair |
| SB 639 by Senator McClain | SB 1430 by Senator Lewis |
| SB 1401 by Senator Barron | SB 1437 by Senator Ware |
| SB 1407 by Senator Firestone | SB 1438 by Senator McClain |
| SB 1408 by Senator Barron | HB 522 by Representatives Lewis, Tucker |
| SB 1411 by Senator Williamson | HB 52 by Representative Conway |
| SB 1413 by Senator Dunn | |

The Committee on Education requests an extension of 15 days for consideration of the following:

- | | |
|--|-------------------------------|
| SCR 622 by Senator Peterson (By Request) | SB 893 by Senator Lewis |
| SB 747 by Senator MacKay | SB 898 by Senator Plante |
| SB 858 by Senator Graham | HB 20 by Representative Young |

The Committee on Executive Business requests an extension of 3 days for consideration of the following:

- | | |
|---|--|
| HB 1574 by Rules and Calendar Committee | SB 1252 by Senator Poston |
| HB 1575 by Rules and Calendar Committee | SB 1302 by Executive Business Committee and others |

The Committee on Finance, Taxation and Claims requests an extension of 17 days for consideration of the following:

- | | |
|--|--|
| SB 33 by Senator Graham and others | SB 955 by Senator Saylor |
| SB 36 by Senator Zinkil | SB 978 by Senator Plante |
| SB 80 by Senator Graham | SB 980 by Senator Poston |
| SB 129 by Senator Graham | SB 1056 by Senator Vogt |
| CS for SB's 361 and 1114 by Natural Resources and Conservation Committee | SB 1064 by Finance, Taxation and Claims |
| SB 612 by Senator Poston | SB 1066 by Finance, Taxation and Claims |
| SB 650 by Senator Peterson and others | SB 1092 by Senator Scarborough |
| SB 654 by Economic, Community and Consumer Affairs Committee | SB 1124 by Senator Poston |
| SB 745 by Senator Holloway and others | SB 1162 by Senator Skinner |
| SB 829 by Senator Wilson | SB 1180 by Senator Barron |
| SB 942 by Senator MacKay and others | SB 1182 by Senator Hair |
| | SB 1359 by Senator Pat Thomas |
| | HB 109 by Representative Easley and Others |
| | HB 1046 by Finance, Taxation Committee |
| | HB 2145 by Community Affairs Committee |

The Committee on Governmental Operations requests an extension of 15 days for consideration of the following:

- | | |
|--------------------------------------|--|
| SB 897 by Senator Plante, and others | SB 1197 by Senator Gordon (by request) |
| SB 1046 by Senator Williamson | HB 133 by Representative Grizzle |

The Committee on Personnel, Retirement and Collective Bargaining requests an extension of 16 days for consideration of the following:

- | | |
|-------------------------------|-------------------------------|
| SB 959 by Senator Saylor | SB 1153 by Senator Gorman |
| SB 1013 by Senator Vogt | SB 1160 by Senator Pat Thomas |
| SB 1043 by Senator Tobiassen | SB 1185 by Senator Graham |
| SB 1103 by Senator Henderson | SB 1220 by Senator Plante |
| SB 1143 by Senator Winn | SB 1224 by Senator Graham |
| SB 1150 by Senator Pat Thomas | |

The Committee on Judiciary-Criminal requests an extension of 15 days for consideration of the following:

- | | |
|---|---|
| SB 78 by Senator Saylor and others | SB 330 by Senator Firestone and others |
| SB 85 by Senator Graham | SB 451 by Senator Tobiassen |
| SB 150 by Senator Scott | SB 484 by Senator Plante |
| SB 163 by Senator W. D. Childers and others | SB 560 by Senator Castor |
| SB 211 by Senator Firestone and others | SB 789 by Senator Scarborough |
| SB 327 by Senator Saylor | SB 886 by Judiciary-Criminal Committee and others |
| | SB 1334 by Senator Dunn |

MESSAGES FROM THE GOVERNOR AND OTHER EXECUTIVE COMMUNICATIONS

Appointment Subject to Confirmation by the Senate

The Secretary of State on May 16, 1977 certified that pursuant to the provisions of Section 112.071(1)(b), Florida Statutes, a commission subject to confirmation by the Senate had been prepared for the following:

Norvell W. Hunt, Zephyrhills; Member, Withlacoochee River Basin Board, for term ending June 30, 1979

—which was referred to the Committee on Executive Business.

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Lew Brantley, President

I am directed to inform the Senate that the House of Representatives has passed with amendments—

By the Committee on Appropriations—

SB 1455—A BILL TO BE ENTITLED AN ACT MAKING APPROPRIATIONS; PROVIDING MONEYS FOR THE ANNUAL PERIOD BEGINNING JULY 1, 1977 AND ENDING JUNE 30, 1978 TO PAY SALARIES, OTHER EXPENSES, CAPITAL OUTLAY-BUILDINGS AND IMPROVEMENTS, AND FOR OTHER SPECIFIED PURPOSES OF THE VARIOUS AGENCIES OF STATE GOVERNMENT; SUSPENDING SECTIONS 23.027, 25.073, 27.34(2), 27.54(3), 215.32(2)(C), 216.182(1), 216.221, 216.262, 216.291(2)(A), 216.292, 216.301, 216.301(2), 216.351, PART II, CHAPTER 218, 230.765, 230.767(2), 236.081(1)(C), 236.081(3), 240.046, 257.22, 287.161, AND 402.17(3), F.S., CHAPTER 76-285, LAWS OF FLORIDA; PROVIDING AN EFFECTIVE DATE.

—and requests the concurrence of the Senate.

Allen Morris, Clerk

Pursuant to Rule 7.6, the foregoing amendment to the General Appropriations Bill constituted an entirely new bill and was not printed in the Journal.

Amendment 2—Strike the title and insert: A BILL TO BE ENTITLED AN ACT MAKING APPROPRIATIONS; PROVIDING MONEYS FOR THE ANNUAL PERIOD BEGINNING JULY 1, 1977 AND ENDING JUNE 30, 1978 TO PAY SALARIES, OTHER EXPENSES, CAPITAL OUTLAY-BUILDINGS AND IMPROVEMENTS, AND FOR OTHER SPECIFIED PURPOSES OF THE VARIOUS AGENCIES OF STATE GOVERNMENT; SUSPENDING SECTIONS 27.34(2), 27.54(3), 215.32(2)(C), 216.221, 216.251(1), 216.262, 216.292, 216.301(2), 216.351, 230.765, 230.767(2), 230.081(3), 231.30(2)(A), 257.22 AND 402.17(3), FLORIDA STATUTES; PROVIDING AN EFFECTIVE DATE.

On motions by Senator Lewis, the Senate refused to concur in the House Amendments and the House was requested to recede. The action, with the bill and amendments, was certified to the House.

The Honorable Lew Brantley, President

I am directed to inform the Senate that the House of Representatives has adopted SCR 1476.

Allen Morris, Clerk

The Honorable Lew Brantley, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 249.

Allen Morris, Clerk

The bills contained in the above messages were ordered enrolled.

MATTERS ON RECONSIDERATION

The motion by Senator Dunn May 17 that the Senate reconsider the vote by which CS for SB 475 passed May 17 was not taken up and therefore considered abandoned. The action of the Senate was certified to the House and the bill was ordered engrossed and then enrolled.

The motion by Senator Plante May 17 that the Senate reconsider the vote by which HB 464 passed May 17 was not taken up and therefore considered abandoned. The bill was certified to the House.

SPECIAL ORDER

By the Committee on Commerce and Senators Barron, Hair and McClain—

CS for SB's 1181, 925 and 792—A bill to be entitled An act relating to insurance and tort reform; providing a short title; adding subsection (8) to s. 624.404, Florida Statutes; providing for valuation of portfolio at current market value; amending subsection (3) of s. 624.411, Florida Statutes; increasing deposit requirements; amending subsection (4) of s. 624.418, Florida Statutes, increasing provision for surplus as to policyholders; adding subsection (8) to s. 624.424, Florida Statutes; giving department authority to require an annual certified financial report; amending subsection (2) of s. 627.062, Florida Statutes; removing motor vehicle insurance from certain rate standards; amending paragraph (a) of subsection (1) of s. 627.072, Florida Statutes; removing motor vehicle insurance from certain provisions concerning making and use of rates; creating s. 627.0651, Florida Statutes; providing for making and use of rates for motor vehicle insurance; creating s. 627.066, Florida Statutes; prohibiting excessive profits for motor vehicle insurance; repealing subsection (5) of s. 627.331, Florida Statutes, relating to annual filing of loss and expense experience; creating s. 627.342, Florida Statutes; providing for risk classification reporting for motor vehicle insurance; amending s. 627.4132, Florida Statutes; providing for stacking of uninsured motorist coverage in tort action brought under s. 627.737(2), Florida Statutes; amending s. 627.7375, Florida Statutes, 1976 Supplement; providing for penalty for making false and fraudulent claims and statements used to support such claims; providing for civil cause of action if section is violated; defining "statement"; providing that section also applies to insurers, adjusting firms or their agents who defraud claimant; prohibiting solicitation of motor vehicle tort claims by any person and providing a penalty; prohibiting soliciting by an attorney of motor vehicle tort claims against an insurance company and providing a penalty; amending s. 626.989(2), (3) and (4), Florida Statutes, 1976 Supplement; providing subpoena powers to the Division of Fraudulent Claims; providing for criminal contempt; restricting public inspection of documents; providing for explanation by State Attorney if prosecution is not begun within 60 days; amending subsection (3) and adding new subsections (6) and (7) to s. 627.727, Florida Statutes; providing that under-insured motorist protection follows the car rather than the person; providing an alternative method to settle a third party claim in an underinsured situation; making arbitration not compulsory; amending s. 627.733, Florida Statutes; removing compulsory liability insurance except as required under financial responsibility law; providing that insurers providing mandatory personal injury protection coverage must also make available automobile liability insurance; amending s. 627.735, Florida Statutes; providing for suspension of license and registration if required security is not maintained; amending s. 627.736, Florida Statutes; providing that

personal injury protection benefits would be payable for 80 percent of all reasonable medical expenses; providing that disability benefits would be 80 percent of loss of gross income unless such benefits are deemed not includable in gross income for federal tax purposes, then it is limited for federal tax purposes, then it is limited to 60 percent; providing that insurer must reduce rates in proportion to reduction in benefits; providing for credit against benefits otherwise payable if Medicaid benefits are payable; clarifying who is covered by this section; amending s. 627.739, Florida Statutes; providing for modified personal injury protection insurance; providing for deductibles and exclusions; adding subsection (4) to s. 627.737, Florida Statutes, 1976 Supplement; prohibiting claim for punitive damages in an action against an automobile liability insurer for damages in excess of its policy limits; creating s. 627.7372, Florida Statutes; providing that all collateral sources are admissible into evidence in all tort actions; creating s. 768.061, Florida Statutes; providing contributory negligence is not a bar to recovery; providing for damage award to be diminished in proportion to negligence; creating s. 768.062, Florida Statutes; providing for set-offs in certain negligence actions; creating s. 627.7403, Florida Statutes; providing for mandatory joinder of derivative claims in certain actions; amending subsection (2) of s. 768.18, Florida Statutes; providing new definition of "minor children"; creating s. 627.7373, Florida Statutes; providing for the creation of a Good Driver Fund; providing for funding; providing for disbursement of moneys in fund; repealing s. 627.7263, Florida Statutes, 1976 Supplement, relating to rental and leasing driver's insurance primary; repealing s. 768.06, Florida Statutes, relating to comparative negligence; providing for rate freeze; providing for rate reduction in proportion to reduction of benefits provided; providing an effective date.

—was read the first time by title and Senate Bills 1181, 925 and 792 were laid on the table.

On motion by Senator Barron, by two-thirds vote CS for SB's 1181, 925 and 792 was read the second time by title.

Senator MacKay moved the following amendment:

Amendment 1—On page 4, line 24, strike everything after the enacting clause and insert: Section 1. Short Title.—This act shall be known and may be cited as "The Florida Insurance and Tort Reform Act of 1977."

Section 2. Subsection (8) is added to section 624.404, Florida Statutes, to read:

624.404 General eligibility of insurers for certificate of authority.—To qualify for and hold authority to transact insurance in this state an insurer must be otherwise in compliance with this code and with its charter powers, and must be an incorporated stock insurer, or an incorporated mutual insurer, or a reciprocal insurer, of the same general type as may be formed as a domestic insurer under this code; except that:

(8) For the purpose of satisfying the requirements of ss. 624.407 and 624.408 the investment portfolio of an insurer applying for an initial certificate of authority to do business in this state shall value its bonds and stocks at the then current market value.

