

Tab 1	SB 420 by Hooper ; (Identical to H 00273) Motor Vehicle Insurance Coverage Exclusions
Tab 2	SB 1268 by Baxley ; (Similar to H 00373) Coverage for Hearing Aids for Children
Tab 3	SB 1334 by Boyd ; (Similar to H 00917) Excise Tax on Documents

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

BANKING AND INSURANCE
Senator Boyd, Chair
Senator Broxson, Vice Chair

MEETING DATE: Wednesday, March 3, 2021

TIME: 9:30—11:30 a.m.

PLACE: Pat Thomas Committee Room, 412 Knott Building

MEMBERS: Senator Boyd, Chair; Senator Broxson, Vice Chair; Senators Brandes, Burgess, Gruters, Passidomo, Rodrigues, Rouson, Stargel, Stewart, Taddeo, and Thurston

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
PUBLIC TESTIMONY WILL BE RECEIVED FROM ROOM A3 AT THE DONALD L. TUCKER CIVIC CENTER, 505 W PENSACOLA STREET, TALLAHASSEE, FL 32301			
1	SB 420 Hooper (Identical H 273, Compare H 719, CS/CS/S 54)	Motor Vehicle Insurance Coverage Exclusions; Providing that private passenger motor vehicle policies may exclude certain identified individuals from specified coverages under certain circumstances; providing that such policies may not exclude coverage under certain circumstances, etc. BI 03/03/2021 Favorable JU RC	Favorable Yeas 12 Nays 0
2	SB 1268 Baxley (Similar H 373)	Coverage for Hearing Aids for Children; Requiring certain individual health insurance policies to provide coverage for hearing aids for children 18 years of age or younger, under certain circumstances; requiring certain individual health maintenance organization contracts to provide coverage for hearing aids for children 18 years of age or younger, under certain circumstances; requiring the hearing aids to be prescribed, fitted, and dispensed by specified health care providers; specifying certain coverage requirements, etc. BI 03/03/2021 Favorable HP AP	Favorable Yeas 11 Nays 0
3	SB 1334 Boyd (Similar H 917)	Excise Tax on Documents; Providing that modifications of original documents for certain purposes are not renewals and are not subject to document excise taxes, etc. BI 03/03/2021 Favorable FT AP	Favorable Yeas 11 Nays 0

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Banking and Insurance

BILL: SB 420

INTRODUCER: Senator Hooper

SUBJECT: Motor Vehicle Insurance Coverage Exclusions

DATE: March 2, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Arnold	Knudson	BI	Favorable
2.			JU	
3.			RC	

I. Summary:

SB 420 authorizes private passenger motor vehicle policyholders to exclude identified individuals from the following coverages under their policy:

- Personal injury protection (PIP) coverage applicable to the identified individual's injuries, lost wages, and death benefits;
- Property damage liability coverage;
- Bodily injury liability coverage, when required by law;
- Uninsured motorist coverage for any damages sustained by the excluded individual; and
- Any coverage the policyholder is not required by law to purchase.

However, a private passenger motor vehicle policy may not exclude coverage when:

- The identified excluded individual is injured while not operating a motor vehicle;
- The exclusion is unfairly discriminatory under the Florida Insurance Code; or
- The exclusion is inconsistent with the underwriting rules filed by the insurer.

The exclusion of an identified named driver is invalid unless the named policyholder consents in writing to the exclusion of a named driver and the excluded named drivers are listed on the policy's declarations page or policy endorsement.

An individual excluded by name in an insurance policy would not be covered for damages that occur while operating a motor vehicle that is insured under the policy, unless the excluded driver has purchased a separate policy that provides motor vehicle insurance coverage.

II. Present Situation:

Part XI of ch. 627, F.S., Motor Vehicle and Casualty Insurance Contracts, and ch. 324, F.S., the Financial Responsibility Law of 1955, establish motor vehicle coverage requirements. Owners and operators of motor vehicles must maintain the ability to respond in damages at specified

minimum amounts for personal injury protection, bodily injury or death, and property damage. Current law requires insurance coverage that provides personal injury protection, or that is used to meet mandatory financial responsibility requirements, be issued to all driving age individuals residing in the same household.¹

Florida's motor vehicle insurance laws do not currently authorize an insurer to exclude mandatory coverages of a named individual, up to minimum limits required under the laws. Thus, OIR requires that an insurer provide coverages satisfying minimum financial responsibilities requirements under Florida law, even when a named driver exclusion is elected.²

Minimum Insurance Requirements for Motor Vehicles

Florida's Financial Responsibility Law of 1955³ provides financial security requirements for motor vehicle owners and operators whose responsibility it is to recompense others for injury to person or property caused by the operation of a motor vehicle.⁴ In combination with the Florida Motor Vehicle No-Fault Law,⁵ operators of motor vehicles with four or more wheels are required to purchase minimum insurance coverages for property damage liability⁶ and personal injury protection.⁷ Proof of such coverage is required only after an accident.⁸

Property damage liability (PD) coverage pays damages to the third-party's property caused by the insured or member of the insured's household up to policy limits. Florida law currently requires minimum PD coverage limits in the amount of \$10,000, or \$30,000 for a combined PD and bodily injury liability policy.⁹

Personal injury protection (PIP) coverage pays the reasonable expenses for necessary medical services, lost wages, replacement services, and a death benefit to the insured for damages incurred in an accident regardless of fault. PIP coverage extends beyond the insured to include household relatives, pedestrians, and passengers without PIP coverage. Florida law currently requires minimum PIP coverage limits in the amount of \$10,000 in the event of bodily injury to any one person who sustains an emergency medical condition,¹⁰ which is reduced to a \$2,500 limit for medical benefits if a treating medical provider does not determine an emergency medical condition existed.¹¹ PIP coverage provides reimbursement for 80 percent of reasonable medical expenses, 60 percent of loss of income, and 100 of replacement services, for bodily

¹ Section 627.736(1), F.S.

² See Office of Insurance Regulation, *2021 Agency Bill Analysis SB 420*, pg. 4 (February 18, 2021); see also Office of Insurance Regulation, *2018 Agency Bill Analysis SB 518*, pg. 2 (October 30, 2017). On file with the Senate Banking and Insurance Committee.

³ Chapter 624, F.S.

⁴ Section 324.011, F.S.

⁵ Sections 627.730 – 627.7405, F.S.

⁶ Section 324.022, F.S.

⁷ Section 627.733, F.S.

⁸ Section 324.011, F.S.

⁹ Section 324.022(1), F.S.

¹⁰ Section 627.736(1), F.S.

¹¹ Section 627.736(1)(a)(4), F.S.

injuries sustained in a motor vehicle accident, without regard to fault. PIP coverage also provides a \$5,000 death benefit.¹²

Additional Optional Insurance Coverages for Motor Vehicles

Bodily injury liability (BI) coverage pays for bodily injury expenses caused by the insured or members of the insured's household to third-party in an accident. This coverage pays economic damages, such as medical bills and lost wages, and non-economic damages, such as pain and suffering of the third-party, up to policy limits. This coverage also provides legal representation and attorney fees to the insured in the event of a lawsuit. A driver in compliance with the requirement to carry PIP coverage is not required to maintain BI, except that Florida law requires proof of ability to pay monetary damages in the amount of \$10,000 because of bodily 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.¹³ This requirement is triggered when an operator or owner of a motor vehicle does not have an automobile liability policy and is in a motor vehicle crash that causes injury or death to others, does not stay at the scene of the crash, was driving under the influence, or is involved in a crash that requires a wrecker.¹⁴ An owner or operator who drives under the influence must maintain non-cancelable coverage that provides BI with limits of at least \$100,000/\$300,000 and PD with limits of at least \$50,000.¹⁵ Additionally, motor vehicle insurance policies providing BI must also provide uninsured motor coverage, unless such coverage is declined by a named insured.¹⁶ Uninsured motorist (UM) coverage pays the insured and passengers if injured by an uninsured or underinsured at-fault party. The coverage pays medical benefits and lost wages, and also covers pain and suffering damages. In Florida, UM is an optional coverage but must be offered up to the same limits as the insured has for BI.¹⁷

III. Effect of Proposed Changes:

Section 1 creates s. 627.747, F.S., authorizing a private passenger motor vehicle policyholder to exclude an identified individual of their household from the following coverages under their policy:

- Personal injury protection coverage applicable to the identified individual's injuries, lost wages, and death benefits;
- Property damage liability coverage;
- Bodily injury liability coverage;
- Uninsured motorist coverage for any damages sustained by the identified excluded individual, if the policyholder has purchased such coverage; and
- Any coverage the policyholder is not required by law to purchase.

However, a private passenger motor vehicle policy may not exclude coverage when:

- The identified excluded individual is injured while not operating a motor vehicle;

¹² Section 627.736(1)(c), F.S.

¹³ Chapter 324.022, F.S.

¹⁴ Section 324.051, F.S.

¹⁵ Section 324.023, F.S.

¹⁶ Section 627.727(1), F.S.

¹⁷ Section 627.727(2), F.S.

- The exclusion is unfairly discriminatory under the Florida Insurance Code, as determined by OIR; or
- The exclusion is inconsistent with the underwriting rules filed by the insurer.

The exclusion of an identified named driver is invalid unless the named policyholder consents in writing to the exclusion of a named driver and the excluded named drivers are listed on the policy's declarations page or policy endorsement.

Section 2 amends s. 324.151, F.S., governing motor vehicle liability policy provisions for satisfying financial responsibility requirements, to provide conforming changes consistent with the named drive exclusion provisions of the bill.

Section 3 amends s. 627.736, F.S., governing personal injury protection benefits, to provide conforming changes consistent with the named driver exclusion provisions of the bill.

Section 4 amends s. 627.7407, F.S., governing the personal injury protection requirements under Florida's Motor Vehicle No-Fault Law, to provide conforming changes consistent with the named drive exclusion provisions of the bill.

Section 5 provides an effective date of July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Policyholders are most likely to exclude drivers whose presence in their households results in the policyholder either paying substantially more in premium or not being able to obtain coverage from a preferred insurer. Thus, the bill creates more choice for the consumer of motor vehicle insurance to obtain insurance from a preferred insurer, and likely at a more affordable price. In this scenario, the owner of the vehicle should take special care to prevent the excluded driver from having access to the vehicle because the owner's liability coverage will not cover damages caused by the excluded driver.

Certain losses that are currently required to be covered under a private passenger motor vehicle policy would no longer be covered. This will negatively affect parties who suffer injury to their persons and property caused by an excluded driver who does not obtain their own insurance coverage. The excluded driver may also be negatively affected, as he or she will not receive PIP reimbursement for medical and wage loss damages. This problem will not arise, however, if the excluded driver has motor vehicle insurance coverage of their own.

The bill may also cause an indeterminate increase in uncompensated medical care. Medical providers may not be reimbursed for medical services provided to a named excluded driver injured as a result of an auto accident unless the named excluded driver had been injured as a passenger, has their own motor vehicle coverage, or has medical insurance. Similarly, when an excluded driver lacks insurance, treatment for injuries to others caused by the excluded driver may go uncompensated.

C. Government Sector Impact:

Public hospitals may not be reimbursed for emergency medical services provided to a named excluded driver injured as a result of an auto accident in certain circumstances.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 324.151, 627.736, and 627.7407

This bill creates section 627.747 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By Senator Hooper

16-00568-21

2021420__

A bill to be entitled

An act relating to motor vehicle insurance coverage exclusions; creating s. 627.747, F.S.; providing that private passenger motor vehicle policies may exclude certain identified individuals from specified coverages under certain circumstances; providing that such policies may not exclude coverage under certain circumstances; amending ss. 324.151, 627.736, and 627.7407, F.S.; conforming provisions to changes made by the act; providing an effective date.

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

Section 1. Section 627.747, Florida Statutes, is created to read:

627.747 Named driver exclusion.-

(1) A private passenger motor vehicle policy may exclude an identified individual who is not a named insured from the following coverages while the identified individual is operating a motor vehicle, provided the identified individual is named on the declarations page or by endorsement and the named insured consents in writing to such exclusion:

(a) Notwithstanding the Florida Motor Vehicle No-Fault Law, the personal injury protection coverage specifically applicable to the identified individual's injuries, lost wages, and death benefits.

(b) Property damage liability coverage.

(c) Bodily injury liability coverage, if required by law and purchased by the named insured.

Page 1 of 8

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

16-00568-21

2021420__

(d) Uninsured motorist coverage for any damages sustained by the identified excluded individual, if the named insured has purchased such coverage.

