

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB RCC 07-07 Insurance
SPONSOR(S): Rules & Calendar Council
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Rules & Calendar Council	10 Y, 6 N	Davis/Overton	Rubottom
1) _____	_____	_____	_____
2) _____	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

Florida's Motor Vehicle No-Fault Law is scheduled to sunset on October 1, 2007. The No-Fault Law requires that motor vehicle owners provide personal injury protection coverage (PIP), which provides certain first-party benefits, regardless of fault, in a motor vehicle accident.

The bill requires motor vehicle owners or registrants to have emergency care coverage, which, subject to certain criteria, provides \$15,000 of coverage for emergency transport, emergency room treatment, hospitalizations, and subsequent medically necessary treatment. The emergency care policy covers the following: the named insured; relatives residing in the same household as the named insured; persons operating the insured motor vehicle; passengers in such motor vehicle; and other persons who are struck by the insured motor vehicle who suffer bodily injury and are not occupying a self-propelled vehicle at the time of the accident.

Failure to have the required security in full force and effect or notification from the insurer to the Department of Highway Safety and Motor Vehicles (DHSMV) that the security was cancelled or terminated shall result in registration and drivers' license suspension. The bill also designates as first degree misdemeanors certain misconduct relating to false or forged evidence of security.

Only insurers writing motor vehicle insurance in Florida may provide the required benefits, and they may not require the purchase of any other form of insurance, except for the required \$10,000 of property damage liability insurance. Violations of this provision constitute unfair competition or an unfair or deceptive act or practice involving the business of insurance, and such violations subject an insurer to applicable penalties.

The bill provides insurers with procedures for reporting renewals, cancellations, nonrenewals, and new policies to DHSMV.

The bill provides that general lines agents may charge insureds a service charge for processing a premium installment payment that could be paid directly to the insurer or premium financing company.

The bill also provides for a period of transition between PIP and emergency care coverage.

This bill does not appear to have a fiscal impact on state or local governments.

This bill becomes effective on October 1, 2007 and sunsets on October 1, 2012.

FULL ANALYSIS

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

STORAGE NAME: pcb07a.RCC.doc
DATE: 4/24/2007

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Promote personal responsibility--- The bill requires that motor vehicle owners maintain first-party security for emergency care and services rendered as a result of a motor vehicle accident.

B. EFFECT OF PROPOSED CHANGES:

BACKGROUND

Automobile Liability Coverage

Currently, there are two required forms of motor vehicle liability insurance in this state.¹ Virtually all motor vehicle owners are required to carry Personal Injury Protection and Property Damage insurance. Motor vehicle liability insurance compliance is regulated by the Department of Highway Safety and Motor Vehicles (DHSMV).

Personal Injury Protection (PIP): Under Florida's Motor Vehicle No-Fault Law, motor vehicle owners maintain \$10,000 worth of first-party insurance known as Personal Injury Protection, which is commonly referred to as PIP. PIP coverage provides up to \$10,000 per person for loss sustained as a result of bodily injury, sickness, disease, or death that arises from owning, maintaining, or using an insured motor vehicle. PIP benefits are available for certain express damages sustained in a motor vehicle accident, regardless of fault.

In exchange for the automatic \$10,000 PIP benefit, the insured motor vehicle owner may not sue for damages covered by PIP. Additionally, the motor vehicle owner is immune from liability for damages covered by PIP. Nonetheless, special (economic) damages such as medical expenses in excess of the PIP benefit may be recovered in tort, as may a limited class of general (non-economic) damages for extreme forms of pain and suffering.²

PIP coverage extends to the named insured, relatives who reside in the same household, persons operating the insured motor vehicle, passengers in the insured motor vehicle, and other persons struck by the insured motor vehicle who suffer bodily injury and are not occupants of a self-propelled vehicle at the time that they suffer the injury.³ Required PIP benefits are detailed in section 627.736(1), Florida Statutes. They include the following: 80% of medically necessary expenses, 60% of lost wages, 100% of replacement services (household-type services that the injured party would provide in the absence of the injury), and a \$5000 death benefit.