Section 3. Subsection (3) of section 624.411, Florida Statutes, is amended to read:

624.411 Deposit requirement, domestic and foreign insurers.—

(3) In addition to the deposits otherwise required pursuant to this section, the department may, after notice and hearing, require any insurer, for good cause shown, to deposit and maintain deposited in trust for the protection of the insurer's policyholders or its policyholders and creditors, for such time as the department deems necessary, securities eligible for such deposit under s. 625.52, having a value of not less than the amount which the department shall determine is necessary, which amount shall be not less than \$75,000, nor more than \$1 million ~~\$250,000~~, depending on the insurer's obligations in this state.

Section 4. Subsection (4) of section 624.418, Florida Statutes, is amended to read:

624.418 Suspension, revocation of certificate of authority for violations and special grounds.—

(4) The department may, in its discretion, suspend or revoke an insurer's certificate of authority if it finds that the ratio of net premiums written to surplus as to policyholders exceeds four to one and the insurer has less than \$50 million surplus as to policyholders. However, the provisions of this subsection shall not apply to life and disability insurers.

Section 5. Subsection (8) is added to section 624.424, Florida Statutes, to read:

624.424 Annual statement and other information.—

(8) *The department may require an insurer to furnish an annual certified financial report which shall reflect the audited financial condition of the insurer as of the end of the calendar year and its operations, changes in financial position, and changes in capital and surplus for the year then ended in conformity with statutory accounting practices prescribed, or otherwise permitted, by the Department of Insurance.*

Section 6. Subsection (2) of section 627.062, Florida Statutes, is amended to read:

627.062 Rate standards.—

(2) As to all such classes of insurance, other than workmen's compensation, and employer's liability insurances and motor vehicle insurance:

(a) No rate shall be held to be excessive unless:

1. Such rate is unreasonably high for the insurance provided, and

2. A reasonable degree of competition does not exist in the area with respect to the classification to which the rate is applicable.

(b) No rate shall be held to be inadequate unless:

1. The rate is unreasonably low for the insurance provided, and

2. The continued use of the rate endangers the solvency of the insurer using the same, or unless

3. The rate is unreasonably low for the insurance provided and the use of the rate by the insurer using the same has, or if continued will have, the effect of destroying competition or of creating a monopoly. This subsection shall not apply to motor vehicle insurance as defined in s. 627.063.

Section 7. Paragraph (a) of subsection (1) of section 627.072, Florida Statutes, is amended to read:

627.072 Making and use of rates.—

(1)(a) As to all rates which are subject to part I of this chapter other than motor vehicle insurance, the following factors shall be used in the determination and fixing of rates:

1. Past and prospective loss experience within and outside this state;

2. The conflagration and catastrophe hazards;

3. A reasonable margin for underwriting profit and contingencies;

4. Dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers;

5. Investment income on unearned premium reserves and loss reserves;

6. Past and prospective expenses both countrywide and those specifically applicable to this state; and

7. All other relevant factors, including judgment factors, within and outside this state.

Section 8. Section 627.0651, Florida Statutes, is created to read:

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

(1) Insurers shall establish rates, rating schedules or rating manuals to allow the insurer a reasonable rate of return on motor vehicle insurance written in Florida. A copy of rates, rating schedules, and rating manuals, and changes therein,

shall be filed with the department as soon as practicable following their effective date, but no later than 30 days after that date.

(2) Upon receiving notice of a rate filing or rate change, the department may review the rate or rate change to determine if the rate is excessive, inadequate or unfairly discriminatory. In making that determination the department may consider the following factors:

(a) Past and prospective loss experience within and outside this state.

(b) The past and prospective administrative, selling, and loss adjustment expenses.

(c) The degree of competition among insurers for the risk insured.

(d) Investment income expected on the flow of funds generated by the average policy for motor vehicle insurance in this state.

(e) Dividends, savings, or unabsorbed premium deposits allowed or returned to Florida policyholders, members, or subscribers.

(f) All other relevant factors, including judgment factors, within and outside this state.

(g) The cost of repairs to automobiles.

(h) The cost of medical services.

(i) The adequacy of loss reserves.

(j) The cost of reinsurance.

(k) Trend factors, including trends in actual losses per insured unit for the insurer making the filing.

(3) Rates shall be deemed excessive if they are likely to produce a profit from Florida business that is unreasonably high in relation to the risk involved in the class of business, or if expenses are unreasonably high in relation to services rendered.

(4) Rates shall be deemed inadequate if they are clearly insufficient, together with the investment income attributable to them, to sustain projected losses and expenses in the class of business to which they apply.

(5) One rate shall be deemed unfairly discriminatory in relation to another in the same class if it clearly fails to reflect equitably the difference in expected losses and expenses.

(6) Rates are not unfairly discriminatory because different premiums result for policyholders with like loss exposures but different expense factors, or like expense factors but different loss exposures, so long as rates reflect the difference with reasonable accuracy.

(7) Rates are not unfairly discriminatory if averaged broadly among members of a group. Nor shall such rates be unfairly discriminatory even though they may be lower than rates for nonmembers of the group. However, such rates are unfairly discriminatory if they are not actuarially measurable and credible and sufficiently related to actual or expected loss and expense experience of the group so as to assure that nonmembers of the group are not unfairly discriminated against.

(8) In reviewing the rate or rate change filed, the department may require the insurer to evaluate the condition of the company and the reasonableness of the filing according to the criteria enumerated herein.

(9) If after review of the rate or rate change, the pertinent records of the insurer and market conditions, the department finds on a preliminary basis that the rate or rate change may be excessive, inadequate or unfairly discriminatory, the department shall so notify the insurer. Upon being so notified, the insurer or rating organization shall within 60 days file with the department all information which the insurer or organization believes proves the reasonableness, adequacy, and fairness of the rate or rate change. In such instances the insurer or rating organization shall carry the burden of proof.

(10) In the event the department finds that a rate or rate change is excessive, inadequate or unfairly discriminatory, the department may order that a new rate or rate schedule be thereafter filed by the insurer. Supporting information respon-

sive to the department's findings shall be submitted with the filing.

Section 9. Section 627.066, Florida Statutes, is created to read:

627.066 Excessive profits for motor vehicle insurance prohibited.—

(1) Each insurer group shall file with the department prior to July 1 of each year on a form prescribed by the department the following data for Florida private passenger automobile business. The data filed for the group shall be a consolidation of the data of the individual insurers of the group. The data shall include both voluntary and Joint Underwriting Association business, as follows:

- (a) Calendar year total limits earned premium.
- (b) Accident year incurred losses and loss adjustment expenses.
- (c) The administrative and selling expenses incurred in Florida or allocated to Florida for the calendar year.
- (d) Policyholder dividends applicable to the calendar year.

(2) Excessive profit has been realized under any of the following conditions:

(a) If there has been an underwriting gain for the most recent calendar/accident year which is greater than the anticipated underwriting profit plus 5 percent of earned premiums for that calendar/accident year.

(b) If there has been an underwriting gain for the 2 most recent calendar/accident years combined which is greater than the anticipated underwriting profit plus 3 percent of earned premiums for those calendar/accident years.

(c) If there has been an underwriting gain for the 3 most recent calendar/accident years combined which is greater than the anticipated underwriting profit plus 1 percent of earned premiums for those calendar/accident years.

(d) As used herein with respect to any one-, two- or three-year period, "anticipated underwriting profit" means the sum of the dollar amounts obtained by multiplying, for each rate filing of the insurer group in effect during such period, the earned premiums applicable to such rate filing during such period by the percentage factor included in such rate filing for profit and contingencies, such percentage factor having been determined with due recognition to investment income from funds generated by Florida business; provided that separate calculations need not be made for consecutive rate filings containing the same percentage factor for profits and contingencies.

(3) Each insurer group shall also file a schedule of Florida private passenger automobile loss and loss adjustment experience for each of the 3 most recent accident years. The incurred losses and loss adjustment expenses shall be valued as of March 31 of the year following the close of the accident year, developed to an ultimate basis, and at two 12-month intervals thereafter, each developed to an ultimate basis, so that a total of three evaluations will be provided for each accident year. The first year to be so reported shall be accident year 1976, so that the reporting of 3 accident years will not take place until accident years 1977 and 1978 have become available.

(4) Each insurer group's underwriting gain or loss for each calendar/accident year shall be computed as follows: The sum of the accident year incurred losses and loss adjustment expenses as of March 31 of the following year, developed to an ultimate basis, plus the administrative and selling expenses incurred in the calendar year, plus policyholder dividends applicable to calendar year, will be subtracted from the calendar year earned premium to determine the underwriting gain or loss.

(5) For each calendar/accident year and for the 2- or 3-year periods covering the two and three most recent calendar/accident years, the underwriting gain or loss will be compared to the anticipated underwriting profit.

(6) If the insurer group has realized an excessive profit the department may order a return of the excessive amounts to policyholders.

(7) In determining what action should be taken if excessive profits are realized the department shall consider the following as they relate to Florida private passenger automobile insurance:

(a) The underwriting profit or loss of the insurer group in prior years.

(b) The financial strength and stability of the insurer group.

(c) The loss development patterns of the insurer group.

(8) Any amounts determined by the department to be excess profit shall be added to gross underwriting income in the following year for the purpose of determining profit in that year. Also, upon a finding of excess profits, the department may, at its discretion, order a rate reduction to return the excess to policyholders in the following year and to prevent the excess from recurring. A company with an excess profit which in the following year substantially reduces its writings in Florida may be compelled by the department to return its excess profit to the policyholders who were insured during the period the excess profit was earned.

(9) The department may excuse an insurer from complying with these reporting requirements if the volume of business written by the insurer would not justify the expense of the reporting requirement.

Section 10. Subsection (5) of section 627.331, Florida Statutes, is hereby repealed.

Section 11. Section 627.342, Florida Statutes, is created to read:

627.342 Risk classification reporting for motor vehicle insurance.—Each insurer shall annually file with the department a statement reflecting the total car years insured within each classification by coverage, the premium volume in each classification by coverage, and the paid and reserved losses incurred in each classification by coverage. This statement shall be filed with any rate filing made by an insurer, but in any case once each calendar year.

Section 12. Section 627.727(1), Florida Statutes, 1976 Supplement, is amended to read:

627.727 Automobile liability insurance; uninsured vehicle coverage; insolvent insurer protection.—

(1) No automobile *bodily injury* liability insurance covering liability arising out of the ownership, maintenance, or use of any motor vehicle shall be delivered or issued for delivery in this state with respect to any motor vehicle registered or principally garaged in this state unless coverage is provided therein or supplemental thereto for the protection of persons insured thereunder who are legally entitled to recover damages from owners or operators of uninsured motor vehicles because of bodily injury, sickness, or disease, including death, resulting therefrom. However, the coverage required under this section shall not be applicable when, or to the extent that, any insured named in the policy shall reject the coverage. When a vehicle is leased for a period of 1 year or longer and the lessor of such vehicle, by the terms of the lease contract, provides liability coverage on the leased vehicle in a policy wherein the lessee is a named insured or on a certificate of a master policy issued to the lessor, the lessee of such vehicle shall have the sole privilege to reject uninsured motorist coverage. Unless the named insured, or lessee having the privilege of rejecting uninsured motorist coverage, requests such coverage in writing, the coverage need not be provided in or supplemental to a renewal policy when the named insured had rejected the coverage in connection with a policy previously issued to him by the same insurer. The coverage provided under this section shall be excess over, but shall not duplicate the benefits available to an insured under, any workmen's compensation law, personal injury protection benefits, disability benefits law, or any similar law; under any automobile liability or automobile medical expense coverages; or from the owner or operator of the uninsured motor vehicle or any other person or organization jointly or severally liable together with such owner or operator for the accident. Such coverage shall not inure directly or indirectly to the benefit of any workmen's compensation or disability benefits carrier or any person or organization qualifying as a self-insurer under any workmen's compensation or disability benefits law or any similar law.

Section 13. Section 627.733, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 627.733, F.S., for present text.)

627.733 Required security.—

(1) Every owner or registrant of a motor vehicle required to be registered in this state shall maintain continuously throughout the registration or licensing period a policy of insurance providing the coverage and benefits described in s. 627.736.