(e) Any coverage the named insured is not required by law to purchase.

(2) A private passenger motor vehicle policy may not exclude coverage when:

(a) The identified individual is injured while not operating a motor vehicle;

(b) The exclusion is unfairly discriminatory under the Florida Insurance Code, as determined by the office; or

(c) The exclusion is inconsistent with the underwriting rules filed by the insurer pursuant to s. 627.0651(13)(a).

Section 2. Paragraph (a) of subsection (1) of section 324.151, Florida Statutes, is amended to read:

324.151 Motor vehicle liability policies; required provisions.-

(1) A motor vehicle liability policy to be proof of financial responsibility under s. 324.031(1) ~~r~~ shall be issued to owners or operators under the following provisions:

(a) An owner's liability insurance policy must ~~shall~~ designate by explicit description or by appropriate reference all motor vehicles with respect to which coverage is thereby granted, must ~~and shall~~ insure the owner named therein, and, except for a named driver excluded under s. 627.747, must insure any other person as operator using such motor vehicle or motor vehicles with the express or implied permission of such owner against loss from the liability imposed by law for damage arising out of the ownership, maintenance, or use of such motor

Page 2 of 8

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

16-00568-21 2021420__
 59 vehicle or motor vehicles within the United States or the
 60 Dominion of Canada, subject to limits, exclusive of interest and
 61 costs with respect to each such motor vehicle as is provided for
 62 under s. 324.021(7). Insurers may make available, with respect
 63 to property damage liability coverage, a deductible amount not
 64 to exceed \$500. In the event of a property damage loss covered
 65 by a policy containing a property damage deductible provision,
 66 the insurer shall pay to the third-party claimant the amount of
 67 any property damage liability settlement or judgment, subject to
 68 policy limits, as if no deductible existed.

Section 3. Subsection (1) of section 627.736, Florida
 Statutes, is amended to read:

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

(1) REQUIRED BENEFITS.—An insurance policy complying with
 the security requirements of s. 627.733 must provide personal
 injury protection to the named insured, relatives residing in
 the same household unless excluded under s. 627.747, persons
 operating the insured motor vehicle, passengers in the motor
 vehicle, and other persons struck by the motor vehicle and
 suffering bodily injury while not an occupant of a self-
 propelled vehicle, subject to subsection (2) and paragraph
 (4) (e), to a limit of \$10,000 in medical and disability benefits
 and \$5,000 in death benefits resulting from 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 medically necessary medical, surgical, X-ray,
 dental, and rehabilitative services, including prosthetic

16-00568-21 2021420__
 88 devices and medically necessary ambulance, hospital, and nursing
 89 services if the individual receives initial services and care
 90 pursuant to subparagraph 1. within 14 days after the motor
 91 vehicle accident. The medical benefits provide reimbursement
 92 only for:

1. Initial services and care that are lawfully provided,
 supervised, ordered, or prescribed by a physician licensed under
 chapter 458 or chapter 459, a dentist licensed under chapter
 466, a chiropractic physician licensed under chapter 460, or an
 advanced practice registered nurse registered under s. 464.0123
 or that are provided in a hospital or in a facility that owns,
 or is wholly owned by, a hospital. Initial services and care may
 also be provided by a person or entity licensed under part III
 of chapter 401 which provides emergency transportation and
 treatment.

2. Upon referral by a provider described in subparagraph
 1., followup services and care consistent with the underlying
 medical diagnosis rendered pursuant to subparagraph 1. which may
 be provided, supervised, ordered, or prescribed only by a
 physician licensed under chapter 458 or chapter 459, a
 chiropractic physician licensed under chapter 460, a dentist
 licensed under chapter 466, or an advanced practice registered
 nurse registered under s. 464.0123, or, to the extent permitted
 by applicable law and under the supervision of such physician,
 osteopathic physician, chiropractic physician, or dentist, by a
 physician assistant licensed under chapter 458 or chapter 459 or
 an advanced practice registered nurse licensed under chapter
 464. Followup services and care may also be provided by the
 following persons or entities:

16-00568-21 2021420__

117 a. A hospital or ambulatory surgical center licensed under
118 chapter 395.

119 b. An entity wholly owned by one or more physicians
120 licensed under chapter 458 or chapter 459, chiropractic
121 physicians licensed under chapter 460, advanced practice
122 registered nurses registered under s. 464.0123, or dentists
123 licensed under chapter 466 or by such practitioners and the
124 spouse, parent, child, or sibling of such practitioners.

125 c. An entity that owns or is wholly owned, directly or
126 indirectly, by a hospital or hospitals.

127 d. A physical therapist licensed under chapter 486, based
128 upon a referral by a provider described in this subparagraph.

129 e. A health care clinic licensed under part X of chapter
130 400 which is accredited by an accrediting organization whose
131 standards incorporate comparable regulations required by this
132 state, or

133 (I) Has a medical director licensed under chapter 458,
134 chapter 459, or chapter 460;

135 (II) Has been continuously licensed for more than 3 years
136 or is a publicly traded corporation that issues securities
137 traded on an exchange registered with the United States
138 Securities and Exchange Commission as a national securities
139 exchange; and

140 (III) Provides at least four of the following medical
141 specialties:

142 (A) General medicine.
143 (B) Radiography.
144 (C) Orthopedic medicine.
145 (D) Physical medicine.

16-00568-21 2021420__

146 (E) Physical therapy.
147 (F) Physical rehabilitation.
148 (G) Prescribing or dispensing outpatient prescription
149 medication.
150 (H) Laboratory services.

151 3. Reimbursement for services and care provided in
152 subparagraph 1. or subparagraph 2. up to \$10,000 if a physician
153 licensed under chapter 458 or chapter 459, a dentist licensed
154 under chapter 466, a physician assistant licensed under chapter
155 458 or chapter 459, or an advanced practice registered nurse
156 licensed under chapter 464 has determined that the injured
157 person had an emergency medical condition.

158 4. Reimbursement for services and care provided in
159 subparagraph 1. or subparagraph 2. is limited to \$2,500 if a
160 provider listed in subparagraph 1. or subparagraph 2. determines
161 that the injured person did not have an emergency medical
162 condition.

163 5. Medical benefits do not include massage as defined in s.
164 480.033 or acupuncture as defined in s. 457.102, regardless of
165 the person, entity, or licensee providing massage or
166 acupuncture, and a licensed massage therapist or licensed
167 acupuncturist may not be reimbursed for medical benefits under
168 this section.

169 6. The Financial Services Commission shall adopt by rule
170 the form that must be used by an insurer and a health care
171 provider specified in sub-subparagraph 2.b., sub-subparagraph
172 2.c., or sub-subparagraph 2.e. to document that the health care
173 provider meets the criteria of this paragraph. Such rule must
174 include a requirement for a sworn statement or affidavit.

16-00568-21

2021420__

175 (b) *Disability benefits.*—Sixty percent of any loss of gross
 176 income and loss of earning capacity per individual from
 177 inability to work proximately caused by the injury sustained by
 178 the injured person, plus all expenses reasonably incurred in
 179 obtaining from others ordinary and necessary services in lieu of
 180 those that, but for the injury, the injured person would have
 181 performed without income for the benefit of his or her
 182 household. All disability benefits payable under this provision
 183 must be paid at least every 2 weeks.

184 (c) *Death benefits.*—Death benefits of \$5,000 per
 185 individual. Death benefits are in addition to the medical and
 186 disability benefits provided under the insurance policy. The
 187 insurer may pay death benefits to the executor or administrator
 188 of the deceased, to any of the deceased's relatives by blood,
 189 legal adoption, or marriage, or to any person appearing to the
 190 insurer to be equitably entitled to such benefits.
 191
 192 Only insurers writing motor vehicle liability insurance in this
 193 state may provide the required benefits of this section, and
 194 such insurer may not require the purchase of any other motor
 195 vehicle coverage other than the purchase of property damage
 196 liability coverage as required by s. 627.7275 as a condition for
 197 providing such benefits. Insurers may not require that property
 198 damage liability insurance in an amount greater than \$10,000 be
 199 purchased in conjunction with personal injury protection. Such
 200 insurers shall make benefits and required property damage
 201 liability insurance coverage available through normal marketing
 202 channels. An insurer writing motor vehicle liability insurance
 203 in this state who fails to comply with such availability

16-00568-21

2021420__

204 requirement as a general business practice violates part IX of
 205 chapter 626, and such violation constitutes an unfair method of
 206 competition or an unfair or deceptive act or practice involving
 207 the business of insurance. An insurer committing such violation
 208 is subject to the penalties provided under that part, as well as
 209 those provided elsewhere in the insurance code.

210 Section 4. Paragraph (a) of subsection (5) of section
 211 627.7407, Florida Statutes, is amended to read:

212 627.7407 Application of the Florida Motor Vehicle No-Fault
 213 Law.—

214 (5) No later than November 15, 2007, each motor vehicle
 215 insurer shall provide notice of the provisions of this section
 216 to each motor vehicle insured who is subject to subsection (1).
 217 The notice is not subject to approval by the Office of Insurance
 218 Regulation. The notice must clearly inform the policyholder:

219 (a) That beginning on January 1, 2008, Florida law requires
 220 the policyholder to maintain personal injury protection ("PIP")
 221 insurance coverage and that this insurance pays covered medical
 222 expenses for injuries sustained in a motor vehicle crash by the
 223 policyholder, passengers, and relatives residing in the
 224 policyholder's household unless excluded under s. 627.747.

225 Section 5. This act shall take effect July 1, 2021.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/3/21

Meeting Date

420

Bill Number (if applicable)

Topic Motor Vehicle Exclusions

Amendment Barcode (if applicable)

Name Katie Webb

Job Title Lawyer

Address 119 E Park Ave

Phone _____

Street

Tule FL 32301

Email kwebb@colodnyfass.com

City

State

Zip

Speaking: For Against Information

Waive Speaking. In Support Against
(The Chair will read this information into the record.)

Representing GEILO

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

APPEARANCE RECORD

March 3, 2021

Meeting Date

420

Bill Number (if applicable)

Topic Motor Vehicle Insurance Coverage Exclusions

Amendment Barcode (if applicable)

Name Josh Aubuchon

Job Title Attorney

Address 201 East Park Avenue, Suite 200B

Phone 850-583-2400

Street

Tallahassee

FL

32301

Email josh@dacfl.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing State Farm

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)



2021 LEGISLATIVE SESSION

AGENCY: Office of Insurance Regulation

BILL INFORMATION

BILL NUMBER:	SB 420
BILL TITLE:	Motor Vehicle Insurance Coverage Exclusions
BILL SPONSOR(S):	Sen. Ed Hooper
EFFECTIVE DATE:	07/01/2021

COMMITTEES OF REFERENCE

#	COMMITTEE
1	Banking and Insurance
2	Judiciary
3	Rules

CURRENT COMMITTEE

Banking and Insurance

PREVIOUS LEGISLATION

BILL NUMBER	SPONSOR	YEAR	LAST ACTION
SB 378	Sen. Darryl Rouson, Sen. Tom Lee	2020	

SIMILAR BILLS

BILL NUMBER	SPONSOR
N/A	

IDENTICAL BILLS

BILL NUMBER	SPONSOR
N/A	

BILL ANALYSIS INFORMATION

DATE OF ANALYSIS:	2/8/2021
LEAD AGENCY ANALYST:	Christina Huff
ADDITIONAL ANALYSTS:	Michelle Brewer, Sandra Starnes
LEGAL ANALYST:	Sarah Berner

FISCAL ANALYST:	Richard Fox
------------------------	-------------

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

This bill provides that private passenger motor vehicle policies may exclude certain identified individuals from specified coverages under certain circumstances; provides that such policies may not exclude coverage under certain circumstances, etc.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

The Office has required that named-driver exclusions include exceptions to preserve coverage for personal injury protection (PIP) coverage, uninsured motorist (UM) coverage (if purchased), bodily injury (BI) coverage (if the policy is certified as proof of financial responsibility), and physical damage (PD) coverage (up to the minimum amount required by the Florida Financial Responsibility Law). BI and PD coverages are liability coverages.

2. EFFECT OF THE BILL:

This bill creates s. 627.747, F.S., to allow a policyholder to consent to a named-driver exclusion that would exclude coverage under a private passenger motor vehicle policy, including statutory financial responsibility, unless the person identified in the exclusion is injured while not operating the vehicle, the exclusion is unfairly discriminatory under the Florida Insurance Code, or the exclusion is inconsistent with the underwriting rules filed by the insurer pursuant to s. 627.0651(13)(a), F.S. The named driver may be excluded from PD, BI, and UM coverage, as well as any coverage not required by law, and PIP coverage when an excluded driver is driving the vehicle.