Property Damage Liability Coverage: Motor vehicle policies must also provide coverage for property damage liability in the amount of at least \$10,000.⁴ Property damage liability coverage extends to the property of others in any one accident for property damage or destruction that arises out of the use of the insured motor vehicle.⁵ A policy that provides for combined coverage for property damage and bodily injury liability in the amount of at least \$30,000 is also acceptable.⁶

¹ Section 324.021(8) defines a motor vehicle liability policy as:

Any owner's or operator's policy of liability insurance furnished as proof of financial responsibility pursuant to s. 324.031, insuring such owner or operator against loss from liability for bodily injury, death, and property damage arising out of the ownership, maintenance, or use of a motor vehicle in not less than the limits described in subsection (7) and conforming to the requirements of s. 324.151, issued by any insurance company authorized to do business in this state.

² Under section 627.737(2), a person may sue in tort for pain and suffering as a result of a motor vehicle accident only if there is: (a) significant and permanent loss of an important bodily function; (b) permanent injury within a reasonable degree of medical probability, other than scarring or disfigurement; (c) significant and permanent scarring or disfigurement; or (d) death. This is referred to as "piercing the verbal threshold."

³ Section 627.736(1), F.S.

⁴ Section 627.7275(1), F.S.

⁵ *Id.*

⁶ *Id.*

Bodily Injury Liability Coverage: Other forms of insurance, such as bodily injury liability coverage are not presently mandated for all drivers, but are required under certain circumstances. Most motor vehicle owners who comply with the provisions of the Florida Motor Vehicle No-Fault Law are exempt from maintaining bodily injury liability coverage.⁷ However, any driver who has been involved in a crash that resulted in death or personal injury,⁸ has left the scene of an accident that caused property damage,⁹ or has been found guilty of driving under the influence one or more times¹⁰ is required to maintain bodily injury liability coverage. Such coverage consists of: \$10,000 for injury to or death of one person in any one crash and \$20,000 for bodily injury to or death of two or more persons in any one crash.¹¹

Medical Payments Coverage: Another form of optional coverage is medical payments coverage, which generally insures against medical bills that the named insured, the named insured's relatives residing in the same household, passengers in the insured motor vehicle, or any pedestrians incur as a result of an accident involving the insured motor vehicle. Medical payments coverage also covers any medical bills incurred if the named insured or the named insured's relatives residing in the same household are injured while occupying another motor vehicle or are pedestrians. Medical payments coverage pays benefits regardless of fault.

Financial Responsibility Requirements

Currently, the owner of any non-for-hire motor vehicle may prove financial responsibility by complying with one of four options. First, the owner may provide evidence of a motor vehicle liability policy.¹² Second, the owner may post with DHSMV a satisfactory bond of an authorized surety company.¹³ Third, the owner may furnish a DHSMV certificate showing a deposit of cash or securities worth \$30,000.¹⁴ Fourth, the owner may furnish a DHSMV-issued certificate of self-insurance.¹⁵ A private individual with private passenger vehicles must have a net unencumbered worth of at least \$40,000.¹⁶ A person other than a natural person must have a net unencumbered worth of \$40,000 for the first motor vehicle and \$20,000 for each additional motor vehicle.¹⁷

Proof of Required Security

Currently, any person who is required under section 627.733, Florida Statutes, to maintain PIP coverage must keep proper proof of that security in his or her immediate possession at all times while operating the motor vehicle.¹⁸ The proper proof may be in the form of a proof-of-insurance card, a valid insurance policy, an insurance policy binder, a certificate of insurance, or other department-prescribed proof.¹⁹ Anyone whose license and registration is suspended for failure to provide proper proof of security may only have the license and registration reinstated under section 627.733, Florida Statutes, which provides that any operator or owner whose license or registration has been suspended for failure to provide proper proof of security must pay a fee (the fee varies based on number of prior failure to

⁷ Section 324.021, F.S.

⁸ Sections 324.051(1)(a), F.S.; 316.066(3)(a)1., F.S.

⁹ Sections 324.051(1)(a), F.S.; 316.066(3)(a)2., F.S.; 316.061(1), F.S.

¹⁰ Sections 324.051(1)(a), F.S.; 316.066(3)(a)2., F.S.; 316.193, F.S.

¹¹ Section 324.021, F.S.

¹² Section 324.031(1), F.S.

¹³ Section 324.031(2), F.S.

¹⁴ Section 324.031(3), F.S.

¹⁵ Section 324.031(4), F.S.