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

(3) Such security shall be provided by one of the following methods:

(a) Security by insurance may be provided with respect to such motor vehicle by an insurance policy delivered or issued for delivery in this state by an insurer authorized to write and actually writing automobile liability insurance as otherwise defined in this code. ~~As to any owner or operator who has been convicted or forfeited bail pursuant to the provisions of ss. 322.26, 322.264 or 322.27(2), the security required shall be that which qualifies as evidence of automobile or motor vehicle liability insurance under chapter 324, the "Financial Responsibility Law," except as modified to provide the benefits described in s. 627.736, and exemptions contained in ss. 627.730-627.741. Every other registrant or owner of a motor vehicle shall maintain continuously throughout the registration or licensing period a policy of insurance providing the coverage and benefits described in s. 627.736.~~ Any such policy of liability insurance covering motor vehicles registered or licensed in this state and any policy of insurance represented or sold as providing the security required hereunder for registered and licensed motor vehicles under ss. 627.730-627.741 shall be deemed to provide insurance for the ~~payment of coverage such and benefits,~~ described in s. 627.736; or

(b) Security in lieu of insurance may be provided with respect to any motor vehicle by any other method approved by the Department of Highway Safety and Motor Vehicles as affording security equivalent to that afforded by a policy of insurance, if such security is continuously maintained throughout the motor vehicle's registration or licensing period. The person filing such security shall have all of the obligations and rights of an insurer under ss. 627.730-627.741.

(4) An owner of a motor vehicle with respect to which security is required by this section who fails to have such security in effect at the time of an accident shall have no immunity from tort liability, but shall be personally liable for the payment of benefits under s. 627.736. With respect to such benefits, such an owner shall have all of the rights and obligations of an insurer under ss. 627.730-627.741.

(5) No insurer shall provide the security required by this section unless it also shall make available at the written request of the insured the security required by chapter 324.

Section 14. Subsection (3) of section 627.734, Florida Statutes, is hereby repealed.

Section 15. Section 627.735, Florida Statutes, is amended to read:

627.735 Operation of a motor vehicle illegal without security; penalties.—

(1) Any owner or registrant of a motor vehicle with respect to which security is required under subsection (1) or subsection (2) of s. 627.733 who operates such motor vehicle or permits it to be operated in this state without having in full force and effect security complying with the terms of subsection (1) or subsection (2) of s. 627.733 shall have his operator's license and registration ~~suspended~~ **revoked**.

(2) Any motor vehicle liability insurance policy delivered or issued for delivery in this state which provides security required pursuant to subsection (3) of s. 627.733 shall also be deemed to comply with the applicable limits of liability

required under the financial responsibility or compulsory laws of any other state *for property damage liability and, if such policy contains bodily injury liability insurance, for bodily injury liability.*

Section 16. Present subsections (2), (3), (5), (6), (7), and (8) of section 627.736, Florida Statutes, 1976 Supplement, are renumbered as (3), (4), (6), (7), (8), and (9) respectively, a new subsection (2) is added and subsections (1) and (4) of said section are amended to read:

627.736 Required personal injury protection benefits; exclusions; priority.—

(1) **REQUIRED BENEFITS.**—Every insurance policy complying with the security requirements of s. 627.733 shall provide personal injury protection providing for payment of all reasonable expenses incurred for necessary medical, surgical, X-ray, dental, and rehabilitative services, including prosthetic devices; necessary ambulance, hospital, nursing services; and funeral and disability benefits to the named insured, relatives residing in the same household, persons operating the insured motor vehicle, passengers in such motor vehicle, and other persons struck by such motor vehicle and suffering bodily injury while not an occupant of a *self-propelled motor vehicle or motorcycle*, all as specifically provided in subsections (3) and 5(d) ~~(2) and (4)(d)~~, to a limit of \$25,000 ~~\$5,000~~ for loss sustained by any such person as a result of bodily injury, sickness, disease, or death arising out of the ownership, maintenance, or use of a motor vehicle as follows:

(a) Medical benefits.—All reasonable expenses for necessary medical, surgical, X-ray, dental, and rehabilitative services, including prosthetic devices, and necessary ambulance, hospital, and nursing services. Such benefits shall also include necessary remedial treatment and services recognized and permitted under the laws of the state for an injured person who relies upon spiritual means through prayer alone for healing, in accordance with his religious beliefs.

(b) Disability benefits.—One hundred percent of any loss of gross income and loss of earning capacity per individual, unless such benefits are deemed not includable in gross income for federal tax purposes, in which event such benefits shall be limited to 85 percent, from inability to work proximately caused by the injury sustained by the injured person, plus all expenses reasonably incurred in obtaining from others ordinary and necessary services in lieu of those that, but for the injury, the injured person would have performed without income for the benefit of his household. All disability benefits payable under this provision shall be paid not less than every 2 weeks.

(c) Funeral, burial or cremation benefits.—Funeral, burial, or cremation expenses in an amount not to exceed \$1,000 per individual.

(2) **REQUIRED SUPPLEMENTAL BENEFITS.**—*In addition to the benefits for economic loss provided in subsection (1), every insurance policy complying with the security requirements of s. 627.733 shall provide, to the same persons and under the same conditions, supplemental benefits not exceeding \$10,000 in the aggregate to each person as a direct result of bodily injury or death arising out of the ownership, maintenance or use of a motor vehicle and independent of all other causes, as follows:*

(a) *Death benefit.—The sum of \$10,000 per individual, if death occurs within ninety days after the date of accident, or within one year after the date of accident and during a period of continuous total disability. If the decedent is survived by a spouse who was a resident of the same household at the time of the accident, the benefit shall be payable to such spouse. If the decedent was a minor the benefit shall be payable to the parents of the decedent who were residents of the same household at the time of the accident. In all other events, the benefit shall be payable to the decedent's estate.*

(b) *Permanent injury benefits.—The highest single amount specified below per individual, provided such condition is sustained within six months after the date of accident:*

1. *For loss of both hands or both feet or sight of both eyes: \$10,000;*

2. *For loss of one hand and one foot, or either hand or foot and sight of one eye: \$10,000;*

3. For loss of either hand or foot or sight of one eye: \$5,000;

4. For any other loss of a body member: \$2,000. Loss of a body member shall include medically demonstrable total loss of use of such member.

(5)(4) BENEFITS; WHEN DUE.—Benefits due from an insurer under ss. 627.730-627.741 shall be primary, except that benefits received under any workmen's compensation law, unemployment compensation law, or under 42 U.S.C. s. 423 shall be credited against the benefits provided by subsection (1) and be due and payable as loss accrues, upon receipt of reasonable proof of such loss and the amount of expenses and loss incurred which are covered by the policy issued under ss. 627.730-627.741.

(a) An insurer may require written notice to be given as soon as practicable after an accident involving a motor vehicle with respect to which the policy affords the security required by ss. 627.730-627.741.

(b) Personal injury protection insurance benefits shall be overdue if not paid within 30 days after the insurer is furnished written notice of the fact of a covered loss and of the amount of same. If such written notice is not furnished to the insurer as to the entire claim, any partial amount supported by written notice is overdue if not paid within 30 days after such written notice is furnished to the insurer. Any part or all of the remainder of the claim that is subsequently supported by written notice is overdue if not paid within 30 days after such written notice is furnished to the insurer. However, any payment shall not be deemed overdue when the insurer has reasonable proof to establish that the insurer is not responsible for the payment, notwithstanding that written notice has been furnished to the insurer. For the purpose of calculating the extent to which any benefits are overdue, payment shall be treated as being made on the date a draft or other valid instrument which is equivalent to payment was placed in the United States mail in a properly addressed, postpaid envelope or, if not so posted, on the date of delivery.

(c) All overdue payments shall bear simple interest at the rate of 10 percent per annum.

(d) The insurer of the owner of a motor vehicle shall pay personal injury protection benefits for:

1. Accidental bodily injury sustained in this state by the owner while occupying a motor vehicle, or while not an occupant of a *self-propelled vehicle motor vehicle or motoreycle* if the injury is caused by physical contact with a motor vehicle.

2. Accidental bodily injury sustained outside this state but within the United States of America, its territories or possessions, or Canada by the owner while occupying the owner's motor vehicle.

3. Accidental bodily injury sustained by a relative of the owner residing in the same household, under the circumstances described in subparagraph 1. or subparagraph 2., provided the relative at the time of the accident is domiciled in the owner's household and is not himself the owner of a motor vehicle with respect to which security is required under ss. 627.730-627.741.

4. Accidental bodily injury sustained in this state by any other person while occupying the owner's motor vehicle or, if a resident of this state, while not an occupant of a *self-propelled motor vehicle or motoreycle*, if the injury is caused by physical contact with such motor vehicle, provided the injured person is not himself:

a. The owner of a motor vehicle with respect to which security is required under ss. 627.730-627.741, or

b. Entitled to personal injury protection benefits from the owner, or insurer of the owner, of such a motor vehicle.

(e) If two or more insurers are liable to pay personal injury protection benefits for the same injury to any one person the maximum payable shall be as specified in subsections (1) and (2), and any insurer paying the benefits shall be entitled to recover from each of the other insurers an equitable pro rata share of the benefits paid and expenses incurred in processing the claim.

Section 17. Section 627.737, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 627.737, F.S., for present text.)

627.737 Tort exemption; limitation on right to damages.—

(1) Every owner, registrant, operator, or occupant of a motor vehicle with respect to which security has been provided as required by ss. 627.730-627.741, and every person or organization legally responsible for his acts or omissions is hereby exempted from tort liability for damages because of bodily injury, sickness, or disease arising out of the ownership, operation, maintenance, or use of such motor vehicle in this state to the extent that the benefits described in s. 627.736(1) are payable for such injury, or would be payable but for any exclusion or deductible authorized by ss. 627.730-627.741, under any insurance policy or other method of security complying with the requirements of s. 627.733, or by an owner personally liable under s. 627.733 for the payment of such benefits.

(2) In any action of tort brought against the owner, registrant, operator, or occupant of a motor vehicle arising from the ownership, operation, maintenance, or use of such motor vehicle or against any person or organization legally responsible for his acts or omissions a plaintiff may recover the following damages subject to the limitations of subsection (1) herein:

(a) Medical benefits.—All reasonable expenses for necessary medical, surgical, x-ray, dental and rehabilitative services, including prosthetic devices, and necessary ambulance, hospital, and nursing services. Such benefits shall also include necessary remedial treatment and services recognized and permitted under the laws of the state for an injured person who relies upon spiritual means through prayer alone for healing, in accordance with his religious beliefs.

(b) Disability benefits.—All loss of gross income and loss of earning capacity per individual, from inability to work proximately caused by the injury sustained by the injured person, plus all expenses reasonably incurred in obtaining from others ordinary and necessary service in lieu of those that, but for the injury, the injured person would have performed without income for the benefit of his household.

(c) Funeral, burial, or cremation benefits.—Funeral, burial, or cremation expenses.

(d) Property damage.—All damages caused for replacement or repair of property.

(e) Out of pocket expenses.—All expenses incurred by the plaintiff or reasonably expected to be incurred in the future because of the tort.

(f) Attorney's fees.—Reasonable attorney's fees for preparing and presenting the plaintiff's claim.

(3) All future damages awarded against a tortfeasor and his insurance carrier shall be reduced to present value.

(4) The only damages recoverable in a tort action arising from the ownership, operation, maintenance, or use of a motor vehicle are those enumerated in subsection (2) herein. It is the intent of the Legislature to specifically prohibit recovery in tort of damages for pain and suffering, mental anguish, inconvenience, disability, incapacity, disfigurement, loss of consortium, and all other such damages which cannot be measured in monetary terms except upon an arbitrary basis.

(5) Every insurer which writes motor vehicle insurance in this state shall offer as optional coverage, first party insurance to provide benefits to the insured, his family and passengers in the event of a motor vehicle accident causing pain and suffering, mental anguish, loss of consortium, disfigurement, disability, inconvenience, incapacity, loss of enjoyment, or any of the remaining general damages which cannot be recovered from a tortfeasor. Insurers shall offer coverage for scheduled and unscheduled benefits depending upon the option of the insured. Every insurer shall offer this coverage to their insureds in limits selected by the insured. However, coverage in increments up to at least \$100,000 per claim and \$300,000 per occurrence is available to the insured.

