

Florida Consumer Rights Personal Automobile Insurance

Introduction

The Florida Consumer Notice of Rights is a summary of rights under Florida Statutes and the Florida Administrative Code as it applies to automobile insurance coverage. It does not become part of an automobile insurance policy, but is intended to help navigate through the automobile insurance system when purchasing insurance or dealing with claims.

Consumers have certain legal rights and knowing these rights will help act in your best interest. Exceptions to the laws and code are not listed in this consumer rights explanation. If an insurance agent or insurance company tells you that one of these rights do not apply, contact the Division of Consumer Services within the Department of Financial Services on-line at <http://www.myfloridacfo.com/Consumers/> or by phone at 1-877-MY-FL-CFO (1-877-693-5236), toll-free in Florida, and (850) 413-3089 from out of state.

Prior to purchasing automobile insurance coverage, consumers should read the Consumer Guides published by the Division of Consumer Services. The guides are located on the website at www.myfloridacfo.com/Consumers/Guides/Auto/index.htm.

Once you have purchased automobile insurance, the rights and obligations are located in the policy. Failure to meet these obligations may affect the status of the policy. Consumers should read their policy; ask questions of their agent. Consumers should keep their policy updated with any changes that are sent from the company or their agent.

Underwriting and Premium Information

1. Minimum Coverage Requirements

Under s. [324.021](#) - [324.022](#) & [324.023](#) Florida Statutes (FS), drivers in Florida are required to carry insurance coverage with a minimum of bodily injury \$10,000. per person, \$20,000. per accident. Property damage limit of \$10,000. Some drivers who have been convicted of driving under the influence may be required to carry higher limits of coverage.

2. Credit Score Use

Under s. [626.9741](#), F.S., and the Federal Fair Credit Reporting Act states an insurer may not consider your credit score in the following situations:

- The credit report was requested based upon the race, color, religion, marital status, age, gender, income, national origin, or place of residence of the applicant or insured.

- Make an adverse decision solely because of information contained in a credit report or score without consideration of any other underwriting or rating factor.
- Make an adverse decision or use a credit score that could lead to such a decision if based, in whole or in part, on:

For consumers with no credit history:

- The absence of, or an insufficient, credit history, in which instance the insurer shall:
- Treat the consumer as otherwise approved by the Office of Insurance Regulation if the insurer presents information that such an absence or inability is related to the risk for the insurer;
- Treat the consumer as if the applicant or insured had neutral credit information, as defined by the insurer;
- Exclude the use of credit information as a factor and use only other underwriting criteria;
- Collection accounts with a medical industry code, if so identified on the consumer's credit report;
- Place of residence; or
- Any other circumstance that the Financial Services Commission determines, by rule, lacks sufficient statistical correlation and actuarial justification as a predictor of insurance risk.

AN INSURANCE COMPANY MUST ADVISE THE CONSUMER IF INFORMATION IS OBTAINED OR AN ADVERSE DECISION IS MADE FROM A CREDIT REPORT.

3. Unfair Trade Practices

Under s. [626.9541](#), F.S., Property and Casualty General Agents are prohibited from:

- | | |
|--------------------------|-----------------------------------|
| 1. false advertising | 6. unfair claim practices |
| 2. unfair discrimination | 7. coercion |
| 3. free insurance | 8. rebating, sliding |
| 4. refusal to insure | 9. cancellations and non-renewals |
| 5. premium surcharges | 10. or refusal to insure |

4. Temporary Insurance

Under s. [627.420](#), F.S., upon receipt of payment an agent should issue an auto insurance binder which is a temporary insurance contract that provides proof of coverage until an insurance company issues a permanent policy.

5. Cancellation of Coverage and Premium Refunds

Under s. [627.7283](#), F.S., when an insurance company cancels a policy, any unearned premium must be returned within **15 days** after the effective date of the cancellation.

Unearned Premium

If an insured cancels a policy, any unearned premium must be returned within **30 days** after the effective date of cancellation. The insurer may retain **10 percent** of the unearned premium, unless the request is from a military service member being called to active duty, in which case the insurer must refund **100%**.

Overdue Refund

The insurance company must pay 8 percent interest on overdue refunds.