This bill amends s. 324.151, F.S. to create an exception to the financial responsibility requirements that must be met for a policy to be certified as proof of financial responsibility after certain motor vehicle violations.

3. DOES THE BILL DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES? No

If yes, explain:	
Is the change consistent with the agency's core mission?	N/A
Rule(s) impacted (provide references to F.A.C., etc.):	

4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

Proponents and summary of position:	
Opponents and summary of position:	

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL? No

If yes, provide a description:	
--------------------------------	--

Date Due:	
Bill Section Number(s):	

6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL?

Board:	
Board Purpose:	
Who Appoints:	
Changes:	
Bill Section Number(s):	

FISCAL ANALYSIS

1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT? Yes

Revenues:	
Expenditures:	Emergency medical providers, including public hospitals, may not be reimbursed for emergency medical services provided to named excluded drivers injured as a result of auto accidents unless they were injured as passengers.
Does the legislation increase local taxes or fees? If yes, explain.	
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	

2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT? No

Revenues:	
Expenditures:	No Fiscal Impact to the OIR.
Does the legislation contain a State Government appropriation?	No
If yes, was this appropriated last year?	

3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR? Yes

Revenues:	Health care providers and motor vehicle repair shops would no longer receive reimbursements due to named-driver exclusions. Private sector business may not provide services for these claims and may experience decreased revenues.
Expenditures:	Due to the named-driver exclusions:

	<ul style="list-style-type: none"> - Certain losses that are currently required to be covered under a private passenger motor vehicle policy would no longer be covered. Premium rates will likely be adjusted to reflect this change. - Health insurers may see increased claims, which may also affect health insurance premiums. - Health care providers that offer emergency medical services may be unable to receive reimbursement for some of their services.
Other:	Emergency medical providers, including public hospitals, may not be reimbursed for emergency medical services provided to named excluded drivers injured as a result of auto accidents unless they were injured as passengers.

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES? No

If yes, explain impact.	
Bill Section Number:	

TECHNOLOGY IMPACT

1. DOES THE BILL IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E. IT SUPPORT, LICENSING SOFTWARE, DATA STORAGE, ETC.)? No

If yes, describe the anticipated impact to the agency including any fiscal impact.	
--	--

FEDERAL IMPACT

1. DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)? No

If yes, describe the anticipated impact including any fiscal impact.	
--	--

ADDITIONAL COMMENTS

As described in the "Present Situation" section, the Office currently requires that insurers provide certain coverages, even when a named-driver exclusion is elected. The bill removes BI and PD coverage when an excluded driver is driving the vehicle. These coverages represent the minimum financial responsibility requirement that an owner must demonstrate for protection of other drivers in order to register a vehicle in Florida. This would represent a significant shift from the public policy decision that all vehicles must be accountable for the minimums required by the Florida Financial Responsibility Law in the event of an accident. If the excluded driver is removed from these coverages, the excluded driver effectively becomes an uninsured motorist, thereby increasing the number of accidents in which the at-fault driver is effectively uninsured.

This bill also removes PIP coverage when an excluded driver is driving the vehicle. Similar to the comment above, when the individual's injuries, lost wages, and death benefits are excluded, the individual becomes an uninsured motorist (unless insured elsewhere). If excluded driver is at fault, this cost won't be covered anywhere. If excluded driver is not at fault, this cost might be recovered from the party's insurance, but it will also increase potential litigation cost.

Currently, the application of a named-driver exclusion to UM coverage (if purchased) is not permitted. Named-driver exclusions typically benefit insureds (through reduced premiums) by removing drivers from private passenger motor vehicle policies who are deemed to be higher liability risks. In the case of UM coverage, the excluded driver is not at fault, and their risk status does not affect the insurer's liability. However, under the bill, the excluded driver will still be excluded from UM coverage. In an accident caused by an uninsured motorist, which would currently trigger the entitlement to UM coverage for physical damage and bodily injury, this new exclusion has two results when the excluded driver is driving: (1) the named driver who owns the policy will not have UM coverage for any physical damage to the vehicle and (2) the excluded driver will not have UM coverage for any bodily injuries caused by the uninsured motorist. Because the excluded driver was driving, neither the named driver nor the excluded driver in this situation would have UM coverage--the only coverage available in an accident with an uninsured motorist--even though the excluded driver's risk status was not a factor in the accident. The purpose of UM coverage is to protect people from uninsured liable third parties; therefore, it may be necessary to consider removing UM from the coverage types to which a named-driver exclusion can be applied, in order to avoid the resultant increase in uninsured losses to both the named driver and the excluded driver when neither is at fault.

Line 28 and 29 says "if required by law and purchased by the named insured" it might be more clear if this part can refer to the section of the related statutes, such as 324.023. Also, part c and e combined together would cover BI required by law and BI not required by law. It is not clear why c specifically emphasizes "required by law."

Additionally, under the bill, when insurers exclude identified individuals from coverage in the event they operate a motor vehicle, it appears that insurers should not use the characteristics or existence of the identified individual when rating the excluded coverages. It may be necessary to specify that these excluded drivers may not be considered in rating those coverages for the policy.

It may be desirable to include an exception for if an excluded driver is operating the vehicle due to an emergency condition.

"Named-driver exclusion" should be written as such, including a hyphen between "named" and "driver." (There should be no hyphen when referring to an individual "named driver.") The bill currently uses the phrase "named driver exclusion," without a hyphen, in the title of the proposed statute in section 1.

The language in lines 39-40 appears to be too broad. It is unclear what would establish an unfairly discriminatory situation. It is unclear whether the determination pertains to rates (i.e., premiums as they relate to risk) or to civil rights (e.g., exclusions based on race or marital status). In addition, the Office will be required to review insurer underwriting guidelines to ensure that named-driver exclusions will be offered to named insureds in particular circumstances.

These changes would require insurers to change their forms and would increase form filings.

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:	
---------------------------	--



2018 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Office of Insurance Regulation

<u>BILL INFORMATION</u>	
BILL NUMBER:	<u>SB 518</u>
BILL TITLE:	<u>Relating to Motor Vehicle Insurance Coverage Exclusions</u>
BILL SPONSOR:	<u>Bean, A</u>
EFFECTIVE DATE:	<u>July 1, 2018</u>

<u>COMMITTEES OF REFERENCE</u>
1) Banking & Insurance
2) Commerce & Tourism
3) Rules
4)
5)

<u>CURRENT COMMITTEE</u>
Banking & Insurance

<u>SIMILAR BILLS</u>	
BILL NUMBER:	
SPONSOR:	

<u>PREVIOUS LEGISLATION</u>	
BILL NUMBER:	HB 359 and SB 454
SPONSOR:	Santiago and Brandes, J
YEAR:	2017
LAST ACTION:	HB 359 became law 6/23/2017 however, the named driver exclusion section had been removed from the bill.

<u>IDENTICAL BILLS</u>	
BILL NUMBER:	HB 329
SPONSOR:	Ponder, M

Is this bill part of an agency package?
No

<u>BILL ANALYSIS INFORMATION</u>	
DATE OF ANALYSIS:	October 30, 2017
LEAD AGENCY ANALYST:	Sheryl Parker
ADDITIONAL ANALYST(S):	Sandra Starnes, Michelle Brewer, Susanne Murphy, and Caitlin Murray
LEGAL ANALYST:	
FISCAL ANALYST:	

Board:	
Board Purpose:	
Who Appoints:	
Changes:	
Bill Section Number(s):	

FISCAL ANALYSIS

1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT? Y N

Revenues:	
Expenditures:	Emergency medical providers, including public hospitals, may not be reimbursed for emergency medical services provided to named excluded drivers injured as a result of auto accidents unless they were injured as passengers.
Does the legislation increase local taxes or fees? If yes, explain.	No
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	

2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT? Y N

Revenues:	
Expenditures:	Emergency medical providers, including public hospitals, may not be reimbursed for emergency medical services provided to named excluded drivers injured as a result of auto accidents unless they were injured as passengers.
Does the legislation contain a State Government appropriation?	No
If yes, was this appropriated last year?	

3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR? Y N

Revenues:	Health care providers and motor vehicle repair shops would no longer receive reimbursement due to named driver exclusions. Private sector business may not provide services for these claims and may experience decreased revenues.
-----------	---

Expenditures:	Due to the named driver exclusions: <ul style="list-style-type: none"> • Certain losses that are currently required to be covered under a private passenger motor vehicle policy would no longer be covered. Premium rates will likely be adjusted to reflect this change. • Health insurers may see increased claims which may also affect health insurance premiums . • Health care providers that offer emergency medical services may be unable to receive reimbursement for some of their services.
Other:	

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES? Y N

If yes, explain impact.	
Bill Section Number:	

TECHNOLOGY IMPACT

1. DOES THE BILL IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E. IT SUPPORT, LICENSING SOFTWARE, DATA STORAGE, ETC.)? Y N

If yes, describe the anticipated impact to the agency including any fiscal impact.	
--	--

FEDERAL IMPACT

1. DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)? Y N

If yes, describe the anticipated impact including any fiscal impact.	Due to the changes in excluded drivers, Medicare or Medicaid could be responsible for paying for certain medical services that would have otherwise have been payable under the private passenger motor vehicle insurance policy.
--	---

ADDITIONAL COMMENTS

As described above, the Office currently requires that insurers provide certain coverages, even when a named driver exclusion is elected. This bill would remove many of these coverages..

The bill removes BI and PD coverage when an excluded driver is driving the vehicle. These coverages represent the minimum financial responsibility requirement that an owner must demonstrate in order to register a vehicle in Florida. This would represent a significant shift from the public policy decision that all vehicles must be accountable for the FR minimums in the event of an accident and would lead to a greater number of accidents in which the at-fault driver is effectively uninsured.

PIP coverage is “no-fault” coverage and applies regardless of who is driving or otherwise responsible for an accident. Allowing insurers to eliminate PIP coverage for an excluded driver would have the effect of excluding these drivers from the no-fault system.

When insurers exclude identified individuals from coverage in the event they operate a motor vehicle, it appears that insurers should not use the characteristics or existence of the identified individual when rating the excluded coverages. It may be necessary to specify that these excluded drivers may not be considered in rating those coverages for the policy.

This bill would allow the application of a named driver exclusion to PD Liability coverage. This appears to be in conflict with Section 324.022, F.S., which establishes the FR minimum for PD and is not addressed in the bill.

Currently, the application of a named driver exclusion to UM coverage (if purchased) is not permitted. Named driver exclusions typically benefit insureds (through reduced premiums) by removing drivers from private passenger motor vehicle policies who are deemed higher liability risks. In the case of UM, the named driver is not at fault, and their risk status does not come into play. The purpose of UM is to protect people from uninsured liable third parties.

Lines 23-26 allow for the exclusion of PIP benefits for the identified individual’s injuries, lost wages and death benefits. PIP also includes a component that reimburses injured persons for expenses reasonably incurred for ordinary and necessary services needed because of their injury. Since this component is not explicitly listed, it is unclear if the intent is to exclude or include reimbursement for necessary services.

Lines 28-29 – The language is unclear regarding BI. It seems to only allow the exclusion if BI is required by law AND purchased. If someone voluntarily purchases BI, it appears the named driver exclusion would not be applicable.

Lines 39-42 - This provision requires the Office to determine when an exclusion is unfairly discriminatory. In this context, it is unclear if the determination is in regard to rates (premium as related to risk) or to civil rights (e.g., exclusions based on race or marital status). In addition, the Office will be required to review insurer underwriting guidelines to ensure that named driver exclusions will be offered to named insureds in particular circumstances.

Lines 75-77 – These lines amend Section 627.736, F.S., to state PIP does not have to be provided for resident relatives who are excluded drivers, but does not appear to contemplate other classes of drivers who may fall under a driver exclusion. In addition, this section may be ambiguous as it does not restate that it applies only while that person is driving. It appears that, if they are excluded, PIP does not have to be provided at all, which would appear to conflict with lines 35-38.

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:	
---------------------------	--

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Banking and Insurance

BILL: SB 1268

INTRODUCER: Senator Baxley

SUBJECT: Coverage for Hearing Aids for Children

DATE: March 2, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Knudson	BI	Favorable
2.	_____	_____	HP	_____
3.	_____	_____	AP	_____

I. Summary:

SB 1268 requires an individual health insurance policy or individual health maintenance organization (HMO) contract that provides major medical coverage for a dependent child of an insured or subscriber, respectively, to provide hearing aid coverage for children from birth through age 18 who have been diagnosed with hearing loss by a licensed physician or a licensed audiologist. The term “hearing aid” means any wearable instrument or device designed for, offered for the purpose of, or represented as aiding persons with or compensating for impaired hearing, and includes ear molds. The term does not include cochlear implants.