Section 18. Section 627.7371, Florida Statutes, is created to read:

627.7371 Procedure for filing motor vehicle tort claims; limitations on attorney's fees.—In any action of tort for bodily injuries, sickness, disease or death brought against the owner, registrant, operator, or occupant of a motor vehicle arising from the ownership, operation, maintenance, or use of such motor

vehicle or against any person or organization legally responsible for these acts or omissions, a plaintiff may recover damages and attorney's fees only upon compliance with the following:

(1) The claimant shall, as part of his claim, allege damages in excess of \$25,000. To obtain jurisdiction in a particular trial court the claimant shall allege as part of his complaint damages in an amount in excess of \$25,000 which would be sufficient to invoke the jurisdiction of that court.

(2) Prior to or as part of a civil suit for damages, a claimant shall notify the alleged wrongdoer of his intention to bring suit. The notice shall be sworn to by the claimant and must include a statement of the basis of liability, the damages caused, and the amount thereof. If the notice includes claims for past and future medical expenses the claimant shall provide with the notice copies of medical records, invoices for services, medical evaluations, permission of the claimant for the defendant to obtain all medical records, and a summary of all preexisting conditions and accidents. If the notice includes a claim for past and future lost wages, the notice shall include a detailed statement of wages lost prior to the notice and those expected in the future. All other claims for damages shall be specifically stated.

(3) The defendant or his insurer may require a claimant to submit a physical examination by a physician residing in the same geographical area upon reasonable notice within 45 days of the claim. The examining physician may be designated by the defendant or his insurer and the defendant or his insurer shall bear all costs of this examination.

(4) Within 60 days of receiving the notice, the defendant or his carrier may offer a settlement of the claim. The offer, if made, should include a sum which in the judgment of the defendant or his carrier, is sufficient to compensate the claimant for his recoverable damage and should include sums which in the judgment of the defendant are sufficient to compensate the claimant for those professional fees necessary to file the claim and review the sufficiency of the offer of settlement.

(5) If the claimant accepts the offer for damages, and rejects the offer of attorney's fees, the amount of fees to be awarded would be determined by judicial proceeding in the court which would have jurisdiction of the amount of settlement, or, if a complaint had been filed, by the court with jurisdiction over that complaint in determining the amount of reasonable fees the court shall consider the reasonableness of all settlement offers made prior to the time the attorney's services were incurred.

(6) The claimant may reject the offer entirely and bring suit or prosecute his suit for the damage alleged. The offer of settlement would be inadmissible as evidence in a trial for damages.

(7) If the suit results in an award of damages, the trial court will, in post judgment proceedings, determine if the claimant is entitled to an award of reasonable attorney's fees. If the amount awarded the claimant by trial is equal to or less than the offer of settlement, then the claimant shall not be entitled to an award of fees and costs other than those fees and costs required to prepare the claim and review the offer of settlement. If the amount awarded is greater than the offer of settlement, then the claimant shall be entitled to an award of fees, and costs, which amount would be established by the court. In no event, however, shall those fees awarded exceed 50 percent of the difference between the offer of settlement and the amount awarded, unless the offer is shown to have been in bad faith.

(8) The defendant or his insurer may make offers of settlement at any time following the initial 60-day period provided herein. Settlement offers made and accepted after that date will continue to be subject to the provisions of this section except that the defendant will be liable for professional fees and costs incurred to prepare the claim for trial in addition to those fees and costs to file the claim and review the sufficiency of the settlement offer.

(9) This section shall be supplemental to any rule of civil procedure providing for offers of judgment.

(10) Attorneys are prohibited from charging or accepting fees for representing clients in motor vehicle tort claims in excess of those fees awarded by the court or given in settlement as provided herein unless the claimant is also a defendant to a counterclaim and the amount claimed exceeds the amount of the claimant's insurance.

Section 19. Subsection (5) is added to section 627.7375, Florida Statutes, 1976 Supplement, to read:

627.7375 Fraud.—

(5) *It is unlawful for any person, in his individual capacity or in his capacity as a public or private employee, or for any firm, corporation, partnership, or association to act as a runner to solicit any business in and about city receiving hospitals, city and county receiving hospitals, county hospitals, justice courts, municipal courts, or in any public institution or in any public place or upon any public street or highway or in and about private hospitals, sanitariums or in and about any private institution or upon private property of any character whatsoever for the purpose of making motor vehicle tort claims. Any person who violates the provisions of this subsection is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.*

Section 20. Section 627.7376, Florida Statutes, is created to read:

627.7376 Investigative powers of Department of Insurance.—

(1) If, by its own inquiries or as a result of complaints, the department has reason to believe that a person has engaged in, or is engaging in, an act or practice that violates this part, it may administer oaths and affirmations, subpoena witnesses or matter, and collect evidence according to the Florida Rules of Civil Procedure.

(2) If matter that the department seeks to obtain by subpoena is located outside the state, the person subpoenaed may make it available to the department or its representative to examine the matter at the place where it is located. The department may designate representatives, including officials of the state in which the matter is located, to inspect the matter on its behalf and it may respond to similar requests from officials of other states.

(3) Upon failure of a person without lawful excuse to obey a subpoena and upon reasonable notice to all persons affected, the department may apply to the circuit court for an order compelling compliance.

(4) The department may request that an individual who refuses to comply with a subpoena on the ground that testimony or matter may incriminate him be ordered by the court to provide the testimony or matter. Except in a prosecution for perjury, an individual who complies with a court order to provide testimony or matter after asserting a privilege against self-incrimination to which he is entitled by law may not be subjected to a criminal proceeding or to a civil penalty with respect to the consumer transaction concerning which he is required to testify or produce relevant matter.

Section 21. Section 627.739, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 627.739, F.S., for present text.)

627.739 Personal injury protection; optional limitations. In order to prevent duplication with other private or governmental insurance or benefits for senior citizens and others with access to such insurance or benefits, each insurer providing the coverage and benefits described in s. 627.736(1) shall offer to the named insureds modified forms of personal injury protection as described in this section. Such election may be made by the named insured to apply to the named insured alone, or to the named insured and dependent relatives residing in the same household. Any person electing such modified coverage or subject to such modified coverage as a result of the named insured's election shall have no right to claim or to recover any amount so deducted from any owner, registrant, operator or occupant of a vehicle or any person or organization legally responsible for any such person's acts or omissions who is made exempt from tort liability by ss. 627.730-627.741. Premium reductions for each modification or combination of modifications shall be adequate to recognize the reduction in hazard and shall be subject to the approval of the Department of Insurance.

(1) Insurers shall offer deductibles, in amounts of \$250, \$500, \$1,000 and \$2,000, said amount to be deducted from the benefits otherwise due each person subject to the deduction. As an alternate to such deductibles, insurers shall offer the modifications of subsections (2) and (3) individually and in combination.

(2) Insurers shall offer coverage wherein at the election of the named insured all benefits payable under 42 USC 1395 the federal "medicare" program, shall be credited against the benefits provided by s. 627.736(1). Such modification shall be available only as respects a named insured who provides certification that such person, or persons and all dependent relatives residing in the same household are eligible for such federal benefits. Such certification shall be in a form approved by the Department of Insurance.

(3) Insurers shall offer coverage wherein at the election of named insured the benefits for loss of gross income and loss of earning capacity described in s. 627.736(1)(b) shall be excluded.

Section 22. Section 627.740, Florida Statutes, is created to read:

627.740 Unsatisfied claims fund.—There is created a "Florida Automobile Unsatisfied Claims Fund," hereinafter referred to as the "fund," for the purpose of paying that portion of any claim for bodily injury, sickness, disease or death for which benefits are payable under s. 627.736(1), Florida Statutes, but which cannot be recovered because of the inability to respond to damages by the tortfeasor.

(1) Source of Fund Assets. Any driver who is convicted or forfeits bail for a motor vehicle moving traffic violation shall be assessed, in addition to any fine or other penalty, a separate fee in the amount of \$10.00 for each point assignable under s. 322.27, Florida Statutes. Such fee shall be collected by the clerk of the appropriate court and remitted monthly to the Department of Insurance, which shall place all such proceeds in the fund.

(2) Claims against the Fund. A person entitled to benefits under s. 627.736(1), Florida Statutes, who shall have incurred economic loss in excess of the benefits provided by such subsection, and who shall have further exhausted all available remedies in tort, shall be entitled to file a claim against the Fund. Such claim shall be limited to a recovery of past economic loss and, as incurred, future economic loss not to exceed in any one year \$100,000, less any benefits payable under s. 627.736(1), Florida Statutes, and all recoveries from any other source. There shall be no lump sum recovery for future economic loss. Such recovery shall, in addition to the above limit, include a reasonable attorney fee. The department shall adopt rules to provide for such fees.

(3) The Commissioner as trustee of the Fund, shall adopt rules for hearing officers and procedures necessary to provide convenient hearings in order to determine entitlement to and amount of recoveries from the Fund. The decision of such hearing officer shall be binding on the claimant and the Fund.

(4) Fund Administration and Operation. Management of the fund shall be vested with the Commissioner as trustee. All costs of administration shall be paid by the Fund. The Commissioner shall adopt rules pursuant to investment of Fund assets. In no case shall there be any other disbursement from the fund except as ordered by a hearing officer for claims and attorneys' fees. The Commissioner shall, annually provide an audited financial statement to the Joint Legislative Auditing Committee, detailing sources received and disbursements made from the fund.

Section 23. Section 324.022, Florida Statutes, is created to read:

324.022 Exemption from applicability of chapter.—The provisions of this chapter, with respect to bodily injury liability insurance as described in s. 324.021(7)(a) and (b), shall not apply to an owner or operator of a motor vehicle as defined in s. 627.732, if the owner or registrant was in compliance with the requirements of s. 627.733 at the time of the accident. All provisions of this chapter shall, however, apply to any owner or operator who has been convicted or forfeited bail pursuant to the provisions of ss. 322.26, 322.264 or 322.27(2).

Section 24. Implementation of this act.—

(1) The Department of Insurance shall adopt all rules necessary to implement this act.

(2) Notwithstanding any other provision of law or of this act all insurers issuing insurance coverage under ss. 627.730-627.741, Florida Statutes, shall comply with the following provisions:

(a) Within 60 days after July 1, 1977, each insurer shall file its proposed manual of rules, rates, and rating plans with the department for approval. Rates for basic limits bodily injury liability and uninsured motorist coverage after January 1, 1978, shall be reduced by each insurer, calculated upon the rate of such insurer in effect on July 1, 1977, for basic limits bodily injury liability and uninsured motorist coverage. Such reductions shall be computed so as to produce a combined rate for personal injury protection benefits and property damage liability which, when related to the rates previously charged for basic limits bodily injury liability, property damage liability, personal injury protection benefits and uninsured motorists insurance, constitute a reduction of not less than 50 percent in Dade County and appropriate reductions of not less than 30 percent in each of the other rating territories. There shall be no exception to the requirements of this provision unless the department shall find that the use of the rates required herein by any insurer will result in rates which are inadequate under s. 627.0651, Florida Statutes, to the extent that such rates would result in an insolvency, as defined in s. 631.011, Florida Statutes, of the insurer required to use such rates. Notwithstanding the provisions of chapter 627, Florida Statutes, or the contrary provisions in this act, no rate for bodily injury liability property damage liability, personal injury protection benefits, or uninsured motorist insurance shall be increased prior to July 1, 1978, unless the insured proposing such rate increase shall show that the rates required herein are inadequate as defined in s. 627.0651, Florida Statutes.

(b) Within 60 days from the date of filing by such insurer, the department may approve or disapprove the filing. If no action is taken by the department within 60 days, the filing shall be deemed approved.

(c) If the department approves the filing or the filing otherwise becomes effective, the manual of rules, rates, and rating plans shall take effect January 1, 1978. If the department disapproves the filing, the insurer shall revert to a rate level for the coverages described in subsection 2(a) which shall be lower, by not less than 50 percent in Miami (and appropriately less in other rating territories), than its July 1, 1977, rates for basic limits bodily injury liability, property damage liability, and personal injury protection benefits and uninsured motorist coverage.

(d) Upon complying with this subsection, any insurer appealing an order of disapproval may use the rates set forth in the disapproved filing during the pendency of the appeal, so long as such rates do not exceed its rates at the time of its rate filing required herein, and subject to return of any excess profits which are realized as determined under s. 627.066. As a condition to the use of such disapproved rates, the insurer must enter into a legally binding agreement with the department to secure the repayment to the insurer's policyholders of the difference between the insurer's proposed rates and those rates which would be lower, as required by subparagraph (a). In addition, the company shall agree to pay to the insured the legal rate of interest on any money required to be refunded pursuant to such excess profits determination.