¹⁶ Section 324.171(1)(a), F.S.

¹⁷ Section 324.171(1)(b), F.S.

¹⁸ Section 316.646(1), F.S.

¹⁹ Section 316.646(2), F.S.

provide proper proof offenses) and secure noncancelable coverage as described in section 627.7275(2),²⁰ to be maintained for two years.

PIP Fraud

Over time, PIP has been subject to a variety of fraudulent activities. Examples of PIP fraud include: solicitation of individuals to participate in fraud; staging motor vehicle accidents; billing for treatment that never occurred; and overbilling/build-up of legitimate claims. In 2000, the Fifteenth Statewide Grand Jury issued a report on PIP Fraud, which concluded that PIP is beset with fraud. It made a number of recommendations for addressing fraud, many of which were adopted by the Legislature in 2001 and 2003.

In 2001, legislation was enacted that did the following: provided a medical fee schedule for certain diagnostic procedures; provided additional funding for anti-fraud measures; provided additional funding for assistant state attorneys and fraud investigators; prohibited payment to brokers; required the Agency for Health Care Administration (AHCA) to license medical clinics; and increased fraud penalties.²¹

In 2003, legislation was enacted that did the following: increased restrictions on access to medical reports; increased health care clinic regulation; provided that insurers do not have to pay PIP benefits if the insured has committed PIP fraud; required the Department of Health (DOH) to create a list of diagnostic tests that are not deemed to be medically necessary, and provided that insurers do not have to pay for invalid diagnostic tests; prohibited unlawful solicitation of business within 60 days after a motor vehicle accident; prohibited lawyers and licensed health care providers from ever soliciting business; gave a felony designation to certain PIP fraud crimes (solicitation with intent to defraud, using confidential information from police reports, unlawfully obtaining/using confidential accident reports, operating unlicensed clinics, filing false insurance application or creating false insurance record, and organizing, planning, or participating in an intentional motor vehicle collision).²² Additionally, the legislation provided for the Florida Motor Vehicle No-Fault Law to sunset on October 1, 2007.

The Division of Insurance Fraud has continued to handle an increasing number of fraud cases. From 2002 to 2005, PIP fraud referrals have increased 300%, from 615 referrals to 2,628 referrals; between 2002 and 2005, PIP fraud referrals made up 15% of all referrals to the Division of Insurance Fraud.²³ There were 225 convictions for PIP fraud during the fiscal year 2005-2006, which made up 36% of the 620 total insurance fraud convictions for that year.²⁴ Of those 225 convictions, 124 were for staged motor vehicle accidents.

PIP Sunset

In 2003, the Florida Legislature adopted chapter 2003-411, Laws of Florida, which provided for an October 1, 2007 sunset of the No-Fault Law, unless the Legislature took action during the 2006 Legislative session. To that end, the 2006 session resulted in the passage of CS/CS/CS/SB 2114, which did the following: specified information to be included in vehicle crash reports; made a second-degree felony the organization of, planning of, or knowing participation in a scheme to create documentation of a motor vehicle crash that did not occur; created a new fraud unit within and authorized additional funding and positions for the Division of Insurance Fraud; and extended the No-fault Law sunset provision to January 1, 2009.

²⁰ Section 627.7275(2) requires that insurers writing motor vehicle insurance in Florida must make coverage available to any applicant for private passenger motor vehicle insurance coverage who seeks the coverage in order to reinstate driving privileges revoked or suspended for failure to maintain required security. The minimum coverage required is noncancelable by the insured or the insurer after a 30-day underwriting period. Once the noncancelable provisions are in effect, the risk or the coverage cannot be changed, and the premium cannot be refunded.

²¹ Ch. 2001-271, Laws of Florida.

²² Ch. 2003-411, Laws, of Florida.

²³ Report of Senate Committee on Banking and Insurance, Report No. 2006-102, dated Nov. 2005.

²⁴ Florida Department of Financial Services, 2006 Stat Pack, recorded on July 21, 2006.