The bill requires such policies or contracts to provide a minimum coverage limit of \$3,500 per ear within a 24-month period. The insured or subscriber remains responsible for the additional cost of hearing aids that exceed the coverage limit provided for in their policy or contract. If a child experiences a significant and unexpected change in his or her hearing or experiences a medical condition requiring an unexpected change in the prescription for the hearing aid before the existing 24-month period expires, and alterations to the existing hearing aid do not, or cannot, meet the needs of the child, the bill requires that a new 24-month period must begin with full benefits and coverage.

The bill applies to individual policies or contracts issued on or after January 1, 2022. The provisions of the bill do not apply to the State Group Insurance program, thus there is no fiscal impact to the program.

II. Present Situation:

One in eight people in the United States (13 percent, or 30 million) age 12 years or older has hearing loss in both ears, based on standard hearing examinations.¹ Hearing loss is one of the most common birth defects² in the United States, with approximately two or three out of every 1,000 children in the United States are born with a detectable level of hearing loss in one or both ears.³

Many people who are deaf or hard-of-hearing have some hearing. In some instances, a hearing aid may help a child with hearing loss to make the most of their residual hearing.⁴ Hearing aids make sounds louder and can be worn by people of any age, including infants. Babies with hearing loss may understand sounds better using hearing aids. There are many styles of hearing aids. They can help many types of hearing losses. A young child is usually fitted with behind-the-ear style hearing aids because they are better suited to growing ears.⁵

Hearing loss may be in one ear (unilateral loss) or in both ears (bilateral loss). The degree of hearing loss can range from mild to profound, as described below:⁶

- Mild Hearing Loss (26-40 decibels). A person with a mild hearing loss may hear some speech sounds, but soft sounds are hard to hear.
- Moderate Hearing Loss (41-70 decibels). A person with a moderate hearing loss may hear almost no speech when another person is talking at a normal level.
- Severe Hearing Loss (71-90 decibels). A person with severe hearing loss will hear no speech when a person is talking at a normal level and only hear some loud sounds.
- Profound Hearing Loss (91 decibels or more). A person with a profound hearing loss will not hear any speech and only hear very loud sounds.⁷

Hearing loss can affect a child's ability to develop communication, language, and social skills. Early detection of hearing loss can help infants and children with learning and reaching developmental milestones, according to recent research. In the United States, researchers have reported that children have more favorable language outcomes, such as greater vocabulary and reading abilities, when hearing loss is identified sooner and the child receives hearing aids and

¹ See National Institutes for Health, National Institute on Deafness and Other Communication Disorders at <https://www.nidcd.nih.gov/health/statistics/quick-statistics-hearing> (last visited Feb. 6, 2021).

² Florida Newborn Screening, Early Hearing and Intervention Program at <https://floridanewbornscreening.com/hearing/early-hearing-and-intervention-programs/> (last visited Feb. 25, 2021).

³ *Id.*

⁴ Centers for Disease Control and Prevention, National Center on Birth Defects and Developmental Disorders (Jun. 8, 2020) at <https://www.cdc.gov/ncbddd/hearingloss/treatment.html> (last visited Feb. 20, 2021). The amount of hearing a deaf or hard-of-hearing person has is referred to as "residual hearing."

⁵ *Id.* A plastic ear mold is connected to a behind-the-ear hearing aid and is fitted for the child's ear. It directs sound from the hearing aid into the ear canal. Each person's ear is shaped differently, and a child's ear will change as he or she grows. An audiologist uses a soft material to make a copy of the child's outer ear canal. This is used to make an ear mold that will fit the child. As the child grows, new ear molds can be made and attached to the same hearing aid.

⁶ Florida Department of Health and Children's Medical Services, A Florida Parent's Guide to Hearing, (Apr. 2020 Edition) available at <http://floridanewbornscreening.com/wp-content/uploads/Hearing-Guide-English-FINAL-1.pdf> (last visited Feb. 12, 2021).

⁷ See Centers for Disease Control and Prevention, National Center on Birth Defects and Developmental Disorders (Jun. 8, 2020), at <https://www.cdc.gov/ncbddd/hearingloss/types.html> (last visited Feb. 20, 2021).

interventions at an earlier age.⁸ A second study similarly found that children who received hearing aids and cochlear implants earlier had better language outcomes, comparing language skills with the provision of a hearing aid at three months compared to 24 months.⁹ The authors state:

The younger the child received intervention, the better the language outcome. In addition, more substantial benefits of earlier access to useful HAs (hearing aids) and CI (cochlear implants) were obtained by those with worse hearing. Earlier intervening, rather than access to UNHS (universal newborn screening), improved outcomes.¹⁰

Florida Newborn Hearing Screening Program

Florida has a universal newborn hearing-screening program¹¹ that requires all Florida-licensed facilities that provide maternity and newborn care to screen, or refer for screening, all newborns prior to discharge for hearing loss, unless a parent objects to the screening.¹² All test results, including recommendations for any referrals or follow-up evaluations by a licensed audiologist, a physician licensed under chs. 458 or 459, F.S., or other newborn hearing screening providers in the hospital facility, must be placed in the newborn's medical records within 24 hours after the completion of the screening procedure.¹³ For babies born in a facility other than a hospital, the parents are to be instructed on the importance of having a screening conducted, information must be provided, and assistance given to make an appointment within three months.¹⁴

The initial newborn screening and any necessary follow-up and evaluation are covered benefits reimbursable by Medicaid, health insurers, and health maintenance organizations, with some limited exceptions.¹⁵ For those newborns and children found to have a permanent hearing loss, the law also provides for referral to the state's Part C program of the federal Individuals with Disabilities Education Act¹⁶ and Children's Medical Services' Early Intervention Program, Early Steps.¹⁷

⁸ Christine Yoshinaga-Itano, Ph.D., et al, *Early Hearing Detection and Vocabulary of Children with Hearing Loss*, PEDIATRICS, (Aug. 2017, Vol. 140, No. 2), <https://pediatrics.aappublications.org/content/140/2/e20162964> (last visited Feb. 26, 2021).

⁹ Teresa Y.C. Ching, Ph.D., *Age at Intervention for Permanent Hearing Loss and 5-Year Language Outcomes*, Pediatrics, (Sept. 2017, Vol. 140, Issue 3), <https://pediatrics.aappublications.org/content/140/3/e20164274> (last visited Feb. 27, 2021).

¹⁰ *Id.*

¹¹ Florida's Early Hearing Detection and Intervention Program (EHDI) is Florida's newborn hearing-screening program at <https://floridanewbornscreening.com/hearing/early-hearing-and-intervention-programs/> (last visited Mar. 1, 2021).

¹² See s. 383.145, F.S.

¹³ Section 383.145(3)(e), F.S.

¹⁴ Section 383.145(3)(i), F.S.

¹⁵ Section 383.145(3)(j), F.S.

¹⁶ See Pub. L. No. 108-446. The Part C program provides benefits and services for infants and toddlers from birth to age 36 months. Florida's Part C program is known as Early Steps and is administered by the Children's Medical Services within the Department of Health.

¹⁷ The Early Steps program services children with disabilities, developmental delays, or children with a physical or mental condition known to create a risk of a developmental delay. See http://www.cms-kids.com/families/early_steps/early_steps.html (last visited Feb. 6, 2021).

Hearing Aid Coverage in Public Insurance Programs

Medicaid

Florida Medicaid provides hearing services for eligible recipients under the age of 21, if such services are medically necessary to correct or ameliorate a defect, a condition, or a physical or mental illness. This coverage includes diagnostic services, treatment, equipment, supplies, and other measures described in 42 U.S.C. 1396d(a).¹⁸ Medicaid recipients under the age of 21 have coverage for the following hearing related services:

- Recipients who have documented, profound, severe hearing loss in one or both ears have coverage for:
 - An implanted device for recipients age five years and older; or
 - A non-implanted (softband) device for recipients under age five.
- Cochlear implants for recipients age 12 months and older who have documented, profound to severe, bilateral sensorineural hearing loss.
- For recipients who have moderate hearing loss or greater, the coverage is:
 - One new, complete, (not refurbished) hearing aid device per ear, every three years, per recipient;
 - Up to three pairs of ear molds per year, per recipient; and
 - One fitting and dispensing service per ear, every three years, per recipient.
- A recipient under the age of 12 months may receive up to two newborn screenings. A second screening may be conducted only if the recipient did not pass the test in one or both ears.
- An eligible recipient may receive one hearing assessment every 3 years for the purposes of determining hearing aid candidacy and the most appropriate hearing aid.¹⁹

Medicaid also covers repairs and replacement of both Medicaid and non-Medicaid provided hearing aids, up to two hearing aid repairs every 366 days, after the one-year warranty period has expired.²⁰

State Children's Health Insurance Program²¹

The Children's Health Insurance Program (CHIP) was enacted as part of the Balanced Budget Act of 1997, and it created Title XXI of the federal Social Security Act as a joint state-federal funding partnership to provide health insurance to children in low to moderate income households.²² The Florida Healthy Kids Corporation²³ is one component of Florida's Title XXI program, known as Florida KidCare, and is the only program component utilizing a non-Medicaid benefit package.²⁴ The other program components, Medicaid for children, Medikids, and Children's Medical Services Network, follow the Medicaid benefit package.²⁵

¹⁸ See Rule 54G-4.110, Florida Administrative Code. The hearing services coverage policy from the Agency for Health Care Administration is <https://www.flrules.org/Gateway/reference.asp?No=Ref-06744> (last visited Feb. 6, 2021)

¹⁹ See Agency for Health Care Administration, *Hearing Services Coverage Policy* (June 2016), available at http://ahca.myflorida.com/medicaid/review/specific_policy.shtml (last visited Feb. 6, 2021).

²⁰ *Id.*

²¹ 42 U.S.C. 1397aa-1397mm.

²² Pub. L. No. 105-33, 111 Stat. 251 (1997).

²³ See ss. 624.91-624.915, F.S.

²⁴ See ss. 409.810-409.821, F.S.

²⁵ See s. 409.815(2)(a), F.S., and s. 391.0315, F.S.

In order for health benefits coverage to qualify for premium assistance payments, KidCare enrollees must receive hearing screenings as a covered, preventative health service.²⁶ Additionally, s. 409.815(2)(h), F.S., provides that the benefits for durable medical equipment include within covered services equipment and devices that are medically indicated to assist in the treatment of a medical condition, and specifically prescribed as medically necessary. Hearing aids are covered only when medically indicated to assist in the treatment of a medical condition. There are no out of pocket costs for the well-child hearing screening and the provision of hearing aids for subsidized Title XXI eligible children.²⁷

Hearing Aid Coverage in the Private Health Insurance Market

The Office of Insurance Regulation (OIR) is responsible for the regulation of all activities of insurers and other risk-bearing entities that do business in Florida.²⁸ Florida law does not require health insurance policies or HMO contracts to provide coverage for hearing aids. According to the OIR, some of the plans offered by UnitedHealthcare (All Savers, Neighborhood Health, etc.) cover hearing aids if recommended by a physician, and bone-anchored hearing aids are covered with some restrictions. Molina and Health First cover implant type hearing aids, if medically necessary.²⁹

Currently, 19 states appear to mandate health benefit plans to provide coverage for hearing aids for children only.³⁰ Coverage requirements range from authorizing coverage of a hearing aid every 24 months to every five years. Many states include caps on the amount the insurer must pay. These caps range from \$1,000 to \$4,000.³¹

State Mandated Health Insurance Coverage

Prior to 2012, the OIR identified 18 state mandated benefits.³² Subsequently, Florida has not enacted any mandated benefits. Examples of benefits mandated under Florida law include:

- Treatment for temporomandibular joint disorders;
- Coverage for bone marrow transplants;
- Coverage for certain cancer drugs;
- Diabetes treatment services;
- Osteoporosis;
- Certain coverage for newborn children;
- Child health supervision services; and

²⁶ Section 409.815(2)(a), F.S.,

²⁷ Florida Healthy Kids Corporation, *Medical Benefits* <https://www.healthykids.org/benefits/medical/> (last visited Feb. 6, 2021).

²⁸ The OIR is under the Financial Services Commission, which is composed of the Governor, the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture, which serves as the agency head of the commission. Section 20.121(3), F.S.

²⁹ Office of Insurance Regulation correspondence (Dec. 8, 2020) on file with Senate Banking and Insurance Committee.

³⁰ See information gathered by the American Speech-Language-Hearing Association at https://www.asha.org/advocacy/state/issues/ha_reimbursement/ (last visited Feb. 6, 2021). In addition, five states require coverage for adults and children.

³¹ *Id.*

³² Centers for Medicare and Medicaid Services, *Florida – State Required Benefits*, https://downloads.cms.gov/ccio/State%20Required%20Benefits_FL.pdf (last visited Feb. 26, 2021).

- Treatment of cleft lip and cleft palate in children.³³

Section 624.215, F.S., requires every person or organization seeking consideration of a legislative proposal, which would mandate a health coverage or the offering of a health coverage by an insurer, to submit to the Agency for Health Care Administration and the legislative committees having jurisdiction, a report that assesses the social and financial impacts of the proposed coverage. Proponents have submitted a report to Senate Banking and Insurance staff, which indicates that less than 7,200 children under the age of 18 in Florida are deaf.³⁴ Hearing aids and the services necessary to prescribe, evaluate, fit, and manage children with hearing loss generally cost an average of \$3,500 per ear depending on the technology and enhancements selected by the audiologist based on the individual needs of the child.³⁵ (See Section VB, Fiscal Impact Statement, Private Sector Impact of the Bill Analysis.)

Advocates of the bill note that untreated hearing loss may lead to tremendous expense for the taxpayer, as described below:

- Untreated pediatric hearing loss costs \$420,000 in special education costs per child and \$1 million over the lifetime of the individual.
- Longitudinal, peer-reviewed studies have shown that healthcare costs are significantly higher for individuals with untreated vs treated hearing loss.
- Increased costs are not confined to the medical bills in the studies. Medical providers must absorb (and pass on via increased overall costs) costs incurred from longer visit times due to communication difficulties, increased risk of malpractice lawsuits from communication difficulties, and necessary accommodations like interpreter services.
- Communication difficulties in deaf and hard of hearing patients, which would be mitigated by appropriate access to sound, result in more physician visits and overuse of emergency rooms and urgent care centers.
- Patients with untreated hearing loss are more likely to be misdiagnosed when visiting providers for unrelated health issues and are more difficult to treat due to communication difficulties.³⁶

Federal Patient Protection and Affordable Care Act

The Patient Protection and Affordable Care Act (PPACA)³⁷ does not require health insurance policies to cover hearing aids for adults or for children. Under PPACA, individuals and small businesses can obtain health insurance coverage on or off the federal marketplace exchanges.³⁸

³³ *Id.*

³⁴ Florida Coalition for Spoken Language Options, *SB 1268 Mandate Report* (on file with the Senate Committee on Banking and Insurance).

³⁵ *Id.*

³⁶ *Id.*

³⁷ The PPACA (Pub. Law No. 111-148) was enacted on March 23, 2010. On March 30, 2010, PPACA was amended by Pub. Law No. 111-152, the Health Care and Education Reconciliation Act of 2010. The two laws are collectively referred to as the “Patient Protection and Affordable Care Act” or “PPACA.”

³⁸ Exchanges are entities established under PPACA through which qualified individuals and qualified employers can purchase health insurance coverage in qualified health plans (QHPs). Many individuals who enroll in QHPs through individual market exchanges are eligible to receive a premium tax credit (PTC) to reduce their costs for health insurance premiums and to receive reductions in required cost-sharing payments to reduce out-of-pocket expenses for health care services. 42 U.S.C. s. 18031.

All non-grandfathered health plans³⁹ must offer qualified health plans meeting certain federal mandates, including the provisions of the following 10 essential health benefits (EHB):

- Ambulatory services (outpatient care);
- Emergency services;
- Hospitalization (inpatient care);
- Maternity and newborn care;
- Mental health and substance abuse disorder services;
- Prescription drugs;
- Rehabilitative services and rehabilitative services and devices;
- Laboratory services;
- Preventive care and chronic disease management; and
- Pediatric services, including oral and vision care.⁴⁰

States may modify the EHB offered in their states by mandating additional coverage. However, states must defray the associated costs such benefits imposed on qualified health plans coverage, and those costs should not be included in the percentage of premium attributable to the coverage of EHB for calculating the premium tax credit for eligible enrollees⁴¹ on the exchange.⁴² The State of Florida may be required to defray the costs of any additional benefits beyond the required EHB put in place after 2011.⁴³

Reporting of Additional State-Required Benefits and Cost Analysis

For plan years beginning on or after January 1, 2020, each state must identify and report to the federal Department of Health and Human Services (HHS) benefits mandated by state law, and identify which of those benefits are in addition to EHB. The first annual submission deadline for states to notify the HHS of their state-mandated benefits is July 1, 2021.⁴⁴ Each QHP issuer in the state must quantify cost attributable to each additional required benefit and then report this to the state.⁴⁵ In May 2020, HHS clarified existing rules to provide that it would also be permissible for issuers to choose to rely on another entity, such as the state, to produce the cost analysis, provided the issuer remains responsible for ensuring that the quantification complies with existing rules.⁴⁶ Further, the HHS noted that this calculation should be done prospectively to

³⁹ “Grandfathered health plans,” is a plan that maintains coverage that were in place prior to the passage of the PPACA or in which the enrollee was enrolled on March 23, 2010 while complying with the consumer protection components of the PPACA. If a group health plan enters a new policy, certificate, or contract of insurance, the group must provide the new issuer the documentation from the prior plan so it can be determined whether there has been a change sufficient to lose grandfather status. *See* s. 627.402, F.S.

⁴⁰ 42 U.S.C. s. 18022(b)(1)(A)-(J).

⁴¹ In Florida, 1,705,902 or 95 percent of the total marketplace exchange enrollees receive premium tax credits. KFF, Marketplace Effectuated Enrollment and Financial Assistance (2020) available at <https://www.kff.org/other/state-indicator/effectuated-marketplace-enrollment-and-financial-assistance/?currentTimeframe=0&selectedRows=%7B%22wrapups%22:%7B%22united-states%22:%7B%7D%7D,%22states%22:%7B%22florida%22:%7B%7D%7D%7D&sortModel=%7B%22colId%22:%22Location%22,%22sort%22:%22asc%22%7D> (last visited Feb. 24, 2021).

⁴² HealthCare.gov, Subsidized Coverage, at <https://www.healthcare.gov/glossary/subsidized-coverage/> (last visited Feb. 20, 2021). Household income must be between 100% and 400% of the federal poverty level to qualify for a premium tax credit.

⁴³ *See* 42 U.S.C. s. 18031(d)(3)(B)(ii).

⁴⁴ CFR 156.111

⁴⁵ CFR 155.170(c)

⁴⁶ 85 Fed. Reg. 29218 (May 14, 2020)

allow for the offset of an enrollee's share of premium and for purposes of calculating the PTC and reduced cost sharing.⁴⁷

III. Effect of Proposed Changes:

Sections 1 and 2 create ss. 627.6413 and 641.31(48), F.S., respectively, to require an individual health insurance policy or individual HMO contract that provides major medical or similar coverage for a dependent child, age 18 or younger, of the insured or subscriber to provide coverage for hearing aids prescribed, fitted, and dispensed by a physician licensed under ch. 458 or 459, F.S., or an audiologist licensed under part I of ch. 468, F.S. The term, "hearing aid," is defined to include any wearable instrument or device designed for, offered for the purpose of, or represented as aiding persons with or compensating for impaired hearing, and includes ear molds. The term does not include cochlear implants.

The policy or contract is required to provide a minimum coverage limit of \$3,500 per ear within a 24-month period. The bill provides that the insured or subscriber remains responsible for the cost of hearing aids and related services that exceed the coverage limit provided for in their policy or contract.

The bill provides that, if a child experiences a significant and unexpected change in his or her hearing or a medical condition requiring an unexpected change in the prescription for the hearing aid before the existing 24-month period expires, and alterations to the existing hearing aid do not or cannot meet the needs of the child, the bill requires that a new 24-month period must begin with full benefits and coverage.

The bill applies to policies or contracts that are issued or renewed on or after January 1, 2022.

Section 3 provides an effective date of January 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

⁴⁷ *Id.*

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Advocates of the Florida Coalition for Spoken Language Options provided the following analysis of the fiscal impact of SB 1268 on individual policies or contracts.⁴⁸ According to the Florida Coalition for Spoken Language Options, approximately 461 children will benefit from the mandated coverage, and the resulting increases in costs are estimated to be \$0.74 annually or .06 monthly per covered life, as described below:

Florida Population	21,477,737
Florida Population Under 0-18 (19.7%)	4,231,114
All Floridians with individual major medical plans ⁴⁹	1,765,807
19.7% of all covered lives on individual major medical plans are under 18	347,864
0.17% of children have hearing loss	7,193
0.17% of the children who have individual major medical plans	591
2% of .17% slight loss/no hearing aid needed	-12
30% of .17% severe to profound sensorineural or mixed loss/ cochlear implant candidate	-177
.17% of 16,170 Children Receiving Early Steps	-11
Impacted Hearing Aid Candidates	461
39% unilateral	180
61% bilateral	281
Cost per Unilateral (\$3500 per ear over 24 months)	\$630,000
Cost Per Bilateral (\$3500 per ear over 24 months)	\$1,967,000
Total Cost Over 24 Months	\$2,597,000
Cost per Year	\$1,298,500
Annual Cost per Plan (\$1,298,500 spread over 1,765,807 covered lives)	\$0.74
Cost Per Month Per Covered Life	\$0.06

⁴⁸ Florida Coalition for Spoken Language Options, *SB 1268 Mandate Report* (on file with Senate Banking and Insurance Committee).

⁴⁹ Office of Insurance Regulation correspondence (Dec. 8, 2020) (on file with Senate Banking and Insurance Committee).

C. Government Sector Impact:

None. The provisions of the bill do not apply to the State Group Insurance Program, since it does not mandate that group or employer coverage provide the benefit.

VI. Technical Deficiencies:

The bill does not define “significant and unexpected change” in hearing requiring an unexpected change in the prescription and what criteria will be used to make that determination. Defining this term in the bill or through rulemaking should reduce disputes over whether a change in hearing is “significant and unexpected.”⁵⁰

VII. Related Issues:

Generally, insurance policies and HMO contracts are issued with a one-year duration. It may be difficult to implement a coverage requirement that lasts for 24 months, as proposed in the bill.⁵¹

VIII. Statutes Affected:

This bill substantially amends section 641.31 of the Florida Statutes.

This bill creates section 627.6413 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.

⁵⁰ Office of Insurance Regulation, SB 1268 Analysis (Feb. 18, 2021) (on file with Senate Banking and Insurance Committee).

⁵¹ Office of Insurance Regulation, 2021 Legislative Session, SB 1268 (Feb. 18, 2021). On file with Senate Banking and Insurance Committee.

By Senator Baxley

12-00744B-21

20211268__

A bill to be entitled

An act relating to coverage for hearing aids for children; creating s. 627.6413, F.S.; defining the term "hearing aid"; requiring certain individual health insurance policies to provide coverage for hearing aids for children 18 years of age or younger, under certain circumstances; requiring the hearing aids to be prescribed, fitted, and dispensed by specified health care providers; specifying certain coverage requirements; providing an exception; providing that an insured is responsible for certain costs that exceed the policy limit; providing applicability; amending s. 641.31, F.S.; requiring certain individual health maintenance organization contracts to provide coverage for hearing aids for children 18 years of age or younger, under certain circumstances; requiring the hearing aids to be prescribed, fitted, and dispensed by specified health care providers; specifying certain coverage requirements; providing an exception; providing that a subscriber is responsible for certain costs that exceed the contract limit; defining the term "hearing aid"; providing applicability; providing an effective date.

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

Section 1. Section 627.6413, Florida Statutes, is created to read:

Page 1 of 4

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

12-00744B-21

20211268__

627.6413 Coverage for hearing aids for children.-

(1) As used in this section, the term "hearing aid" means any wearable instrument or device designed for, offered for the purpose of, or represented as aiding persons with or compensating for impaired hearing, and includes ear molds. The term does not include a cochlear implant.

(2) A health insurer issuing an individual policy that provides major medical or similar comprehensive coverage for a dependent child of the insured must provide coverage for a hearing aid for any such child 18 years of age or younger who is diagnosed with hearing loss by a physician licensed under chapter 458 or chapter 459 or an audiologist licensed under part I of chapter 468, and for whom the hearing aid is prescribed as medically necessary. Coverage for a hearing aid prescribed to a child 18 years of age or younger must require the hearing aid to be prescribed, fitted, and dispensed by a physician licensed under chapter 458 or chapter 459 or an audiologist licensed under part I of chapter 468.

(3) The policy must provide benefits in any 24-month period of at least \$3,500 per ear. The policy may limit coverage for ear molds to six ear molds in any 24-month period. However, if a child experiences a significant and unexpected change in his or her hearing or a medical condition requiring an unexpected change in the prescription for the hearing aid before the existing 24-month period expires, and alterations to the existing hearing aid do not or cannot meet the needs of the child, a new 24-month period must begin with full benefits and coverage.

(4) An insured is responsible for the cost of hearing aids

Page 2 of 4

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

12-00744B-21 20211268__

59 and related services which exceeds the coverage limit provided
60 by his or her policy.

61 (5) This section applies to a policy that is issued or
62 renewed on or after January 1, 2022.

63 Section 2. Subsection (48) is added to section 641.31,
64 Florida Statutes, to read:

65 641.31 Health maintenance contracts.—

66 (48) (a) A health maintenance organization issuing an
67 individual contract that provides major medical or similar
68 comprehensive coverage for a dependent child of the insured must
69 provide coverage for a hearing aid for any such child 18 years
70 of age or younger who is diagnosed with hearing loss by a
71 physician licensed under chapter 458 or chapter 459 or an
72 audiologist licensed under part I of chapter 468, and for whom
73 the hearing aid is prescribed as medically necessary. Coverage
74 for a hearing aid prescribed to a child 18 years of age or
75 younger must require the hearing aid to be prescribed, fitted,
76 and dispensed by a physician licensed under chapter 458 or
77 chapter 459 or an audiologist licensed under part I of chapter
78 468.

79 (b) The contract must provide benefits in any 24-month
80 period of at least \$3,500 per ear. The policy may limit coverage
81 for ear molds to six ear molds in any 24-month period. However,
82 if a child experiences a significant and unexpected change in
83 his or her hearing or a medical condition requiring an
84 unexpected change in the prescription for the hearing aid before
85 the existing 24-month period expires, and alterations to the
86 existing hearing aid do not or cannot meet the needs of the
87 child, a new 24-month period must begin with full benefits and

Page 3 of 4

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

12-00744B-21 20211268__

88 coverage.

89 (c) A subscriber is responsible for the cost of hearing
90 aids and related services which exceeds the coverage limit
91 provided by his or her contract.

92 (d) As used in this section, the term "hearing aid" means
93 any wearable instrument or device designed for, offered for the
94 purpose of, or represented as aiding persons with or
95 compensating for impaired hearing, and includes ear molds. The
96 term does not include a cochlear implant.

97 (e) This subsection applies to a contract that is issued or
98 renewed on or after January 1, 2022.

99 Section 3. This act shall take effect January 1, 2022.

Page 4 of 4

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/3/2021

Meeting Date

1268

Bill Number (if applicable)

Topic Hearing Aids for Children

Amendment Barcode (if applicable)

Name Garrett Campbell

Job Title Student

Address 170 Ivy Lakes Drive

Phone (904) 293-6890

Street

St. Johns

City

Florida

State

32259

Zip

Email mmcampbell051@gmail.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Children who are deaf

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/3/21
Meeting Date

SB 1268
Bill Number (if applicable)

Topic Coverage for Hearing Aids for Children

Amendment Barcode (if applicable)

Name Brita Lincoln

Job Title Legislative Committee

Address 1747 Orlando Central Pkwy Phone 407-855-7604
Street

Orlando FL 32809 Email bwilkinslincoln@gmail.com
City State Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida TTA

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

YOU MUST PRINT AND DELIVER THIS FORM TO THE ASSIGNED TESTIMONY ROOM

THE FLORIDA SENATE

APPEARANCE RECORD

3/3/21 A3 9:30 BI

Meeting Date

1268

Bill Number (if applicable)

Topic Coverage for Hearing Aids for Children

Amendment Barcode (if applicable)

Name David Cullen

Job Title _____

Address 1934 Shelby Ct

Phone 941-323-2404

Street

Tallahassee

FL

32308

Email cullenasea@gmail.com

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Sierra Club Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

03 MAR 21

Meeting Date

1268

Bill Number (if applicable)

Topic HEARING AIDS FOR CHILDREN

Amendment Barcode (if applicable)

Name ARCHIE CAMPBELL

Job Title PROJECT MGR

Address 120 IVY ~~LAKES~~ LAKES DR

Phone (904) 703-1512

Street

SAINT JOHNS

City

FL

State

32259

Zip

Email ARCHIECAMPBELLJR@GMAIL.COM

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing PARENTS OF DEAF CHILDREN

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/3/21

Meeting Date

1268

Bill Number (if applicable)

Topic Hearing Aids for Children

Amendment Barcode (if applicable)

Name TERESA BULGER

Job Title ~~Advocate~~ Lobbyist

Address 1700 N. Monroe St. Suite 11

Phone 904 880 9063

Street

Tallahassee, FL 32303

City

State

Zip

Email tb@deafkidscan.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing FLCSLO, FLAA, Clarke, SERJamy Foundation

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

Twenty-five states (AK, CT, CO, DE, GA, ID, KY, LA, MA, MD, ME, MN, MO, NH, NJ, NM, NC, OH, OK, OR, RI, TN, TX, WI) require health benefit plans cover hearing aids for children. The proposed Florida requirement has adopted the best parts of those existing in other states and will make Florida a model for pediatric hearing care in the country.

http://www.leg.state.fl.us/statutes/index.cfm?App_mode=Display_Statute&Search_String=&URL=0600-0699/0624/Sections/0624.215.html

...Guidelines for assessing the impact of a proposed mandated or mandatorily offered health coverage, to the extent that information is available, shall include:

(a) To what extent is the treatment or service generally used by a significant portion of the population.

There is no known registry or recent survey data that estimated overall hearing loss in Florida’s pediatric population. However, it is possible to estimate the number of children with hearing loss needing hearing aids from various sources including data from the CDC, the U.S. Census, and Early Hearing Detection and Intervention reports.

Florida Population ¹	21,477,737
Florida Population Under 0-18 (19.7%) ²	4,231,114
All Floridians with individual major medical plans	1,765,807
19.7% of all covered lives on individual major medical plans are under 18	347,864
0.17% of children have hearing loss ³	7,193.00
0.17% of the children who have individual major medical plans	591
2% of of .17% slight loss/no HA needed ⁴	-12
30% of .17% severe to profound sensorineural or mixed loss/ CI candidate ⁵	-177
.17% of 16,170 Children Receiving Early Steps ⁶	-11
Impacted HA Candidates	461

¹ US Census 2019 <https://www.census.gov/quickfacts/FL>

² US Census 2019 <https://www.census.gov/quickfacts/FL>

³ See Documented Diagnosis Section. This is the most recent available data (2018).

⁴ <https://www.cdc.gov/ncbddd/hearingloss/2018-data/01-data-summary.html>

⁴ https://www.cdc.gov/ncbddd/hearingloss/2018-data/documents/12_2018-HSFS_Type-and-Severity-Table.pdf

⁵ https://www.cdc.gov/ncbddd/hearingloss/2018-data/documents/12_2018-HSFS_Type-and-Severity-Table.pdf

⁶ http://www.cms-kids.com/providers/early_steps/reports/Earlystepsannualreport.pdf

(b) To what extent is the insurance coverage generally available.

There is no existing law mandating coverage for hearing aids for private insurance. Despite this, in recent years some private insurance policies have begun to include hearing aid coverage. For children ages 0-18 years in Florida, hearing aids for children are covered by the Early Steps Program (ages 0-3 years), Medicaid, the Children's Health Insurance Programs (CHIP), and Tricare/Other Public Insurance. With the exception of Early Steps, these children have been excluded from this evaluation. Data is not available for the percentage of individual major medical plans that already include hearing aid coverage for children. Therefore, some children are included who will already have coverage.

(c) If the insurance coverage is not generally available, to what extent does the lack of coverage result in persons avoiding necessary health care treatment.

There is no known registry or recent survey data that estimates the percentage of children with hearing loss that avoid hearing aids due to lack of coverage. The most recent survey of the general United States population that may provide some insight to the extent non-coverage has on hearing aid adoption was completed 6 years ago (Abrams & Kihm, 2015). This study found that 51% of people with hearing loss that did not have hearing aids ("non-owners") said that having insurance coverage would facilitate buying hearing aids.

(d) If the coverage is not generally available, to what extent does the lack of coverage result in unreasonable financial hardship.

Hearing aids and the services to properly prescribe, evaluate, fit, and manage children with hearing loss generally cost an average of \$3,500 per ear depending on the technology and enhancements selected by the audiologist based on the individual needs of the child. The associated costs to families of children with hearing loss include, for example, services for frequent adjustments; fittings of new ear molds necessary to accommodate the child's growth—up to 4 times per year for children until at least age 10 years; and, the on-going management required for children to assure their hearing aids are working optimally to maximize their ability to acquire communication and educational skills.

Today's hearing aids are complex computer programmed digital technology that must be individually fit to every child. They not only restore audibility based on individual needs but offer beneficial features such as noise and feedback management and various programs based on the listening environment. The hearing aids also feature wireless streaming permitting the child to audio-stream directly to the hearing aids as well as communicate with classroom and large group amplification systems, e.g., theaters, classrooms, churches. These features increase accessibility of essential services such as education, telemedicine, religious services, and the ability to communicate with emergency services via telephone.

The fitting process is verified by the audiologist using probe tube measurements of the child's ear canal to ensure that the child is being properly amplified based on their individual needs and the individual anatomical

and physiologic measurements of the child's auditory system. For young children, they must return to the audiologist at least monthly while adolescents may return to the audiologist quarterly.

(e) The level of public demand for the treatment or service.

See section A above.

(f) The level of public demand for insurance coverage of the treatment or service.

See section C above.

(g) The level of interest of collective bargaining agents in negotiating for the inclusion of this coverage in group contracts.

Collective bargaining agents typically advocate for broader benefits than what is proposed in this bill. Collective bargaining agents for private insurance companies do not appear to have advocated specifically for the inclusion of this benefit in their health benefit packages.

(h) To what extent will the coverage increase or decrease the cost of the treatment or service.

Treatment services (hearing aids) should remain roughly the same; it is a small population that would fall into this coverage and should not impact the overall costs. Hearing aid costs range from practice to practice based on each practice's buying power from manufacturers and their sales model (which is why there is a range in cost). This bill should not change how much a service provider charges for their services and goods related to hearing aids.

(i) To what extent will the coverage increase the appropriate uses of the treatment or service.

There are no available studies to determine a specific amount of increase in appropriate use of hearing aids and their related services. It is believed that having coverage will increase the number of children using hearing aids and their related services.

(j) To what extent will the mandated treatment or service be a substitute for a more expensive treatment or service.

Untreated hearing loss leads to tremendous expense for the taxpayer.

- Untreated pediatric hearing loss costs \$420,000 in special education costs per child and \$1 million over the lifetime of the individual.⁷
- The impact to each Floridian of failure to treat the 461 children addressed by this legislation is \$461 million or \$21.46 per citizen of Florida.