(e) Any private passenger automobile liability policy in force on January 1, 1978, and thereafter shall reflect the rate reductions prescribed by this act computed on a pro rata basis for the remaining term of said policy. Any return premium shall be credited to the renewal policy, or, if the policy is terminated, the return premium shall be refunded to the insured.

(f) For the purposes of the implementation of this act, rating organizations as defined in chapter 627, Florida Statutes, shall be permitted until January 1, 1978, to develop and furnish rates and forms to their members or subscribers. However, members and subscribers of rating organizations shall not participate in the decisions or deliberations of such organizations in the development of such rates under this act.

Section 25. Section 627.082, Florida Statutes, is hereby repealed.

Section 26. If any provision of this act, or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application. To this end the provisions of this act are declared to be severable.

Section 27. This act shall take effect July 1, 1977, provided however, that the provisions of section 14 shall not become

effective until January 1, 1978, and shall not apply to accidents or injuries occurring before said date.

Senator Poston presiding

The President presiding

Senator Glisson moved that CS for SB's 1181, 925 and 792 and Amendment 1 be referred to a select committee appointed by the President to study the two concepts and draft a plan to be presented to the Senate which would be more acceptable than the bill and the amendment. The motion failed.

On motion by Senator Gallen, the rules were waived and time of adjournment was extended until final action on CS for SB's 1181, 925 and 792 and motions and announcements.

Amendment 1 failed.

Senator McClain moved the following amendment:

Amendment 2—On page 14, line 8, insert between the words "coverage" and "in": of a motor vehicle as defined in 627.732(1)

Senators Plante, Winn, Poston, Spicola, Ware, Jon Thomas, Lewis, Castor, Gorman, Wilson, Williamson, Scarborough, Skinner, Scott, Saylor, Tobiassen, W. D. Childers, Zinkil, Peterson, Renick and McClain offered the following substitute amendment which was moved by Senator Plante:

Amendment 3—On page 22 strike line 17 through 30 strike all of pages 23 through 33 and lines 1-25 on page 34 and insert: Section 16. Section 627.730, F.S., "Short Title", is hereby repealed.

Section 17 Section 627.731, F.S., "Purpose", is hereby repealed.

Section 18 Section 627.732, F.S., "Definitions", is hereby repealed.

Section 19 Section 627.733, F.S., "Required Security", is hereby repealed.

Section 20 Section 627.734, F.S., "Proof of Security; security requirements; penalties", is hereby repealed.

Section 21 Section 627.735, F.S., "Operation of a motor vehicle illegal without security; penalties", is hereby repealed.

Section 22 Section 627.736, 1976 Florida Supplement, "Required personal injury protection benefits; exclusions; priority", is hereby repealed.

Section 23 Section 627.737, 1976 Florida Supplement, "Tort exemption; limitation or right to damages", is hereby repealed.

Section 24 Section 627.738, 1976 Florida Supplement, "Property damage, basic or full coverage; tort liability", is hereby repealed.

Section 25 Section 627.739, 1976 Florida Supplement, "Deductible endorsement", is hereby repealed.

Section 26 Section 627.740, 1976 Florida Supplement, "Tort claims against persons not subject to ss. 627.730-627.741.

Section 27 Section 627.741, 1976 Florida Supplement, "Implementation of ss. 627.730-627.741", is hereby repealed.

(Renumber subsequent sections.)

Amendment 3 was adopted by the following vote:

Yeas—21

Castor	Peterson	Scott	Williamson
Childers, W. D.	Plante	Skinner	Wilson
Gorman	Poston	Spicola	Winn
Holloway	Renick	Tobiassen	
Lewis	Saylor	Vogt	
McClain	Scarborough	Ware	

Nays—18

Mr. President	Firestone	Henderson	Thomas, Pat
Barron	Gallen	Johnston	Trask
Chamberlin	Glisson	MacKay	Zinkil
Childers, Don	Graham	Myers	
Dunn	Hair	Thomas, Jon	

Senator Dunn moved the following amendment:

Amendment 4—On page 38, between lines 4 and 5, insert: Section 29. Citizens' Tort Claims Study Commission.—

(1) There is hereby created as a legislative agency, a commission to be known as the "Citizens' Tort Claims Study Commission." The commission shall be composed of 16 members who shall be appointed or serve ex officio by virtue of their office as follows:

(a) Five citizens appointed by the President of the Senate.

(b) Five citizens appointed by the Speaker of the House of Representatives.

(c) Three citizens appointed by the Chief Justice of the Florida Supreme Court.

(d) Three citizens appointed by the Insurance Commissioner.

(e) The presiding officers of each house shall appoint three members from their respective houses to serve as ex officio, non-voting members of the commission.

(2) The citizens who are appointed pursuant to subsection (1)(a) shall serve without compensation. The members of the commission shall be entitled to per diem and travel allowances as are provided by law for state officers.

(3) The commission shall conduct a comprehensive and in-depth study of the entire tort claims system to determine what changes, if any, can be made in the system in order to improve the administration of justice, to reduce costs and delay in the judicial resolution of tort claims, to integrate into the system alternative strategies for the less formal, non-judicial resolution of tort claims.

(4) The commission shall conduct public hearings and render its report to the Legislature on or before January 15, 1978.

[Renumber subsequent sections.]

Senator Graham moved the following amendment to Amendment 4 which failed:

Amendment 4A—On page 1, lines 14 and 15, insert: (e) the Commissioner of Insurance, who shall serve as chairperson.

Amendment 4 was adopted.

Senator Vogt moved that the Senate reconsider the vote by which Amendment 3 was adopted.

Senator Myers moved that the Senate do now adjourn. The motion failed.

The question recurred on the motion by Senator Vogt and the motion failed by the following vote:

Yeas—17

Mr. President	Glisson	Myers	Vogt
Barron	Graham	Peterson	Zinkil
Chamberlin	Hair	Thomas, Jon	
Childers, W. D.	Henderson	Thomas, Pat	
Gallen	MacKay	Trask	

Nays—21

Castor	Lewis	Scarborough	Williamson
Childers, Don	McClain	Scott	Wilson
Firestone	Plante	Skinner	Winn
Gorman	Poston	Spicola	
Holloway	Renick	Tobiassen	
Johnston	Saylor	Ware	

Senators Myers and Holloway offered the following amendment which was moved by Senator Myers and failed:

Amendment 5—On page 8, line 18, insert after the period (.): Fixed cost portions of administrative and selling expenses shall be determined on a per policy basis and shall be a uniform dollar amount throughout the state. Portions of the fixed administrative and selling expenses included in this requirement, but not limited thereto, shall be: 1. Margin for profit and contingencies; 2. administrative and general expenses; 3. agent's commissions; and 4. other acquisition expenses, including cost of field service representatives; provided, however, that the insurer may establish a reasonable cost-of-living adjustment formula applicable to its rating territories.

Senator Zinkil moved the following amendment which was adopted:

Amendment 6—On page 18, line 4, strike against an insurance company

Senator Myers moved the following amendments which failed:

Amendment 7—On page 5, line 11, insert new subsection (9):

(9) As a condition precedent to the privilege of writing insurance, each insurer providing motor vehicle liability insurance in this state, as defined in s. 627.063, shall make available bodily injury liability insurance in each rating territory defined and set forth in the insurers rate manual filed with the department.

Amendment 8—On page 10, line 22, insert new subsection (11) as follows:

(11) Rates for bodily injury liability shall not be based on the insured's place of domicile within the state. To implement this requirement, insurers doing business in the state shall make any required adjustments in premiums over a period of 5 years, such adjustments to be completed by July 1, 1982.

On motion by Senator Myers the Senate reconsidered the vote by which Amendment 5 failed.

Senator Glisson moved the following substitute amendment for Amendment 5:

Amendment 9—On page 8, line 18, insert after the period: Fixed cost portions of administrative expenses shall be determined on a per policy basis and shall be a uniform dollar amount throughout the state.

Senator Gallen moved that the Senate adjourn and CS for SB's 1181, 925 and 792 be placed first on the Special Order Calendar for May 19. The motion failed by the following vote:

Yeas—17

Mr. President	Glisson	Myers	Trask
Barron	Graham	Saylor	Vogt
Chamberlin	Hair	Skinner	
Childers, W. D.	Henderson	Thomas, Jon	
Gallen	MacKay	Thomas, Pat	

Nays—21

Castor	Lewis	Scarborough	Wilson
Childers, Don	McClain	Scott	Winn
Firestone	Peterson	Spicola	Zinkil
Gorman	Plante	Tobiassen	
Holloway	Poston	Ware	
Johnston	Renick	Williamson	

The President declared the Senate in recess at 1:35 p.m. to reconvene at 2:05 p.m.

The Senate was called to order by the President at 2:05 p.m.

A quorum present—39:

Mr. President	Childers, W. D.	Gorman	Johnston
Barron	Dunn	Graham	Lewis
Castor	Firestone	Hair	MacKay
Chamberlin	Gallen	Henderson	McClain
Childers, Don	Glisson	Holloway	Myers

Peterson	Scarborough	Thomas, Pat	Williamson
Plante	Scott	Tobiassen	Wilson
Poston	Skinner	Trask	Winn
Renick	Spicola	Vogt	Zinkil
Saylor	Thomas, Jon	Ware	

The question recurred on Amendment 9 which failed.

Amendment 5 failed.

Senator McClain moved the following amendments which were adopted:

Amendment 10—On page 14, line 8, insert between "coverage" and "in": of a motor vehicle as defined in 627.732(1).

Amendment 11—On page 21, line 18, insert between the words "submitted" and "to": in writing

Amendment 12—On page 22, lines 3-5, strike ", and the court shall sever the uninsured motorist claim from the claim against the liability insurer's insured for the purpose of trial." and insert: , and any such award against the uninsured motorist insurer shall be excess and subject to the provisions of s. 627.727(1).

Senator Barron moved the following amendments which were adopted:

Amendment 13—On page 2, line 29, strike "compulsory" and insert: compulsory

Amendment 14—On page 10, line 2, insert after the word "insurer": to provide at the insurer's expense all information necessary

Amendment 15—On page 13, line 18-19, strike all of Section 10 and insert: Section 10 Section 627.082 and subsection (5) of section 627.331, Florida Statutes, are hereby repealed.

Senators Barron and Gallen offered the following amendment which was moved by Senator Barron and adopted:

Amendment 16—On page 37, strike lines 13-20, and insert: (3) Beginning July 1, 1977, and annually thereafter, the Commissioner shall disburse such monies to insurers writing private passenger automobile liability insurance in this state on an equitable basis in proportion to the number of good drivers which each company has and pursuant to a plan adopted by a seven-member Industry Advisory Committee appointed and chaired by the Commissioner. Members of the Committee shall serve without remuneration. The plan shall provide for distribution of such monies to private passenger automobile liability insurance policyholders within this state who have not been convicted of a moving traffic violation or forfeited an appearance bond with respect to such violation within the past 12 months.

Senator Barron moved the following amendments which were adopted:

Amendment 17—On page 37, between lines 20 and 21, insert: Section 27. Subsection (15) of section 626.9541, Florida Statutes, 1976 Supplement, is amended by adding a new paragraph (h) to read:

626.9541 Unfair methods of competition and unfair or deceptive acts or practices defined.

(h) No insurer shall, with respect to premiums charged for automobile insurance unfairly discriminate solely on the basis of age, sex or scholastic achievement.

Amendment 18—On page 38, between lines 4 and 5, insert:

Section 29. If any provision of this act, or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application. To this end the provisions of this act are declared to be severable.

(Renumber subsequent sections.)

Senator Graham moved the following amendment which was adopted:

Amendment 19—On page 37, line 21, insert the following and renumber subsequent sections:

Section 27. (1) Each automobile insurance company doing business in this state shall maintain in its index a file of names of medical providers and attorneys who are directly or indirectly involved in the filing, processing or settlement of any claim under any automobile insurance policy written by the company, including the litigation of any such claim, to the extent that the company is given actual notice of the identity of such medical providers and attorneys during the normal course of business. The index shall include the name and address of the medical provider or attorney, the nature of the claim, the amount of the claim, the current status and final disposition of the claim, and the company's file number or other internal identification of the claim.