However, the bill was vetoed for the following express reasons: (1) the bill did not eliminate the contingent multiplier for attorney fees or deal with attorney bad faith; (2) the bill did not provide a medical fee schedule;²⁵ (3) the bill did not provide a utilization schedule, which would address the number of allowable visits to a given health care provider; and (4) the bill did not contain enough anti-fraud measures.²⁶

PROPOSED CHANGES

Emergency Care Coverage

The bill replaces PIP with required coverage that more specifically addresses the emergency care context. The bill creates a new section 627.7361, which requires that every owner or registrant of a motor vehicle, excluding a motor vehicle used as school bus or limousine, maintain security as outlined. The required security consists of required emergency care coverage of \$15,000. The bill creates a new section 627.7363 that outlines the required emergency care coverage and the benefits included therein.

Nonresident motor vehicle owners or registrants are also subject to the requirements if the motor vehicle has been physically present within the state for more than 90 days during the preceding 365 days. This requirement applies whether the motor vehicle is operated or not; security must be maintained continuously throughout the period that the motor vehicle remains in Florida.

Owners or registrants of motor vehicles used as taxicabs are not subject to this requirement; they are subject to security requirements as provided under section 324.032, Florida Statutes.

Financial Responsibility/Exemptions

The bill provides that the emergency care coverage requirement may also be satisfied by the following: any other method authorized by sections 324.031(2) (surety bond), (3) (certificate of deposit of cash or securities), or (4) (self-insuring); or by self-insuring as authorized by section 768.28(16) (self-insurance provision for state and its agencies and subdivisions).

Exempt from the emergency care coverage requirement is a member of the United States Armed Forces who is called to or on active duty outside of Florida or the United States. The dependent spouse of the active duty member is also exempt if the spouse is residing with the active duty member at the member's place of posting and the vehicle is primarily maintained at that place of posting. This exemption applies only as long as the service member is on active duty outside of Florida or the United States, and the owner complies with the security requirements of the state of posting or any possession or territory of the United States.

Failure to Maintain Required Security

The bill provides that the following circumstances shall, after due process and an opportunity to be heard, result in the suspension of the registration and driver's license of any owner or registrant: (a) failure to have the required security in full force and effect and (b) notification from the insurer to DHSMV that the security was cancelled or terminated. The bill also provides reinstatement procedures for those whose license or registration is suspended. These procedures include obtaining proper required coverage and paying a reinstatement fee that is based on the number of prior reinstatements.

Proof of Security

The bill creates a new section 627.7362, which states that the financial responsibility provisions of chapter 324 shall apply to filing and maintaining proof of security that is required under this bill.

²⁵ PIP does not have an across-the-board fee schedule as do Medicare, Medicaid, and Workers' Compensation. There is, however, a fee schedule for certain types of procedures, such as MRIs and nerve conduction testing.

²⁶ Letter from Gov. Jeb Bush to Ms. Sue Cobb, Secretary of State, dated May 31, 2006.

Moreover, the new section designates the following forms of misconduct as first degree misdemeanors: providing information in a report with knowledge or reason to know that the information is false; forging or signing without authorization, evidence of proof of security; filing or offering for filing evidence of proof of security, either knowing or having reason to believe that it is forged or signed without authorization.

Emergency Care Coverage

The bill requires that emergency care coverage be provided to: the named insured; relatives residing in the same household as the named insured; persons operating the insured motor vehicle; passengers in such motor vehicle; and other persons who are struck by the insured motor vehicle who suffer bodily injury and are not occupying a self-propelled vehicle at the time of the accident. \$15,000 of emergency care coverage is required.

The bill provides specific classes of services for which emergency care benefits are available and it specifies the time frame during which the provider must render these services in order to be reimbursed. The bill requires that the emergency care benefits cover 100% of all allowable charges for medically necessary emergency care consisting of medical, surgical, x-ray, dental, rehabilitative services, prosthetic devices, ambulance, hospital, and nursing services for the following:

- Emergency transport and treatment rendered by an ambulance provider licensed pursuant to part III of chapter 401 within 12 hours after the motor vehicle accident;
- Emergency services and care, as defined in section 395.002(10),²⁷ rendered within 72 hours after the motor vehicle accident, by physicians, dentists, and hospitals in a hospital emergency department, trauma center, or inpatient department licensed pursuant to chapter 395;
- Subsequent medically necessary hospital, dental, and physician inpatient care resulting from a motor vehicle accident, provided the patient is admitted within 72 hours after the motor vehicle accident; and
- Subsequent medically necessary care and services directly related to a medical diagnosis rendered within 72 hours after the motor vehicle accident, so long as the following conditions exist:
 - The diagnosis must be rendered in hospital emergency department, trauma center, or inpatient department licensed pursuant to chapter 395 and rendered by a physician licensed under chapter 458, an osteopathic physician licensed under chapter 459, or a dentist licensed under chapter 466, and
 - The medically necessary care and services shall be provided at a facility owned by either the hospital or the physician, and the care must be rendered by a physician licensed under chapter 458, an osteopathic physician licensed under chapter 459, a dentist licensed under chapter 466, a physician assistant licensed under chapter 458 or 459, or a registered nurse that is licensed to practice in Florida.