⁷ Johnson, J.L., Mauk, G.W., Takekawa, K.M., Simon, P.R., Sia, C.C.J. and Blackwell, P.M. Implementing a statewide system of services for infants and toddlers with hearing disabilities. *Seminars in Hearing*. 1993; 14:105-119

- Longitudinal, peer-reviewed studies have shown that healthcare costs are significantly higher for individuals with untreated vs treated hearing loss.^{8,9}
- Increased costs are not confined to the medical bills in the studies. Medical providers must absorb (and pass on via increased overall costs) costs incurred from longer visit times due to communication difficulties¹⁰, increased risk of malpractice lawsuits from communication difficulties¹¹, and necessary accommodations like interpreter services.^{12 13 14 15}
- Communication difficulties in deaf and hard of hearing patients, which would be mitigated by appropriate access to sound, result in more physician visits and overuse of emergency rooms and urgent care centers.¹⁶
- Patients with untreated hearing loss are more likely to be misdiagnosed when visiting providers for unrelated health issues and are more difficult to treat due to communication difficulties.¹⁷

⁸ Reed, N., Altan, A., Deal, J., Yeh, C., Kravetz, A., Wallhagen, M., & Lin, F. (2019). Trends in Health Care Costs and Utilization Associated With Untreated Hearing Loss Over 10 Years. *JAMA Otolaryngology-Head & Neck Surgery*, 145(1), 27. doi: 10.1001/jamaoto.2018.2875

⁹ Simpson, A., Simpson, K., & Dubno, J. (2016). Higher Health Care Costs in Middle-aged US Adults With Hearing Loss. *JAMA Otolaryngology-Head & Neck Surgery*, 142(6), 607. doi: 10.1001/jamaoto.2016.0188

¹⁰ Fagan, M., Diaz, J., Reinert, S., Sciamanna, C., & Fagan, D. (2003). Impact of interpretation method on clinic visit length. *Journal Of General Internal Medicine*, 18(8), 634-638. doi: 10.1046/j.1525-1497.2003.20701.x

¹¹ Legal Risks of Ineffective Communication. (2007). *Virtual Mentor*, 9(8), 555-558. doi: 10.1001/virtualmentor.2007.9.8.hlaw1-0708

¹² Jacobs, B., Ryan, A., Henrichs, K., & Weiss, B. (2018). Medical Interpreters in Outpatient Practice. *The Annals Of Family Medicine*, 16(1), 70-76. doi: 10.1370/afm.2154

¹³ Questions and Answers for Health Care Providers. (2019). Retrieved from <https://www.nad.org/resources/health-care-and-mental-health-services/health-care-providers/questions-and-answers-for-health-care-providers/>

¹⁴ Flores, G., Abreu, M., Barone, C., Bachur, R., & Lin, H. (2012). Errors of Medical Interpretation and Their Potential Clinical Consequences: A Comparison of Professional Versus Ad Hoc Versus No Interpreters. *Annals Of Emergency Medicine*, 60(5), 545-553. doi: 10.1016/j.annemergmed.2012.01.025

¹⁵ Juckett, G., & Unger, K. (2019). Appropriate Use of Medical Interpreters. Retrieved from <https://www.aafp.org/afp/2014/1001/p476.html>

¹⁶ Position Statement On Health Care Access For Deaf Patients. (2019). Retrieved from <https://www.nad.org/about-us/position-statements/position-statement-on-health-care-access-for-deaf-patients/>

¹⁷ Position Statement On Health Care Access For Deaf Patients. (2019). Retrieved from <https://www.nad.org/about-us/position-statements/position-statement-on-health-care-access-for-deaf-patients/>

- Secondarily developing language, cognitive, behavioral and mental health diagnoses^{18 19 20} lead to increased covered physician and therapy visits.
- Even a mild untreated hearing loss doubles the risk of dementia and cognitive decline. A severe to profound loss causes five times the risk.²¹
- Increased costs compound over time. Children with untreated hearing loss miss the window to develop effective spoken language and risk factors and secondary medical costs build. Even in post lingual hearing loss for adults, increased costs go from 26% more after two years to 46% more after ten years.²²
- Deaf and hard of hearing children have a narrow window to develop effective spoken language.²³ Better outcomes are associated with earlier amplification and access to auditory oral services.^{24 25} Most increased medical costs associated with hearing loss are a result of ineffective communication. Developing effective language in childhood results in a lifetime of savings in educational, healthcare, and disability related costs.
- The median reading level for deaf adults has long been 3rd grade, limiting access to health and safety information, job prospects, and other opportunities.²⁶
- Deaf adults without adequate spoken language access face staggering unemployment rates.²⁷

¹⁸ Hogan, A., Shipley, M., Strazdins, L., Purcell, A., & Baker, E. (2011). Communication and behavioural disorders among children with hearing loss increases risk of mental health disorders. *Australian And New Zealand Journal Of Public Health*, 35(4), 377-383. doi: 10.1111/j.1753-6405.2011.00744.x

¹⁹ FELLINGER, J., HOLZINGER, D., SATTEL, H., LAUCHT, M., & GOLDBERG, D. (2009). Correlates of mental health disorders among children with hearing impairments. *Developmental Medicine & Child Neurology*, 51(8), 635-641. doi: 10.1111/j.1469-8749.2008.03218.x

²⁰ Arlinger, S. (2003). Negative consequences of uncorrected hearing loss—a review. *International Journal Of Audiology*, 42(sup2), 17-20. doi: 10.3109/14992020309074639

²¹ Lin, F., Metter, E., O'Brien, R., Resnick, S., Zonderman, A., & Ferrucci, L. (2011). Hearing Loss and Incident Dementia. *Archives Of Neurology*, 68(2). doi: 10.1001/archneurol.2010.362

²² Reed, N., Altan, A., Deal, J., Yeh, C., Kravetz, A., Wallhagen, M., & Lin, F. (2019). Trends in Health Care Costs and Utilization Associated With Untreated Hearing Loss Over 10 Years. *JAMA Otolaryngology-Head & Neck Surgery*, 145(1), 27. doi: 10.1001/jamaoto.2018.2875

²³ Supporting Success For Children With Hearing Loss | Brain Development & Hearing Loss. (2019). Retrieved from

<https://successforkidswithhearingloss.com/for-professionals/brain-development-hearing-loss/>

²⁴ Goldblat, E., & Pinto, O. (2017). Academic outcomes of adolescents and young adults with hearing loss who received auditory-verbal therapy. *Deafness & Education International*, 19(3-4), 126-133. doi: 10.1080/14643154.2017.1393604

²⁵ Ching, T., Dillon, H., Leigh, G., & Cupples, L. (2017). Learning from the Longitudinal Outcomes of Children with Hearing Impairment (LOCHI) study: summary of 5-year findings and implications. *International Journal Of Audiology*, 57(sup2), S105-S111. doi: 10.1080/14992027.2017.1385865

²⁶ Qi, S., & Mitchell, R. (2011). Large-Scale Academic Achievement Testing of Deaf and Hard-of-Hearing Students: Past, Present, and Future. *Journal Of Deaf Studies And Deaf Education*, 17(1), 1-18. doi: 10.1093/deafed/enr028

²⁷ Deaf Employment Reports. (2019). Retrieved from

<https://www.gallaudet.edu/research-support-and-international-affairs/research-support/research-resources/demographics/deaf-employment-reports>

- “The estimated cost in lost earnings due to untreated hearing loss is \$122 billion while the cost to society in terms of unrealized Federal Taxes is \$18 billion.”²⁸
- Children who receive both appropriate amplification and timely, qualified auditory oral services achieve language scores²⁹, literacy³⁰, and academic success comparable to hearing peers while educated in mainstream classrooms³¹. They no longer qualify for social security disability³² and face better job prospects upon entering the workforce.

²⁸ (2019). Retrieved from

http://hearingaidsterrehaute.com/uploads/MarkeTrak7_ImpactUntreatedHLLIncome.pdf

²⁹ Rhoades, E. (2006). Research Outcomes of Auditory-Verbal Intervention: Is the Approach Justified?. *Deafness & Education International*, 8(3), 125-143. doi: 10.1179/146431506790560157

³⁰ Robertson, C. (2019). Reading Development: A Parent Survey of Children with Hearing Impairment Who Developed Speech and Language through the Auditory-Verbal Method. Retrieved from <https://eric.ed.gov/?id=EJ474410>

³¹ Lim, S., Goldberg, D., & Flexer, C. (2018). Auditory-Verbal Graduates—25 Years Later: Outcome Survey of the Clinical Effectiveness of the Listening and Spoken Language Approach for Young Children with Hearing Loss. *The Volta Review*, 118(1.2), 5-40. doi: 10.17955/tvr.118.1.2.790

³² 2.00-Special Senses and Speech-Adult. (2019). Retrieved from <https://www.ssa.gov/disability/professionals/bluebook/2.00-SpecialSensesandSpeech-Adult.htm>

(k) To what extent will the coverage increase or decrease the administrative expenses of insurance companies and the premium and administrative expenses of policyholders.

Florida Population ³³	21,477,737
Florida Population Under 0-18 (19.7%) ³⁴	4,231,114
All Floridians with individual major medical plans	1,765,807
19.7% of all covered lives on individual major medical plans are under 18	347,864
0.17% of children have hearing loss ³⁵	7,193.00
0.17% of the children who have individual major medical plans	591
2% of of .17% slight loss/no HA needed ³⁶	-12
30% of .17% severe to profound sensorineural or mixed loss/ CI candidate ³⁷	-177
.17% of 16,170 Children Receiving Early Steps ³⁸	-11
Impacted HA Candidates	461
39% unilateral ³⁹	180
61% bilateral ⁴⁰	281
Cost per Unilateral (\$3500 per ear over 24 months)	\$630,000
Cost Per Bilateral (\$3500 per ear over 24 months)	\$1,967,000
Total Cost Over 24 Months	\$2,597,000
Cost per Year	\$1,298,500
Annual Cost per Covered Life (\$1,298,500 spread over 1,765,807 Covered Lives)	\$0.74
Cost Per Month Per Current Covered Life	\$0.06

³³ US Census 2019 <https://www.census.gov/quickfacts/FL>

³⁴ US Census 2019 <https://www.census.gov/quickfacts/FL>

³⁵ See Documented Diagnosis Section. This is the most recent available data (2018).

<https://www.cdc.gov/ncbddd/hearingloss/2018-data/01-data-summary.html>

³⁶ https://www.cdc.gov/ncbddd/hearingloss/2018-data/documents/12_2018-HSFS_Type-and-Severity-Table.pdf

³⁷ https://www.cdc.gov/ncbddd/hearingloss/2018-data/documents/12_2018-HSFS_Type-and-Severity-Table.pdf

³⁸ http://www.cms-kids.com/providers/early_steps/reports/Earlystepsannualreport.pdf

³⁹ https://www.cdc.gov/ncbddd/hearingloss/2018-data/documents/12_2018-HSFS_Type-and-Severity-Table.pdf

⁴⁰ https://www.cdc.gov/ncbddd/hearingloss/2018-data/documents/12_2018-HSFS_Type-and-Severity-Table.pdf

(I) The impact of this coverage on the total cost of health care."

The proposed mandate is not expected to have a significant impact on total cost of healthcare in the state of Florida. The insurance companies will likely experience an increase in costs; however, the projected increase is negligible relative to the overall lifetime costs associated with children needing special education and loss of earning potential. A World Health Organization report⁴¹ in 2017 "shows that unaddressed hearing loss poses substantial costs to the health-care system and to the economy as a whole." The report further concludes that "provision of hearing devices is a cost-effective strategy, especially when used regularly and supported with rehabilitation services."

There is a preponderance of evidence supporting the positive effects and benefits of hearing aids and the Florida Hearing Care for Children Act. There is clear evidence in the literature demonstrating that fitting children with hearing aids is associated with greater gains in their development of speech and language. Risk for language delays in children with hearing loss may be mitigated from early age of fitting and consistent use of hearing aids.

The Florida Hearing Care for Children Act will benefit the families of children with hearing loss while ensuring children will be provided with hearing aid technology that meets their educational and communication needs so that they can reach their full potential.

41

<https://apps.who.int/iris/bitstream/handle/10665/254659/9789241512046-eng.pdf;jsessionid=4C6885EEED6E0752817A93B62E5B033B?sequence=1>

Prepared by The Florida Coalition For Spoken Language Options

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Banking and Insurance

BILL: SB 1334

INTRODUCER: Senator Boyd

SUBJECT: Excise Tax on Documents

DATE: March 2, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Arnold</u>	<u>Knudson</u>	<u>BI</u>	Favorable
2.	_____	_____	<u>FT</u>	_____
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 1334 amends Florida law governing renewals and modifications of documents subject to an excise tax, to provide that a modification to an original document for the purpose of updating an interest reference rate that has been discontinued is not a renewal under the section and does not render the document subject to taxation under the section.

In November 2020, the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation issued a joint statement encouraging banks to cease entering into new contracts that use the London Interbank Offered Rate (LIBOR) as a reference rate by December 31, 2021.

The bill takes effect July 1, 2021.

II. Present Situation:

Excise Tax on Promissory or Nonnegotiable Notes, Written Obligations to Pay Money, or Assignments of Wages or Other Compensation

Florida law currently places a documentary stamp tax on notes and other written obligations to pay money executed, signed, or delivered in Florida, and on mortgages, liens, and other evidences of indebtedness filed or recorded in Florida.¹ The taxable rate is 35 cents on each \$100 or fraction thereof of the indebtedness or obligation.² The tax on notes and other written obligations to pay money on is capped at \$2,450.³ There is no cap on mortgages, trust deeds, security agreements, or other evidences of indebtedness.⁴

¹ Section 201.08(1), F.S.

² *Id.*

³ Section 201.08(1)(a), F.S.

⁴ Fla. Admin. Code R. 12B-4.051 (2003)

For tax purposes, a supplement or amendment to a previously taxed mortgage, deed of trust, indenture, or security agreement is subject to the documentary stamp tax on the aggregate amount of the new issue of bonds of other evidence of indebtedness.⁵

Renewals of previously taxed documents are similarly subject to the documentary stamp tax,⁶ with certain exceptions. Modifications to documents which do not modify the terms of the indebtedness to correct an error; modify covenants, conditions, or terms unrelated to the debt; sever a lien into separate liens; provide for additional, substitute, or further security for the indebtedness; consolidate indebtedness or collateral; add, change, or delete guarantors; or which substitute a new mortgagee or payee; are not renewals under Florida law and are not subject to the documentary stamp tax.⁷

Recent Interest Reference Rate Reforms

Since 1986, LIBOR has been the primary reference rate used in setting interest rates for adjustable rate mortgages, asset-backed securities, municipal bonds, credit default swaps, private student loans, and other types of debt.⁸ When two parties enter into a financial contract in which interest payments are to be exchanged, those payments are frequently based on LIBOR, which provides the benchmark rate for the resulting interest rate.⁹

The Federal Reserve Bank of New York estimates that approximately \$200 trillion in financial contracts reference the United States Dollar LIBOR. Although the derivatives market accounts for 95 percent of the outstanding gross notional value of all financial products referring LIBOR; though several trillion dollars of corporate loans, floating-rate mortgages, floating-rate notes, and asset-backed securities reference LIBOR.¹⁰ As of 2019, \$1.2 trillion worth of residential mortgage loans and \$1.3 trillion of consumer loans referenced LIBOR.¹¹

LIBOR is calculated each day from an average of estimated borrowing rates reflecting a range of maturities, submitted by 18 international banks. When a participating bank has no transactions to support its submission, it provides estimates instead. LIBOR is calculated in five currencies: UK Pound Sterling, Swiss Franc, Euro, Japanese Yen, and US Dollar.¹²

⁵ Section 201.08(4), F.S.

⁶ Section 201.08(1), F.S.

⁷ Section 201.08(5), F.S.

⁸ Forbes, *What Is Libor And Why Is It Being Abandoned?* (December 16, 2020), <https://www.forbes.com/advisor/investing/what-is-libor/> (last visited February 25, 2021)

⁹ Consumer Finance Protection Bureau, *You Might Have Heard That LIBOR is Going Away. Here's What You Need to Know About LIBOR and Adjustable-Rate Loans* (October 17, 2019), <https://www.consumerfinance.gov/about-us/blog/libor-going-away-heres-what-you-need-know-about-libor-and-adjustable-rate-loans/> (last visited February 26, 2021).

¹⁰ Federal Reserve Bank of New York, *Alternative Reference Rates Committee: Frequently Asked Questions* (December 18, 2020), <https://www.newyorkfed.org/medialibrary/Microsites/arcc/files/ARCC-faq.pdf> (last visited February 25, 2021).

¹¹ See note 8.

¹² Board of Governor of the Federal Reserve System, *Statement of Governor Jerome Powell: Reforming U.S. Dollar LIBOR: The Path Forward* (September 04, 2014), <https://www.federalreserve.gov/newsevents/speech/powell20140904a.htm> (last visited February 26, 2021).

LIBOR has come under increasing scrutiny from regulators and financial markets alike following documented patterns of attempted manipulation by participating banks and a sustained decline in unsecured interbank borrowing.¹³ Additionally, LIBOR may be ill-suited for most derivatives contracts and secured borrowing because movements in the credit risk component do not accurately reflect the underlying risks of those contracts.¹⁴ Others have noted the declining correlations between LIBOR and total bank funding costs that predate the 2006-2011 financial crises.¹⁵

Adoption of the Secured Overnight Financing Rate

In 2014, the Board of Governors of the Federal Reserve System commissioned the Alternative Reference Rates Committee (ARRC) to recommend a benchmark interest rate to replace LIBOR for US dollar-denominated debt.¹⁶ The ARRC is comprised of a group of market participants initially convened by the Board of Governors of the Federal Reserve System and the Federal Reserve Bank of New York, in cooperation with the US Department of Treasury, US Commodity Futures Trading Commission, and US Office of Financial Research.

In 2017, the ARRC identified the Secured Overnight Financing Rate (SOFR) as its recommended alternative to USD LIBOR. SOFR is fully-transaction based, broad measure of the cost of borrowing cash overnights collateralized by US Treasury securities.¹⁷ SOFR is based on transaction data from three segments of the Treasury repurchase market: (1) tri-party repurchase, (2) General Collateral Finance repurchase; and (3) bilateral repurchase transactions clearing through the Fixed Income Clearing Corporation.¹⁸ The Federal Reserve Bank of New York publishes SOFR data daily including SOFR Averages and a SOFR Index.

Expected Cessation of LIBOR

The Financial Conduct Authority (FCA) of the United Kingdom regulates LIBOR.¹⁹ The FCA is indicating that LIBOR is expected to cease after the end of 2021.²⁰ Accordingly, the FCA is recommending transitions to alternative rates before this date.

In November 2020, the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, and the Federal Deposit Insurance Corporation issued a joint

¹³ *Id.*

¹⁴ *Id.*

¹⁵ Bowman et al., *How Correlated is LIBOR with Bank Funding Costs?* (June 29, 2020), <https://www.federalreserve.gov/econres/notes/feds-notes/how-correlated-is-libor-with-bank-funding-costs-20200629.htm> (last visited February 26, 2021).

¹⁶ *See* note 10.

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ New York Federal Reserve, *Transition From LIBOR*. <https://www.newyorkfed.org/arrc/sofr-transition> (last visited February 27, 2021).

²⁰ Financial Conduct Authority, *Transition From LIBOR* (Jan. 19, 2021). <https://www.fca.org.uk/markets/libor> (last visited February 27, 2021).

statement encouraging banks to cease entering into new contracts that use LIBOR as a reference rate by December 31, 2021.²¹

III. Effect of Proposed Changes:

Section 1 amends s. 201.08, F.S., governing renewals and modifications of documents subject to documentary stamp taxes, to provide that a modification to an original document for the purpose of updating an interest reference rate that has been discontinued is not a renewal under the section and does not render the document subject to taxation under the section.

Section 2 provides an effective date of July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The bill would create an exception to the taxability for renewals under 201.08, F.S.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

²¹ Board of Governors of the Federal Reserve System et al., *Statement on LIBOR Transition* (November 30, 2020), <https://www.federalreserve.gov/newsevents/pressreleases/files/bcreg20201130a1.pdf> (last visited February 26, 2021).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 201.08 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

By Senator Boyd

21-01681-21

20211334__

1 A bill to be entitled
 2 An act relating to the excise tax on documents;
 3 amending s. 201.08, F.S.; providing that modifications
 4 of original documents for certain purposes are not
 5 renewals and are not subject to document excise taxes;
 6 providing an effective date.
 7
 8 Be It Enacted by the Legislature of the State of Florida:
 9
 10 Section 1. Subsection (5) of section 201.08, Florida
 11 Statutes, is amended to read:
 12 201.08 Tax on promissory or nonnegotiable notes, written
 13 obligations to pay money, or assignments of wages or other
 14 compensation; exception.—
 15 (5) For purposes of this section, a renewal shall only
 16 include modifications of an original document which change the
 17 terms of the indebtedness evidenced by the original document by
 18 adding one or more obligors, increasing the principal balance,
 19 or changing the interest rate, maturity date, or payment terms.
 20 Modifications to documents which do not modify the terms of the
 21 indebtedness evidenced such as those given or recorded to
 22 correct error; modify covenants, conditions, or terms unrelated
 23 to the debt; sever a lien into separate liens; provide for
 24 additional, substitute, or further security for the
 25 indebtedness; consolidate indebtedness or collateral; add,
 26 change, or delete guarantors; or which substitute a new
 27 mortgagee or payee are not renewals and are not subject to tax
 28 pursuant to this section. A modification of an original document
 29 for the purpose of changing the interest rate due to the

Page 1 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

21-01681-21

20211334__

30 discontinuation of an index to which the original interest rate
 31 is referenced is not a renewal and is not subject to tax
 32 pursuant to this section. If the taxable amount of a mortgage is
 33 limited by language contained in the mortgage or by the
 34 application of rules limiting the tax base when there is
 35 collateral in more than one state, then a modification which
 36 changes such limitation or tax base shall be taxable only to the
 37 extent of any increase in the limitation or tax base
 38 attributable to such modification. This subsection shall not be
 39 interpreted to exempt from taxation an original mortgage that
 40 would otherwise be subject to tax pursuant to paragraph (1)(b).
 41 Section 2. This act shall take effect July 1, 2021.

Page 2 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

3/3/21
Meeting Date

1334
Bill Number (if applicable)

Topic Excise Tax on Documents

Amendment Barcode (if applicable)

Name Courtney Larkin

Job Title Government Affairs

Address 1001 Thomasville Rd
Street

Phone 850-209-0061

Tallahassee
City

FL
State

32303
Zip

Email clarkin@floridabankers.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Bankers Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

CourtSmart Tag Report

Room: KB 412

Case No.: -

Type:

Caption: Senate Banking and Insurance

Judge:

Started: 3/3/2021 9:31:00 AM

Ends: 3/3/2021 10:09:55 AM

Length: 00:38:56

9:31:01 AM Meeting called to order by Chair Boyd
9:31:04 AM Attendance Roll call
9:31:40 AM Tab 1 - SB 420 by Senator Hooper
9:32:36 AM Senator Hooper explains the bill
9:32:56 AM No amendment filed
9:33:33 AM Senator Broxson with questions on the bill
9:34:39 AM Response from Senator Hooper
9:35:40 AM Follow up from Senator Broxson
9:36:23 AM Response from Senator Hooper
9:36:46 AM Follow up from Senator Broxson
9:37:25 AM Response from Senator Hooper
9:38:27 AM Chair Boyd asks if there are any other questions
9:39:41 AM Questions by Senator Stargel
9:41:26 AM Response from Senator Broxson
9:42:28 AM Input from Chair Boyd
9:43:12 AM Questions from Senator Passidomo
9:43:37 AM Response from Senator Hooper
9:45:03 AM Follow up from Senator Passidomo
9:46:16 AM Response from Senator Hooper
9:47:11 AM Chair Boyd offers input
9:47:23 AM Follow up question from Senator Passidomo
9:48:21 AM Question by Senator Burgess
9:49:07 AM Response from Senator Hooper
9:49:20 AM Chair Boyd asks if there are any other questions
9:49:37 AM No other questions
9:49:38 AM Public Testimony
9:49:39 AM Josh Aubuchon, State Farm, speaking for the bill
9:50:01 AM Katie Webb, representing GEICO, waives against the bill
9:50:31 AM No other public testimony
9:50:32 AM Debate on the bill
9:51:02 AM Senator Broxson in debate
9:53:20 AM Senator Stargel in debate
9:54:45 AM Senator Burgess in debate
9:55:47 AM Senator Thurston in debate
9:56:13 AM Senator Hooper closes on the bill
9:57:00 AM Roll call vote on SB 420
9:58:02 AM SB 420 reported favorably
9:58:30 AM Tab 2 - SB 1268 by Senator Baxley
9:58:32 AM Senator Baxley explains the bill
9:58:59 AM Senator Broxson with questions
9:59:46 AM Follow up from Senator Baxley
10:00:18 AM Public testimony
10:01:28 AM Theresa Bulger, waives her speaking time
10:02:28 AM Garrett Campbell, speaking in support
10:03:10 AM Brita Lincoln, Florida PTA, waives in support
10:03:40 AM Archie Campbell, Parents of Deaf Children, waives in support
10:04:15 AM Courtney Larkin, Florida Bankers Association, waives in support
10:04:56 AM David Cullen waives in support
10:05:20 AM Senator Passidomo in debate
10:05:46 AM Senator Baxley closes on the bill
10:06:10 AM Roll call vote on SB 1268
10:06:26 AM SB 1268 is reported favorably

10:06:44 AM Tab 3 - SB 1334 by Senator Boyd
10:07:03 AM Senator Boyd explains the bill
10:07:34 AM Public testimony
10:08:34 AM Courtney Larkin waives in support
10:08:53 AM Senator Boyd closes on the bill
10:09:07 AM Roll call vote on SB 1334
10:09:14 AM SB 1334 reported favorably
10:09:27 AM Chair Broxson adjourns meeting