6. Non-Renewal of Coverage

At Fault Accident

Under s. [626.9541 \(o\)](#), F.S., an auto insurance company cannot non-renew an auto policy solely based on an insured having one at-fault accident within the most recent three year period. However, if there are other accidents or driving infractions on an insureds record, they may be used in conjunction with the at fault accident as a basis for non-renewal.

Not at Fault

Additionally, an insurance company cannot non-renew an insureds policy for not-at-fault accidents unless there have been more than two in the past three year period.

7. Renewal Premium

If a renewal premium is not paid on time, the company is not obligated to provide coverage. There is no "*grace period*" under Florida law for paying renewal insurance premiums. Renewal payment is due on the date shown on the notice.

8. Right to cancel

Consumers have the right to cancel their policy at any time and receive a refund of the remaining premium. The refund will be paid to the consumer unless the premium was financed through a premium finance company. In that case, the refund will be paid to the premium finance company to reduce the amount owed on the loan.

Coverage Information

9. Coverage

Personal automobile insurance policy covers the named insured, spouse, and relatives who reside with the named insured, providing all licensed drivers have been disclosed.

Loaned Vehicle

If an insured loans their vehicle, they are most likely loaning their insurance policy as well. If the person using the automobile lives with the insured or has regular usage of the automobile, they must be added to the policy.

Otherwise, the company may cancel the policy and refuse to pay a claim.

Who is not covered

Some automobile insurance policies will not cover a person who is not listed on the policy. Read the policy carefully and/or ask the agent if a permissive user of the vehicle is covered.

10. Medical Payments

Medical Payments coverage provides for reasonable expenses incurred for medical and funeral services due to bodily injury caused by an auto accident. Generally, the expenses must be incurred within **3 years** of the accident, except when a child is injured and it is medically determined that the treatment should be delayed.

11. Uninsured – Underinsured Motorist

Under s. [627.727](#), F.S., Uninsured Motorist (UM) coverage must pay for accidental bodily injury (BI), sickness, or disease, including death, when an insured sustains such injury as the result of an automobile accident and the legally obligated party does not have Bodily Injury Coverage, or does not have sufficient limits to satisfy the injury claim.

12. Stacked Uninsured Motorist Coverage

Florida Statutes, s. [627.727](#) F.S., requires that a company add together, or "stack" uninsured/ underinsured coverage for multiple vehicles, unless otherwise rejected in writing. For example, if an insured has three vehicles, and each has a UM limit of 50/100 (\$50,000 per person/\$100,000 per accident). This means they have up to \$150,000 per person/\$300,000 per accident available for a claim.

13. Personal Injury Protection (PIP) Claim - Reasonable Medical Expenses

Insurer Responsibility

PIP pays for **80%** of all reasonable medical expenses. In order to determine what is reasonable, the insurer may consider evidence of usual & customary charges and payments accepted by the provider. They may also consider the reimbursement levels in the community and various federal and state medical fee schedules that apply to automobile and other insurance coverages.

Consumer Responsibility

The company will pay the remaining **20%** of the charges. However, the insurer should negotiate these charges with the provider and not leave *their insured* with a balance owed to the provider other than any applicable deductible under s. [627.736](#), F.S.

14. PIP Claim

Filing Requirements

Physicians must file PIP claims within **35 days** of treatment, except the physician has **75 days** if he/she submits a notice of initiation of treatment within **21 days** after the first exam or treatment.

Forms

All claims must be submitted on a “properly completed” CMS 1500 form. The form must contain the license number and signature of the provider.

- To obtain the Health Care Provider Certification of Eligibility Form visit the Office of Insurance Regulation's website at <http://www.floir.com/pdf/OIR-B1-1809.pdf>
- The company must submit a Certification of Medical Services or Care Lawfully Provided, Supervised, Ordered or Prescribed Pursuant to Section [627.736\(1\)\(A\)](http://www.floir.com/pdf/OIR-B1-1773.pdf), F.S.; <http://www.floir.com/pdf/OIR-B1-1773.pdf>

15. PIP Claim

Notification of Insured's Rights

- Each insurer providing PIP coverage must send the insured a form outlining their rights within **21 days** of reporting an accident or claim involving PIP. The Office of Insurance Regulation (OIR) may give the company up to **30 days** if the company can show where an emergency justified the additional time.

Notice Requirements

- A description of the benefits including the specific types of services when medical benefits are paid, disability benefits, death benefits, significant exclusions and limitations in the policy, and when payments are due.
- A statement that the Department of Financial Services (DFS) may pay rewards of up to \$25,000 to persons who provide information that leads to the arrest and conviction of persons committing fraud.
- A statement that if the insured notifies the insurer of a billing error, they may be entitled to a certain percentage of a reduction in the amount paid by the insurer.
- A notice that solicitation of a person injured in a vehicle crash for the purpose of filing PIP or tort claims could be a violation of law. Also, if such conduct has taken place, the Division of Insurance Fraud should be notified immediately.
- These issues are addressed in s. [627.7401](http://www.floir.com/pcfr/Documents/OIR-B1-1149.doc), F.S., and the forms are available at:
<http://www.floir.com/pcfr/Documents/OIR-B1-1149.doc>

16. Windshield Claims

Under s. [627.7288](http://www.floir.com/pcfr/Documents/OIR-B1-1149.doc), F.S., an insured must have comprehensive or other than collision coverage for a front windshield to be covered. If the automobile policy

was issued in Florida, the law that if a policyholder has a deductible for this coverage, it will be waived in the event the front windshield is cracked or broken and needs replacing.

Claims Information

17. Written Estimate Requirement

Under [s. 626.9743 \(7\)](#), F.S., the insurance company must provide the insured with a written estimate when a partial loss of value is declared.

18. Auto Claim – Depreciation

Under [s. 626.9743 \(6\)](#) F.S., a consumer is entitled to dispute any difference of opinion when an insurance company reduces the settlement because of betterment or depreciation.

Under [s. 626.9743\(6\)](#), F.S., consumers have the right to seek negotiation, mediation, arbitration or litigation.

19. Diminished Value

1st Party Claims

If your vehicle is damaged from an accident and your insurance company pays for the repairs, they are not responsible for the decreased value of your vehicle.

3rd Party Claims

If another party caused the accident, their insurance company may be responsible for payment for the decreased value of your vehicle. This could be covered under the Property Damage portion of the other driver's automobile policy. This situation is called a Diminished Value Claim.

If the other insurance company does not agree to compensate for the loss of value, consumers may refer to [Informational Bulletin 84-270](#) issued by the Office of Insurance Regulation.

20. Required Disclosure of Insurance Information

Section [627.4137](#), F.S., requires an insured or their agent, to forward any request for coverage information as required by law to the affected insurers. The insurer should then supply the requested insurance information to the claimant within **30 days** after receipt of the request.

This law also applies to the insured's insurance agent and insurance company.

21. Insurance Company Obligations

Communications

An insurance company must respond to any communication with respect to a claim within **14 calendar days** under s. [627.70131](#), F.S., unless payment is made within that period of time or unless the failure to acknowledge is caused by factors beyond the company's control.

Claims Investigation

Within **10 working days** after the company receives proof of loss statements, the company must begin its investigation of a claim unless the failure to investigate is caused by factors beyond the control of the company.

Claims Payment

Within **90 days** after a company receives notice of a claim, the company shall pay or deny the claim or a portion of the claim.

Delinquent Claim Payment

Any payment (portion or entire claim) paid **90 days** after the company receives notice of the claim. If payment is not made after **90 days** the payment will bear interest according to s. [55.03](#), F.S.

22. Other Party at Fault/No Coverage

Consumers who have been in an accident with an uninsured driver and have collision coverage have the right to file a claim with their insurance company. The insurance company may be able to collect the deductible, and reimburse the policyholder.

23. Payment of Judgment

Insurance companies must satisfy every judgment or decree for the recovery of money entered in any of the courts of this state within **60 days**. If the company fails to do so, their license can be revoked by the Office of Insurance Regulation under s. [627.427](#), F.S.

24. Rental Car

Rental Reimbursement provides reimbursement for automobile rental up to a specified limit shown on the policy. It applies if the insured gets into an accident with their own automobile and can no longer drive it, and usually if the auto is stolen. Some insurance companies will have the insured rent/lease the replacement vehicle and then submit receipts for reimbursement.

However, you should contact the at fault insurance company to determine the maximum amount they will reimburse for the rental car. Also, the insurance company of the at-fault policyholder will not be responsible for any "other insurance," or gas purchased during the rental period.

25. Repair Shop Selection

Under s. [626.9743\(3\)](#), F.S., insurance companies are not required to guarantee repairs and are not responsible for any delays in completing the repairs. Thus you should consult your policy to see what provisions govern the selection of a repair shop.

26. Replacement Parts

Under s. [626.9743\(4\)](#), F.S., consumers have the right to replacement parts which are at least equivalent in kind and quality in terms of fit, appearance, and performance.

27. Reservation of Rights

Reservation of rights is when there appears to be a breach of policy conditions by the insured. The insurer may nevertheless desire to investigate the claim without admitting liability or waiving any of its rights under the policy.

Under s. [627.426\(2\)\(a\)](#), F.S., if an insurance company investigates a question of coverage, the company must send the insured a Reservation of Rights letter within 30 days after they knew or should have known of the coverage defense. If the company fails to do so, the company cannot deny coverage based on the coverage defense.

28. Sales Tax Payment

Under s. [626.9743\(9\)](#), F.S., if an insured will incur sales tax upon replacement of a total loss or repair of a partial loss, the insurance company must pay the sales tax. However, the insurance company can defer this payment until the obligation has actually been incurred.

29. Total Loss Definition

A motor vehicle is a total loss: When an insurance company pays the vehicle owner to replace the wrecked or damaged vehicle with one of like kind and quality or when an insurance company pays the owner upon the theft of the motor vehicle.

Determination of Total Loss

Pursuant to s. [319.30 \(3\)\(a\)1](#), F.S, if the estimated costs of repairing the physical and mechanical damage to the vehicle are equal to **80%** or more of the current retail cost of the vehicle, as established in any official used car guide, the Department of Highway Safety and Motor Vehicles (DHSMV) shall declare the vehicle unrebuildable and print a certificate of destruction, which authorizes the dismantling or destruction of the motor vehicle described.

Repair after Total Loss

If the insurance company and owner of a motor vehicle agree to repair, rather than to replace, the motor vehicle and if the actual cost to repair the motor vehicle exceeds **100%** of the cost of replacing the wrecked or damaged motor

vehicle with one of like kind and quality, the owner shall forward to the DHSMV within **72 hours** after the agreement, a request to brand the certificate of title with the words "Total Loss Vehicle." Such a brand shall become a part of the vehicle's title history. This statute falls under the DHSMV and includes directions for submitting the title to a total loss vehicle. Additional questions should be referred to them.

30. Mediation

Under s [627.745](#), F.S., and Rule [690-176.022](#), Florida Administrative Code (FAC) mediation is available to anyone filing a claim with an insurance company for Property Damage liability in any dollar amount, or for Bodily Injury liability (up to \$10,000), which arises out of the ownership, operation, use, or maintenance of a motor vehicle. Either party may request mediation of the claim prior to the institution of litigation or the appraisal process.

Mediation is non-binding and neither the consumer nor the insurance company is legally obligated to accept an offer that they consider unsatisfactory. If a settlement is reached, the consumer has **3 days** in which to change their mind as long as the check has not been cashed.

Both 1st party claims (claims against your insurance company) and 3rd party claims (claims against the other party's insurance company) are eligible for mediation. The cost of mediation is \$100.

Automobile Mediation is a voluntary program. If the other party chooses not to participate in mediation, the \$100 fee will be refunded to the requesting party.

Tips for dealing with a claim

If an automobile claim occurs, file the claim with your insurer as soon as possible. Below are some helpful tips for negotiating the claims process:

- Have your policy numbers readily available.
- If the claim is an accident, obtain the accident report from the DHSMV and provide it to the insurer.
- If there is a total loss, research the value of your vehicle, go to the websites of Kelly Blue Book www.kbb.com, Edmunds www.edmunds.com, and National Automobile Dealers Association (NADA) www.nada.com to gather facts about the value of your vehicle. Most insurers use a source that is not available to individual users, CCC, but the values should be somewhat similar to the sources at your disposal. Negotiate with your insurer using the information you have obtained. Remember to be reasonable, they are not going to categorize your vehicle as excellent if the vehicle is several years old.

- Know your right to Mediation through the state. To obtain a mediation application or to gather more information, call the DFS Consumer Helpline toll-free at 1-877-MY-FL-CFO (**1-877-693-5236**).