Additionally, the bill provides definitions for terminology and provides that only insurers writing motor vehicle insurance in Florida may provide the required benefits. Insurers may not require the purchase of any other form of insurance, except for the required \$10,000 of property damage liability insurance.²⁸

²⁷ “Emergency services and care” means medical screening, examination, and evaluation by a physician, or, to the extent permitted by applicable law, by other appropriate personnel under the supervision of a physician, to determine if an emergency medical condition exists and, if it does, the care, treatment, or surgery by a physician necessary to relieve or eliminate the emergency medical condition, within the service capability of the facility.

²⁸ Section 627.7275(1), F.S.

Violations of this provision constitute unfair competition or an unfair or deceptive act or practice involving the business of insurance, and such violations subject an insurer to applicable penalties.

Claims Submission

The bill provides that emergency care benefits are primary, except for benefits that are received under any workers' compensation law, which shall be credited against the emergency care benefits. Emergency care benefits shall be due and payable as loss accrues, subject to compliance with the insurance policy and the emergency care statutory provisions.

Charges for Treatment of Injured Persons

Insurers may reimburse providers for billed charges or reimburse according to the following fee schedule:

- Emergency transport and treatment by providers licensed pursuant to chapter 401 may be reimbursed at 150% of Medicare;
- Emergency services and care provided by hospitals licensed pursuant to chapter 395 may be reimbursed at 75% of billed charges;
- Hospital inpatient services may be reimbursed at 150% of the Medicare Part A prospective payment applicable to the specific hospital providing the services;
- Other hospital outpatient services not associated with emergency services and care may be reimbursed at 150% of the Medicare Part A Ambulatory Payment Classification for the specific hospital providing the services;
- Physicians licensed pursuant to chapter 458 or 459 and dentists licensed pursuant to chapter 466 rendering emergency services and care, inpatient services and subsequent medically necessary services and care may be reimbursed at 75% of their usual and customary charges as billed; and
- All other providers may be reimbursed at 150% of the applicable Medicare Part B fee schedule.

If a form of treatment, care, procedure, or service is not reimbursable under either Medicare Part A or Medicare Part B, the insurer may apply a maximum limitation that is equal to the maximum reimbursable allowable per workers' compensation section 440.13. The bill provides that insurers are not responsible for paying charges for any treatment, care, procedure, or service that is not reimbursable under either Medicare or workers' compensation.

Payment of Claims

Beginning on October 1, 2008, insurers are required to receive, process, and pay claims in compliance with the provisions of s. 627.6131. This section provides time periods for insurers to pay, deny, or contest any claim, or portion of a claim. Such action must be taken on a claim within 20 days for electronically submitted claims and 40 days for claims not electronically submitted. Failure to pay or deny a claim within 120 days for electronically submitted or 140 days for claims not electronically submitted creates an uncontestable obligation for the insurer.

Required Payment of Benefits

Subject to certain exceptions, the insurer of the motor vehicle owner must pay emergency care benefits for the following injuries:

- 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 if the injury is caused by physical contact with a motor vehicle.
- Accidental bodily injury sustained outside this state, but within the United States or its territories or possessions or Canada, by the owner while occupying the owner's motor vehicle.
- Accidental bodily injury sustained by a relative of the owner residing in the same household, under the circumstances described in paragraph (a) or paragraph (b), provided the relative at the time of the accident is domiciled in the owner's household and is not the owner of a motor vehicle with respect to which security is required or has not waived such coverage under this section.
- 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 vehicle, if the injury is caused by physical contact with such motor vehicle, provided the injured person is not:
 1. The owner of a motor vehicle with respect to which security is required or has not waived such coverage under this section.
 2. Entitled to emergency care benefits from the insurer of the owner or owners of such a motor vehicle.