(2) Each company shall establish the index beginning with claims filed on and after July 1, 1977, and shall transmit a copy of the index to the Department of Insurance not later than October 20, 1977, and the twentieth day following the end of each subsequent calendar quarter. The Department may prescribe a uniform format for such indexes.

(3) Each index filed with the Department shall be maintained in a location with all other such indexes and shall be open for public inspection and copying at a charge not to exceed cost during normal business hours.

(4) As used in this section, "medical provider" shall mean any physician, osteopath, chiropractor, or other practitioner of medical arts or any hospital licensed under the laws of this State.

Senator Graham moved the following amendment which failed:

Amendment 20—On page 37, line 21, insert the following and renumber subsequent sections:

Section 27. (1) On or before December 1, 1977, the Department of Insurance shall define the boundaries of twelve or more regions within the state for the use of insurers in establishing motor vehicle insurance rates, rating schedules or rating manuals, and changes thereto. The Department shall endeavor to establish the largest feasible number of regions after considering:

- (a) Past and prospective loss experience within the state;
- (b) The cost of repairs to automobiles;
- (c) The cost of medical services; and
- (d) Any other factors which will establish a rational basis for differentiating among the regions in establishing rates and changes thereto.

(2) Beginning July 1, 1978, insurers shall utilize the regions prescribed by the Department as the uniform and exclusive basis for differentiating geographically among all automobile insurance policy holders who are otherwise in the same class or group; however, an insurer may combine two or more whole regions for rate making purposes. Any classification or grouping by an insurer within a region prescribed by the Department which has the effect of differentiating among risks or policyholders on a geographical basis shall be deemed unfairly discriminatory and after notice and hearing, the Department shall order any insurer utilizing any such classification or grouping to cease such practice.

(3) Beginning July 1, 1977, the Department shall maintain and make available to the public a summary of the rates established by each of the automobile insurance companies doing business in the state for each of the several standard coverages required by laws or made available by the companies, in a form which may be easily used by the public for comparison purposes. Beginning July 1, 1978, the summary shall include the rates established for each coverage by each company in each region prescribed by the Department, and the summary shall reflect the rate for each region established by the Department.

Senator Graham moved the following amendment which was adopted:

Amendment 21—On page 9, line 9, insert the following and renumber subsequent subsections:

(4) Rates shall be deemed excessive if, among other things, the rate structure established by a stock/insurance company provides for replenishment of surpluses from premiums where such replenishment is attributable to investment losses.

And on Page 7, line 3, add:

(c) Rates shall be deemed excessive if, among other things, the rate structure established by a stock insurance company provides for replenishment of surpluses from premiums where such replenishment is attributable to investment losses.

Senator Graham moved the following amendments which failed:

Amendment 22—On page 13, line 18, insert the following and renumber subsequent sections:

Section 10. Subsection (1) of Section 627.351, Florida Statutes, 1976, is amended to read:

627.351 Insurance risk apportionment plan.—

(1) Agreements may be made among casualty and surety insurers with respect to the equitable apportionment among them of insurance which may be afforded applicants who are in good faith entitled to but who are unable to procure such insurance through ordinary methods and such insurers may agree among themselves on the use of reasonable rate modification for such insurance, such agreements and rate modifications to be subject to the approval of the department. The department shall, after consultation with the insurers licensed to write automobile liability insurance in this state, adopt a reasonable plan or plans for the equitable apportionment among such insurers of applicants for such automobile liability insurance who are in good faith entitled to but are unable to procure insurance through ordinary methods and, when such plan has been adopted, all such insurers shall subscribe thereto and shall participate therein. Such plan or plans shall include rules for classification of risks and rates therefor. *Such plan or plans may provide for the payment of a fee to the providing agent of a private passenger automobile insurance policy, the amount of which shall be determined by the department as reasonably related to the cost of assigning the policy to the plan, but which shall not exceed fifty dollars per policy. Such plan or plans shall provide for the payment to the producing agent of not less than 15 percent of the annual premium on private passenger automobile insurance.*

Amendment 23—On page 37, lines 25-31 and page 38, lines 1-4, strike all of Section 28 and insert:

Section 28. (1) Effective July 1, 1977, the premium in effect for every private passenger automobile insurance policy in effect at 12:01 a.m. on that date in this state shall be reduced twenty percent.

(2) With respect to automobile insurance policies in effect on July 1, 1977, which expire at 12:01 a.m. July 15, 1977, or later, each insurer shall, at the option of the policyholder, either refund twenty percent of the premium paid times the number of days remaining in the term of the policy after July 1, 1977, divided by the number of days of the term of the policy, or credit that amount towards the next policy renewal premium.

(3) The reduced rate shall be applicable to all new and renewal policies of the same insurer in the class or group of policyholders or risks until such time as the Commissioner of Insurance finds that any new rate proposed by the insurer is not excessive or unfairly discriminatory.

Amendment 24—On page 7, strike all of lines 29 through 30, on pages 8 and 9, strike all of pages 8 and 9, on page 10, lines 1-21, strike all of lines 1 through 21 and insert: Section 8. As to motor vehicle insurance, every insurer shall file with the Department of Insurance every manual of classification, rules and rates, every rating plan, and every modification of any of the foregoing which it proposes to use, and no filing may take effect before approval by the Insurance Commissioner and Treasurer. Each filing shall state the proposed effective date and shall include information sufficient to allow the commissioner to determine whether the filing meets the requirements of s. 627.082, Florida Statutes. A filing is incomplete until all information deemed necessary by the commissioner is received. Each complete filing and any supporting information shall be

open to public inspection. An insurer may satisfy its obligation to make such filings by becoming a member of, or a subscriber to, a licensed rating organization which makes such filings, and by authorizing the department to accept such filings in its behalf; but nothing contained in this chapter shall be construed as requiring any insurer to become a member of or a subscriber to any rating organization.

Section 9. The Insurance Commissioner and Treasurer shall approve or disapprove each complete filing no later than 60 days after receipt of such filing and all required information. If any filing contains a proposed rate increase, the commissioner shall schedule a public hearing prior to approving or disapproving such filing to hear testimony of affected persons and of the insurer or the rating organization. In all other cases, the commissioner may schedule a public hearing, at his discretion, upon a request by an affected person, an insurer, or a rating organization. The commissioner shall give written notice of such hearing to the insurer or rating organization that made the filing not later than 10 days prior to the hearing and shall give public notice of such hearing by publishing notice twice in a newspaper of general circulation in each area which may be affected by the filing not earlier than 20 days nor later than 7 days prior to the hearing. If the commissioner disapproves a filing or any part thereof, it shall not take effect, and the commissioner shall promptly give notice to the insurer or rating organization stating the reasons why the filing does not meet the requirements of s. 627.082, Florida Statutes. If the commissioner disapproves part of a filing, the insurer or rating organization may, at its discretion, withdraw the entire filing. If the commissioner approves a filing or a part thereof, the filing may become effective upon the date of the order or upon a subsequent date established by the insurer or rating organization. Any decision by the commissioner to approve or disapprove a filing or a part thereof is subject to judicial review as provided in s. 627.391, Florida Statutes.

[Renumber subsequent sections.]

Senator Glisson moved that the Senate reconsider the vote by which Amendment 24 failed. The motion failed by the following vote:

Yeas—13

Castor	Henderson	Poston	Wilson
Firestone	Holloway	Scott	
Glisson	Johnston	Spicola	
Graham	Myers	Ware	

Nays—18

Mr. President	Gallen	Peterson	Williamson
Barron	Gorman	Scarborough	Winn
Chamberlin	Hair	Skinner	Zinkil
Childers, Don	MacKay	Thomas, Pat	
Childers, W. D.	McClain	Tobiassen	

Vote after roll call:

Yea—Dunn

Senator Ware moved the following amendment which was adopted:

Amendment 25—On page 22, lines 12 to 16, strike all of paragraph 7

Senators Hair and Barron offered the following amendment to the bill as amended by Amendment 3 which was moved by Senator Barron:

Amendment 26—Sections 16 through 22 are amended to read as follows:

Section 16. Section 768.063, Florida Statutes, is created to read:

768.063 Nonjoinder of liability insurers.—

(1) No liability insurer shall be joined as a party defendant in an action to determine the insured's liability; however, each insurer, which does or may provide liability insurance coverage to pay all or a portion of a judgment which might be entered in the action, shall file a statement of a corporate officer setting forth the following information regarding each known policy of insurance:

- (a) The name of the insurer.
 - (b) The name of each insured.
 - (c) The limits of liability coverage.
 - (d) A statement of any policy or coverage defense which said insurer reasonably believes is available to said insurer at the time of filing the statement.
- (2) The statement required under subsection (1) shall be amended immediately upon discovery of facts calling for an amendment.
- (3) If the statement or amendment indicates that a policy or coverage defense has been or will be asserted, then the insurer may be joined as a party.
- (4) After the rendition of a verdict, or a final judgment by the court if the case is tried without a jury, the insurer may be joined as a party and judgment may be entered by the court based on the statement required by this section.
- (5) The rules of discovery shall be available to discover the existence and policy provisions of liability insurance coverage.

Section 17. Sections 627.730, 627.731, 627.732, 627.733, 627.734, and 627.735, Florida Statutes, and sections 627.736, 627.737, 627.738, 627.739, 627.740, and 627.741, Florida Statutes, 1976 Supplement, as the same may be amended by this act, are hereby repealed on July 1, 1978.

Section 18. Section 627.733, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 627.733, F.S., for present text.)

627.733 Required security.—

(1) Every owner or registrant of a motor vehicle required to be registered in this state shall maintain continuously throughout the registration or licensing period a policy of insurance providing the coverage and benefits described in s. 627.736.

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

(3) Such insurance shall be provided by one of the following methods:

(a) Insurance shall be provided with respect to such motor vehicle by an insurance policy delivered or issued for delivery in this state by an insurer authorized to issue policies of automobile liability insurance.

(b) Security in lieu of insurance may be provided with respect to any motor vehicle by any other method approved by the Department of Highway Safety and Motor Vehicles as affording security equivalent to that afforded by a policy of insurance, if such security is continuously maintained throughout the motor vehicle's registration or licensing period. The person filing such security shall have all of the obligations and rights of an insurer under ss. 627.730-627.741.

(4) An owner of a motor vehicle with respect to which security is required by this section who fails to have such security in effect at the time of an accident shall have no immunity from tort liability, but shall be personally liable for the payment of benefits under s. 627.736. With respect to such benefits, such an owner shall have all of the rights and obligations of an insurer under ss. 627.730-627.741.

(5) No insurer shall provide the security required by this section unless it also shall make available at the written request of the insured the security required by chapter 324.

Section 19. Section 627.735, Florida Statutes, is amended to read:

627.735 Operation of a motor vehicle illegal without security; penalties.—

(1) Any owner or registrant of a motor vehicle with respect to which security is required under ~~subsection (1) or subsection (2)~~ of s. 627.733 who operates such motor vehicle or permits it

to be operated in this state without having in full force and effect security complying with the terms of ~~subsection (1) or subsection 2 of s. 627.733~~ shall have his operator's license and registration suspended ~~revoked~~.

(2) *Any motor vehicle liability insurance policy shall be deemed to comply with the applicable limits of liability required under the financial responsibility or compulsory laws of any other state. Any motor vehicle liability insurance policy which provides security required pursuant to subsection (3) of s. 627.733 shall also be deemed to comply with the applicable limits of liability required under the financial responsibility or compulsory laws of any other state.*

Section 20. Section 627.736, Florida Statutes, 1976 Supplement, is amended to read:

627.736 Required personal injury protection benefits; exclusions; priority.—

(1) **REQUIRED BENEFITS.**—Every insurance policy complying with the security requirements of s. 627.733 shall provide personal injury protection providing for payment of all reasonable expenses incurred for necessary medical, surgical, X-ray, dental, and rehabilitative services, including prosthetic devices; necessary ambulance, hospital, nursing services; and funeral and disability benefits to the named insured, relatives residing in the same household, persons operating the insured motor vehicle, passengers in such motor vehicle, and other persons struck by such motor vehicle and suffering bodily injury while not an occupant of a *self-propelled* motor vehicle ~~or motorcycle~~, all as specifically provided in subsections (2) and (4)(d) to a limit of \$5,000 for loss sustained by any such person as a result of bodily injury, sickness, disease, or death arising out of the ownership, maintenance, or use of a motor vehicle as follows:

(a) **Medical benefits.**—*Eighty percent* of all reasonable expenses for necessary medical, surgical, X-ray, dental, and rehabilitative services, including prosthetic devices, and necessary ambulance, hospital, and nursing services. Such benefits shall also include necessary remedial treatment and services recognized and permitted under the laws of the state for an injured person who relies upon spiritual means through prayer alone for healing, in accordance with his religious beliefs.

(b) **Disability benefits.**—*Eighty One hundred percent* of any loss of gross income and loss of earning capacity per individual, unless such benefits are deemed not includable in gross income for federal income tax purposes, in which event such benefits shall be limited to ~~60~~ *85* percent, from inability to work proximately caused by the injury sustained by the injured person, plus all expenses reasonably incurred in obtaining from others ordinary and necessary services in lieu of those that, but for the injury, the injured person would have performed without income for the benefit of his household. All disability benefits payable under this provision shall be paid not less than every 2 weeks.

(c) *Any insurer providing medical or disability benefits which have been reduced under this section shall also provide a corresponding rate reduction to the insured in proportion to reduction of benefits provided.*

(d)(e) **Funeral, burial or cremation benefits.**—Funeral, burial or cremation expenses in an amount not to exceed \$1,000 per individual.

(2) **AUTHORIZED EXCLUSIONS.**—Any insurer may exclude benefits:

(a) For injury sustained by the named insured and relatives residing in the same household while occupying another motor vehicle owned by the named insured and not insured under the policy or for injury sustained by any person operating the insured motor vehicle without the express or implied consent of the insured.

(b) To any injured person, if such person's conduct contributed to his injury under any of the following circumstances:

1. Causing injury to himself intentionally;
2. Being convicted of driving while under the influence of alcohol or narcotic drugs to the extent that his driving faculties are impaired;
3. While committing a felony.

Whenever an insured is charged with conduct as set forth in subparagraphs 2. or 3., the 30-day payment provision of para-

graph (4)(b) shall be held in abeyance, and the insurer shall withhold payment of any personal injury protection benefits pending the outcome of the case at the trial level. If the charge is nolle prossed or dismissed or the insured is acquitted, the 30-day payment provision shall run from the date the insurer is notified of such action.

(3) **INSURED'S RIGHTS TO RECOVERY OF SPECIAL DAMAGES IN TORT CLAIMS.**—No insurer shall have a lien on any recovery in tort by judgment, settlement, or otherwise for personal injury protection benefits, whether suit has been filed or settlement has been reached without suit. An injured party who is entitled to bring suit under the provisions of s. 627.737, or his legal representative, shall have no right to recover any damages for which personal injury protection benefits are paid or payable. The plaintiff may prove all of his special damages notwithstanding this limitation, but if special damages are introduced in evidence, the trier of facts, whether judge or jury, shall not award damages for personal injury protection benefits paid or payable. In all cases in which a jury is required to fix damages, the court shall instruct the jury that the plaintiff shall not recover such special damages for personal injury protection benefits paid or payable.

(4) **BENEFITS; WHEN DUE.**—Benefits due from an insurer under ss. 627.730-627.741 shall be primary, except that benefits received under any workmen's compensation law or *Medicaid as provided under 42 USC 1396 et seq.* shall be credited against the benefits provided by subsection (1) and be due and payable as loss accrues, upon receipt of reasonable proof of such loss and the amount of expenses and loss incurred which are covered by the policy issued under ss. 627.730-627.741.

(a) An insurer may require written notice to be given as soon as practicable after an accident involving a motor vehicle with respect to which the policy affords the security required by ss. 627.730-627.741.

(b) Personal injury protection insurance benefits shall be overdue if not paid within 30 days after the insurer is furnished written notice of the fact of a covered loss and of the amount of same. If such written notice is not furnished to the insurer as to the entire claim, any partial amount supported by written notice is overdue if not paid within 30 days after such written notice is furnished to the insurer. Any part or all of the remainder of the claim that is subsequently supported by written notice is overdue if not paid within 30 days after such written notice is furnished to the insurer. However, any payment shall not be deemed overdue when the insurer has reasonable proof to establish that the insurer is not responsible for the payment, notwithstanding that written notice has been furnished to the insurer. For the purpose of calculating the extent to which any benefits are overdue, payment shall be treated as being made on the date a draft or other valid instrument which is equivalent to payment was placed in the United States mail in a properly addressed, postpaid envelope or, if not so posted, on the date of delivery.

(c) All overdue payments shall bear simple interest at the rate of 10 percent per annum.

(d) The insurer of the owner of a motor vehicle shall pay personal injury protection benefits for:

1. Accidental bodily injury sustained in this state by the owner while occupying a motor vehicle, or while not an occupant of a *self-propelled* motor vehicle ~~or motorcycle~~ if the injury is caused by physical contact with a motor vehicle.

2. Accidental bodily injury sustained outside this state but within the United States of America, its territories or possessions, or Canada by the owner while occupying the owner's motor vehicle.

3. Accidental bodily injury sustained by a relative of the owner residing in the same household, under the circumstances described in subparagraph 1. or subparagraph 2., provided the relative at the time of the accident is domiciled in the owner's household and is not himself the owner of a motor vehicle with respect to which security is required under ss. 627.730-627.741.

4. Accidental bodily injury sustained in this state by any other person while occupying the owner's motor vehicle or, if a resident of this state, while not an occupant of a *self-propelled*

motor vehicle or motorcycle, if the injury is caused by physical contact with such motor vehicle, provided the injured person is not himself:

a. The owner of a motor vehicle with respect to which security is required under ss. 627.730-627.741, or

b. Entitled to personal injury benefits from the insurer of the owner or owners of such a motor vehicle.

(e) If two or more insurers are liable to pay personal injury protection benefits for the same injury to any one person the maximum payable shall be as specified in subsection (1), and any insurer paying the benefits shall be entitled to recover from each of the other insurers an equitable pro rata share of the benefits paid and expenses incurred in processing the claim.

(5) CHARGES FOR TREATMENT OF INJURED PERSONS.—Any physician, hospital, clinic, or other person or institution lawfully rendering treatment to an injured person for a bodily injury covered by personal injury protection insurance may charge only a reasonable amount for the products, services, and accommodations rendered. In no event, however, may such a charge be in excess of the amount the person or institution customarily charges for like products, services, and accommodations in cases involving no insurance.

(6) DISCOVERY OF FACTS ABOUT AN INJURED PERSON; DISPUTES.—

(a) Every employer shall, if a request is made by an insurer providing personal injury protection benefits under ss. 627.730-627.741 against whom a claim has been made, furnish forthwith, in a form approved by the Department of Insurance, a sworn statement of the earnings, since the time of the bodily injury and for a reasonable period before the injury, of the person upon whose injury the claim is based.

(b) Every physician, hospital, clinic, or other medical institution providing, before or after bodily injury upon which a claim for personal injury protection insurance benefits is based, any products, services, or accommodations in relation to that or any other injury, or in relation to a condition claimed to be connected with that or any other injury, shall, if requested to do so by the insurer against whom the claim has been made, furnish forthwith a written report of the history, condition, treatment, dates, and costs of such treatment of the injured person, together with a sworn statement that the treatment or services rendered were reasonable and necessary with respect to the bodily injury sustained and identifying which portion of the expenses for said treatment or services was incurred as a result of such bodily injury, and produce forthwith, and permit the inspection and copying of, his or its records regarding such history, condition, treatment, dates, and costs of treatment. Said sworn statement shall read as follows: "Under penalty of perjury, I declare that I have read the foregoing, and the facts alleged are true, to the best of my knowledge and belief." No cause of action for violation of physician-patient privilege or invasion of the right of privacy shall be against any physician, hospital, clinic, or other medical institution complying with the provisions of this section. The person requesting such records and said sworn statement shall pay all reasonable costs connected therewith.

(c) In the event of any dispute regarding an insurer's right to discovery of facts about an injured person's earnings or about his history, condition, and treatment, and dates and costs of such treatment, the insurer may petition a court of competent jurisdiction to enter an order permitting such discovery. The order may be made only on motion for good cause shown and upon notice to all persons having an interest, and it shall specify the time, place, manner, conditions, and scope of the discovery. Such court may, in order to protect against annoyance, embarrassment, or oppression, as justice requires, enter an order refusing discovery or specifying conditions of discovery and may order payments of costs and expenses of the proceeding, including reasonable fees for the appearance of attorneys at the proceedings, as justice requires.

(d) The injured person shall be furnished, upon request, a copy of all information obtained by the insurer under the provisions of this section, and shall pay a reasonable charge, if required by the insurer.

(e) Notice to an insurer of the existence of a claim shall not be unreasonably withheld by an insured.

(7) MENTAL AND PHYSICAL EXAMINATION OF INJURED PERSON; REPORTS.—

(a) Whenever the mental or physical condition of an injured person covered by personal injury protection is material to any claim that has been or may be made for past or future personal injury protection insurance benefits, such person shall, upon request of an insurer, submit to mental or physical examination by a physician or physicians. The costs of any examinations requested by an insurer shall be borne entirely by the insurer. Such examination shall be conducted within the city of residence of the insured. If there is no qualified physician to conduct the examination within the city of residence of the insured, then such examination shall be conducted in an area of the closest proximity to the insured's residence. Personal protection insurers are authorized to include reasonable provisions in personal injury protection insurance policies for mental and physical examination of those claiming personal injury protection insurance benefits.

(b) If requested by the person examined, a party causing an examination to be made shall deliver to him a copy of every written report concerning the examination rendered by an examining physician, at least one of which reports must set out his findings and conclusions in detail. After such request and delivery, the party causing the examination to be made is entitled, upon request, to receive from the person examined every written report available to him or his representative concerning any examination, previously or thereafter made, of the same mental or physical condition. By requesting and obtaining a report of the examination so ordered or by taking the deposition of the examiner, the person examined waives any privilege he may have, in relation to the claim for benefits, regarding the testimony of every other person who has examined, or may thereafter examine, him in respect to the same mental or physical condition. If a person unreasonably refuses to submit to an examination, the personal injury protection carrier is no longer liable for subsequent personal injury protection benefits.

(8) With respect to any dispute under the provisions of ss. 627.730-627.741 between the insured and the insurer, the provisions of s. 627.428 shall apply.

Section 21. Section 627.739, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 627.739, F.S., for present text.)

627.739 Personal injury protection; optional limitations.—

(1) In order to prevent duplication with other private or governmental insurance or benefits for senior citizens and others with access to such insurance or benefits, each insurer providing the coverage and benefits described in s. 627.736(1) shall offer to the named insureds modified forms of personal injury protection as described in this section. Such election may be made by the named insured to apply to the named insured alone, or to the named insured and dependent relatives residing in the same household. Any person electing such modified coverage or subject to such modified coverage as a result of the named insured's election shall have no right to claim or to recover any amount so deducted from any owner, registrant, operator or occupant of a vehicle or any person or organization legally responsible for any such person's acts or omissions who is made exempt from tort liability by ss. 627.730-627.741. Premium reductions for each modification or combination of modifications shall be adequate to recognize the reduction in hazard and shall be subject to the approval of the Department of Insurance.

(2) Insurers shall offer deductibles, in amounts of \$250, \$500, \$1,000 and \$2,000, \$3,000 and \$4,000, said amount to be deducted from the benefits otherwise due each person subject to the deduction. As an alternate to such deductibles, insurers shall offer the modifications of subsections (2) and (3) individually and in combination.

(3) Insurers shall offer coverage wherein at the election of the named insured all benefits payable under 42 USC 1395 the federal "medicare" program, or to active or retired military personnel and their dependents shall be credited against the benefits provided by s. 627.736(1). Such modification shall be available only as respects a named insured who provides certification that such person, or persons and all dependent relatives residing in the same household are eligible for such

federal benefits. Such certification shall be in a form approved by the Department of Insurance.

(4) Insurers shall offer coverage wherein at the election of named insured the benefits for loss of gross income and loss of earning capacity described in s. 627.736(1)(b) shall be excluded.

Section 22. Subsection (4) is added to section 627.737, Florida Statutes, 1976 Supplement, to read:

[Renumber subsequent section.]

Point of Order

Senator Scarborough raised a point of order that the amendment as offered is in violation of Rule 6.4 which is "Reconsideration Generally", stating the intent of the amendment is to reconsider something which has already been reconsidered by the Senate (Amendment 3 by Senator Plante and others). The President stated the amendment was not a further reconsideration of the previously reconsidered amendment because the question was not on reconsideration of the amendment but consideration of a new amendment. He stated further that the new amendment embraced materials not offered in the previous amendment and spoke to different sections of the bill. The President then quoted Jefferson's Manual as follows and ruled the point not well taken: "In Parliament a question once carried can not be questioned again at the same session, but must stand as the judgment of the House. And a bill once rejected, another of the same substance can not be brought in again the same session. But this does not extend to prevent putting the same question in different stages of a bill; because every stage of a bill submits the whole and every part of it to the opinion of the House, as open for amendment, either by insertion or omission, though the same amendment has been accepted or rejected in a former stage."

Senator Scarborough moved the following amendment to Amendment 26 which failed:

Amendment 26A—On page 1, lines a, b, and c, strike all of lines a, b, and c

Amendment 26 was adopted by the following vote:

Yeas—24

Mr. President	Firestone	MacKay	Thomas, Jon
Barron	Gallen	Myers	Thomas, Pat
Castor	Glisson	Peterson	Trask
Childers, Don	Hair	Poston	Vogt
Childers, W. D.	Holloway	Renick	Winn
Dunn	Johnston	Skinner	Zinkil

Nays—13

Chamberlin	Lewis	Spicola	Wilson
Gorman	McClain	Tobiassen	
Graham	Plante	Ware	
Henderson	Scott	Williamson	

Senator Dunn moved the following title amendment which was adopted:

Amendment 27—On page 4, line 20, after the semicolon insert: creating a Citizens' Tort Claims Study Commission;

Senators Hair and Barron offered the following title amendment which was moved by Senator Barron and adopted:

Amendment 28—On page 4, line 5, after the semicolon ";," insert: creating s. 768.063, Florida Statutes, providing for non-joinder of liability insurers; repealing ss. 627.730-627.735, Florida Statutes, and 627.736, 627.737, 627.738-627.741, Florida Statutes, 1976 Supplement, the Florida Automobile Reparations Reform Law;

Senator Zinkil moved the following title amendment which was adopted:

Amendment 29—On page 2, lines 13 and 14, strike "against an insurance company"

Senator Barron moved the following title amendments which were adopted:

Amendment 30—On page 1, line 24, after "insurance;" insert: repealing s. 627.082, Florida Statutes; relating to basis of approval or disapproval of filing;

Amendment 31—On page 4, line 13, after "fund;" insert: adding paragraph (h) to subsection (15) of s. 626.9541, Florida Statutes, 1976 Supplement; prohibiting discrimination;

Amendment 32—On page 4, in title, line 20, after "provided;" insert: providing for severability;

Senator Graham moved the following title amendments which were adopted:

Amendment 33—On page 4, in title, line 11, insert after the semicolon: requiring the maintenance of an index by each insurer of medical providers and attorneys who are directly or indirectly involved in automobile insurance claims;

Amendment 34—On page 1, line 5, insert after semicolon: providing that a rate structure established by a stock insurance company shall be deemed excessive if it provides for replenishment of surpluses from premiums where such replenishment is attributable to investment losses;

Senators Scott, Graham, Glisson, Poston and Spicola offered the following amendment which was moved by Senator Scott and failed:

Amendment 35—On page 7, strike all of lines 29 through 30, strike all of pages 8 and 9, and on page 10, strike all of lines 1 through 21 and insert: Section 8. As to motor vehicle insurance, every insurer shall file with the Department of Insurance every manual of classifications, rules and rates, every rating plan, and every modification of any of the foregoing which it proposes to use, and no filing may take effect before approval by the Insurance Commissioner and Treasurer. Each filing shall state the proposed effective date and shall include information sufficient to allow the commissioner to determine whether the filing meets the requirements of s. 627.082, Florida Statutes. A filing is incomplete until all information deemed necessary by the commissioner is received. Each complete filing and any supporting information shall be open to public inspection. An insurer may satisfy its obligation to make such filings by becoming a member of, or a subscriber to, a licensed rating organization which makes such filings, and by authorizing the department to accept such filings in its behalf; but nothing contained in this chapter shall be construed as requiring any insurer to become a member of or a subscriber to any rating organization.

Section 9. The Insurance Commissioner and Treasurer shall approve or disapprove each complete filing no later than 90 days after receipt of such filing and all required information. If any filing contains a proposed rate increase, the commissioner shall schedule a public hearing prior to approving or disapproving such filing to hear testimony of affected persons and of the insurer or the rating organization. In all other cases, the commissioner may schedule a public hearing, at his discretion, upon a request by an affected person, an insurer, or a rating organization. The commissioner shall give written notice of such hearing to the insurer or rating organization that made the filing not later than 10 days prior to the hearing and shall give public notice of such hearing by publishing notice twice in a newspaper of general circulation in each area which may be affected by the filing not earlier than 20 days nor later than 7 days prior to the hearing. If the commissioner disapproves a filing or any part thereof, it shall not take effect, and the commissioner shall promptly give notice to the insurer or rating organization stating the reasons why the filing does not meet the requirements of s. 627.082, Florida Statutes. If the commissioner disapproves part of a filing, the insurer or rating organization may, at its discretion, withdraw the entire filing. If the commissioner approves a filing or a part thereof, the filing may become effective upon the date of the order or upon a subsequent date established by the insurer or rating organization. Any decision by the commissioner to approve or disapprove a filing or a part thereof is subject to judicial review as provided in s. 627.391, Florida Statutes. [Renumber subsequent sections.]

Senator Barron moved the following amendment which was adopted:

Amendment 36—On pages 33 and 34, strike all of lines 14-30 on page 33 and all of lines 1-23 on page 34 and insert after "limitations.—" on line 13: In order to prevent duplication with other private or governmental insurance or benefits for senior citizens and others with access to such insurance or benefits, each insurer providing the coverage and benefits described in s. 627.736(1) shall offer to the named insureds modified forms of personal injury protection as described in this section. Such election may be made by the named insured to apply to the named insured alone, or to the named insured and dependent relatives residing in the same household. Any person electing such modified coverage or subject to such modified coverage as a result of the named insured's election shall have no right to claim or to recover any amount so deducted from any owner, registrant, operator or occupant of a vehicle or any person or organization legally responsible for any such person's acts or omissions who is made exempt from tort liability by ss. 627.730-627.741. Premium reductions for each modification or combination of modifications shall be adequate to recognize the reduction in hazard and shall be subject to the approval of the Department of Insurance.

(1) Insurers shall offer to each applicant and to each policy holder upon the renewal of an existing policy, deductibles, in amounts of \$250, \$500, \$1,000, \$2,000, \$3,000 and \$4,000 said amount to be deducted from the benefits otherwise due each person subject to the deduction and shall explain to each applicant or policyholder that if they have coverage under private or governmental disability plans they may avail themselves of deductibles or other modifications as provided in subsection (1) (2) and (3).

(2) Insurers shall offer coverage wherein at the election of the named insured all benefits payable under 42 USC 1395, the federal "medicare" program, or to active or retired military personnel and their dependent relatives shall be deducted from those benefits otherwise payable pursuant to s. 627.736(1).

(3) Insurers shall offer coverage wherein at the election of named insured the benefits for loss of gross income and loss of earning capacity described in s. 627.736 (1) (b) shall be excluded.

Senator Zinkil moved the following amendment to the bill as amended by Amendment 26 which was adopted:

Amendment 37—In Section 21, line 11, after "to the named" strike "insureds" and insert: insured's

Senator Ware moved the following amendment which was adopted:

Amendment 38—On pages 35 and 36, line 26, strike all of Section 23

Senator Zinkil moved the following amendment to the bill as amended by Amendment 26 which failed:

Amendment 39—On page 26, line 5, strike "\$1,000" and insert: \$2,000

Senator Graham moved the following amendments which were adopted:

Amendment 40—On page 34, between lines 23 and 24, insert: (4) Insurers shall offer at the election of the named insured, one of the following options: (a) Either a direct payment to the policyholder or a payment to any person, corporation, association or other business entity which performs repair work upon the motor vehicle, or a combination of the foregoing; or

(b) A payment to any person, corporation, association, or other business entity performing repair work upon the motor vehicle, where the payee is under contract with the insurer to perform such work at stipulated rates which are no greater than eighty-five (85) percent of prevailing rates for similar work within the county where the payee performs the work upon the motor vehicle.

(5) Each insurer shall prepare and distribute to each of its policyholders a listing of all business entities under contract with the insurer to perform motor vehicle repair work at the

rates described in paragraph (1)(b) of this section. The listing shall include a clear and plain explanation of the options provided as required by this section, and shall further state that if the policyholder elects to have required motor vehicle repair work done by any such business entity, the rates stipulated in the contract with the insurer shall be all of the consideration which the business entity will demand for such work and shall be paid by the insurer.

Amendment 41—On page 34, between lines 23 and 24, insert: (6) Insurers shall offer coverage wherein at the election of the named insured, medical services shall be limited to specified medical providers, including hospitals, which specified medical provider may be a health maintenance organization, as provided in chapter 641, Part II, Florida Statutes.

Senator Scarborough moved the following amendment which failed:

Amendment 42—On page 36, strike lines 30 and 31 and strike lines 1 through 20 on page 37

Senators Graham, Dunn and Vogt offered the following amendment which was moved by Senator Graham and adopted:

Amendment 43—On page 37, lines 25-31, strike all of section 28 and 1-4 on page 38 and insert: Section 31. (1) Effective July 1, 1977, each private passenger automobile insurance policy in effect at 12:01 a.m. on that date in this state shall be renewable upon payment of a premium not to exceed ninety percent of the last premium paid by the policyholder prior to July 1, 1977, for the equivalent term and coverage.

(2) Thereafter, the reduced rate shall be applicable to all new and renewal policies of the same insurer in the same class or group of policyholders or risks until such time as the Commissioner of Insurance finds that any new rate proposed by the insurer is not excessive or unfairly discriminatory.

Senator Barron moved the following amendments which were adopted:

Amendment 44—On page 3, line 22, strike "deductables" and insert: deductibles

Amendment 45—On page 2, line 24, strike "under-insured" and insert: underinsured

Senator Graham moved the following amendments which were adopted:

Amendment 46—On page 1 in title, strike all of lines 19 through and including line 22 and insert: concerning making and use of rates; providing that motor vehicle insurers file certain manuals of classification, rules, and rates, rating plans, and modifications thereto to and for the approval of the Insurance Commissioner and Treasurer or satisfy such requirement with membership of or subscription to a licensed rating organization; providing procedures for approval or disapproval by the Insurance Commissioner and Treasurer of such material; creating s. 627.066, Florida

Amendment 47—On page 4 in title, strike lines 18-20 and "benefits provided;" on line 20 and insert: providing for a mandatory reduction in private passenger automobile insurance policy premiums for policies in effect on July 1, 1977, and for new and renewal policies on and after that date;

On motion by Senator Barron, by two-thirds vote CS for SB's 1181, 925 and 792 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—30

Mr. President	Gorman	Plante	Tobiassen
Barron	Hair	Renick	Trask
Castor	Henderson	Saylor	Vogt
Childers, Don	Holloway	Scarborough	Ware
Childers, W. D.	Johnston	Scott	Winn
Dunn	Lewis	Skinner	Zinkil
Gallen	McClain	Thomas, Jon	
Glisson	Peterson	Thomas, Pat	

Nays—8

Chamberlin	Graham	Myers	Spicola
Firestone	MacKay	Poston	Wilson

Vote after roll call:

Yea—Williamson

On motion by Senator Jon Thomas, the rules were waived and the Committee on Personnel, Retirement and Collective Bargaining was granted permission to consider SB 918 at the next scheduled meeting.

ENROLLING REPORTS

SB 204	SB 271	SB 116	SB 257
SB 235	SB 305	CS for SB 136	SB 359
SB 255			

—have been enrolled, signed by the required Constitutional Officers and filed with the Governor on May 18, 1977.

Joe Brown, Secretary

CO-INTRODUCERS

Senator Skinnner—SB 41; Senator Myers—Senate Bills 1145 and 1198

CORRECTION AND APPROVAL OF JOURNAL

The Journal of May 17 was corrected and approved as follows: Page 404, at end of column 1 insert: On motion by Senator Plante, the rules were waived and by two-thirds vote SB 395 was withdrawn from the Committee on Finance, Taxation and Claims.

Pursuant to the motion by Senator Gallen, the Senate adjourned at 4:30 p.m. to convene at 8:30 a.m., May 19, 1977 for the purpose of introduction and reference of resolutions, memorials, bills and joint resolutions and thereafter to reconvene at 9:00 a.m.