If two or more insurers are liable for emergency care benefits for the same injury to any single person, the maximum amount payable is \$15,000 as provided for in section 627.7363(1). Any insurer that pays 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.

Authorized Exclusions

The bill provides that insurers may refuse to pay emergency care benefits under certain circumstances. Generally, these exclusions apply when certain injured persons are injured in a vehicle that is not insured or is self-propelled, are not authorized to be in the insured vehicle, or are engaged in misconduct at the time of the injury. Insurers may refuse to provide coverage for the following:

- The named insured and the named insured's spouse, parents by blood or marriage, and children natural or adopted residing in the same household if injured while occupying a vehicle that is owned by the insured and is not insured under the policy;
- Any person who is injured while operating the insured motor vehicle without the insured's express or implied consent;
- Any person who is injured if his or her conduct contributed to the injury by intentionally causing injury or a claim for injury to himself or herself, any person who is injured while committing a felony, and any person who is injured while attempting to flee or elude arrest or detainment by a law enforcement officer; and
- Any person who is injured while operating a self-propelled vehicle.

Assignment of Benefits

The bill also provides the assignment of benefits from an insured to a health care provider. The submission of a claim to an insurer by a health care provider constitutes an assignment of emergency care benefits. The insured has no right to receiving benefits directly or indirectly from the insurer.

The insured may execute an assignment to multiple providers, but the insurer is not required to reserve benefits for any provider. The insurer must pay all bills in its possession in a timely fashion. When there are competing assignments in which any single claim will exhaust the insured's benefits, the insurer may decide which claim to pay first.

Once the assignment of benefits is executed, the insured is relieved of all obligations for the medical bills. If a provider creates an agreement with the injured person or insured person to pay for charges billed to the provider, that agreement is unenforceable. However, an insured is responsible for the allowable amount of the provider's bills once the \$15,000 benefit has been exhausted.

Recovery of Special Damages in Tort Claims

Under current law, an insured has no right to recover any damages for which personal injury protection benefits have been paid or are payable.²⁹ A plaintiff may prove all of her or his special damages notwithstanding this limitation. If special damages are introduced into evidence, the judge or jury may not award damages for personal injury protection benefits paid, or payable, or otherwise available. 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, or otherwise available.

The bill mirrors this limitation on special damages. An insured shall have no right to recover any damages for which emergency care coverage benefits are paid. However, the bill does not limit recovery for special damages that are for emergency care coverage benefits which are payable or otherwise available.

Reporting Requirements

Additionally, the bill provides insurers with procedures for reporting emergency care coverage to the DHSMV. Renewals, cancellations, and nonrenewals must be reported to the DHSMV within 45 days after the effective date of the renewal, cancellation or nonrenewal. Within 30 days, insurers must report emergency care coverage policies issued to a named insured not previously insured during that calendar year.

Insurers must also notify the named insured in writing that a cancellation or nonrenewal will be reported to the DHSMV. This notice must inform the named insured that the failure to carry the required coverage may result in a loss of registration and driving privileges and it must also provide notification of the reinstatement fees.

Installment Service Charges

The bill also amends section 627.901, Florida Statutes, which allows general lines agents to assess service charges for financing insurance premiums on policies. The service charge may not exceed \$3 per installment or \$36 per year. The bill provides that the insured may be assessed a service charge when the agent processes an installment payment that could be made directly to the insurance company or premium finance company. An agent may not collect more than one service charge on any one payment.

Current PIP Policies

In order to address the transition from PIP policies to emergency care policies, the bill provides that any automobile insurance policy written prior to September 30, 2007 that complies with the requirements of section 627.733, shall be deemed to comply with the security requirements of section 627.7361, as created by this act, until that policy expires or is terminated.

²⁹ Section 627.736(3), F.S.

Sunset

Effective October 1, 2012, the provisions of the bill are repealed.

Effective Date

The bill will become effective on October 1, 2007.

Cross References

Sections 7 through 38 of the bill update and conform cross references. These changes are needed to make existing statutes conform both to the sunset of the No-Fault Law and the creation of the Emergency Care Coverage security requirements.

C. SECTION DIRECTORY:

Section 1. Creates section 627.7361, F.S.; provides required security; provides exemptions; provides guidelines for registration and license suspension; provides reinstatement procedures.

Section 2. Creates section 627.7362, F.S.; states proof of security provisions; provides criminal designation for certain misconduct.

Section 3. Creates section 627.7363, F.S.; provides required benefits; provides definitions; provides charges for treatment of injured persons; provides required payment of benefits; authorized exclusions; provides for assignment of benefits; provides data reporting requirements.

Section 4. Amends section 627.901, F.S.; provides for installment payment service charge for agent processing of installment insurance premium payments.

Section 5. Addresses policies written pursuant to section 627.733, F.S., prior to September 30, 2007.

Section 6. Provides a sunset date of October 1, 2012.

Section 7. Amends s. 316.646, F.S., to conform provisions to changes made by the act.

Section 8. Amends s. 318.18, F.S., to conform provisions to changes made by the act.

Section 9. Amends s. 320.02, F.S., to conform provisions to changes made by the act.

Section 10. Amends s. 320.0609, F.S., to conform provisions to changes made by the act.

Section 11. Amends s. 320.27, F.S., to conform to provisions to changes made by the act.

Section 12. Amends s. 320.771, F.S., to conform to provisions to changes made by the act.

Section 13. Amends s. 322.251, F.S., to conform to provisions to changes made by the act.

Section 14. Amends s. 322.34, F.S., to conform to provisions to changes made by the act.

Section 15. Amends s. 324.021, F.S., to conform to provisions to changes made by the act; provides definitions.

Section 16. Amends s. 324.022, F.S., to conform to provisions to changes made by the act; provides definitions.

Section 17. Amends s. 324.171, F.S., to conform to provisions to changes made by the act.

Section 18. Amends s. 400.9935, F.S., to conform to provisions to changes made by the act.

Section 19. Amends s. 409.901, F.S., to conform to provisions to changes made by the act.

Section 20. Amends s. 409.910, F.S., to conform to provisions to changes made by the act.

Section 21. Amends s. 456.057, F.S., to conform to provisions to changes made by the act.

Section 22. Amends s. 456.072, F.S., to conform to provisions to changes made by the act.

Section 23. Amends s. 626.9541, F.S., to conform to provisions to changes made by the act.

- Section 24.** Amends s. 627.06501, F.S., to conform to provisions to changes made by the act.
- Section 25.** Amends s. 627.0652, F.S., to conform to provisions to changes made by the act.
- Section 26.** Amends s. 627.0653, F.S., to conform to provisions to changes made by the act.
- Section 27.** Amends s. 627.4132, F.S., to conform to provisions to changes made by the act.
- Section 28.** Amends s. 627.6482, F.S., to conform to provisions to changes made by the act.
- Section 29.** Amends s. 627.7263, F.S., to conform to provisions to changes made by the act.
- Section 30.** Amends s. 627.727, F.S., to conform to provisions to changes made by the act.
- Section 31.** Amends s. 627.7275, F.S., to conform to provisions to changes made by the act.
- Section 32.** Amends s. 627.728, F.S., to conform to provisions to changes made by the act.
- Section 33.** Amends s. 627.7295, F.S., to conform to provisions to changes made by the act.
- Section 34.** Amends s. 627.8405, F.S., to conform to provisions to changes made by the act.
- Section 35.** Amends s. 627.915, F.S., to conform to provisions to changes made by the act.
- Section 36.** Amends s. 628.909, F.S., to conform to provisions to changes made by the act.
- Section 37.** Amends s. 713.78, F.S., to conform to provisions to changes made by the act.
- Section 38.** Amends s. 817.234, F.S., to conform to provisions to changes made by the act.
- Section 39.** Provides an effective date of October 1, 2007.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Insurers and policy holders may realize a savings due to a projected decline in motor vehicle insurance fraud. Insureds may realize some savings due to the expiration of their PIP premiums; however, that cost may be offset by the cost of emergency care coverage.

D. FISCAL COMMENTS:

Since the requirement of having personal injury protection benefits is replaced by the requirement of having emergency care benefits, there will be no net fiscal impact on state government. Revenues to

the Department of Highway Safety and Motor Vehicle from license reinstatement fees should remain constant.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR:

None required as this bill originated as a Proposed Council Bill.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES