

STORAGE NAME: h0313.in

DATE: November 18, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
INSURANCE
ANALYSIS**

BILL #: HB 313

RELATING TO: Insurance Claims/Electronic Payments

SPONSOR(S): Representative Waters

TIED BILL(S): None

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

(1) INSURANCE

(2)

(3)

(4)

(5)

I. SUMMARY:

Current law requires insurers to pay all claims in cash consisting of coins, currency, checks, drafts, or money orders. HB 313 allows insurers to pay claims through the use of a debit card account or other electronic transfer when the recipient approves such a payment.

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

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

All insurance claims payments in Florida must be made in cash. Section 627.4035 (3), F.S. For the purposes of this requirement "cash" consists of coins, currency, checks, drafts, or money orders. Section 627.4035 (3), F.S.

Electronic transfers and debit card transactions are not expressly included in the class of items considered "cash" within s. 627.4035 (3), F.S.

C. EFFECT OF PROPOSED CHANGES:

Insurers could pay claims by debit card or any other form of electronic transfer, if this form of payment is authorized by the recipient.

D. SECTION-BY-SECTION ANALYSIS:

N/A

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

N/A

2. Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

By using the debit card system or other electronic transfer, insurers might realize some cost savings in the claims payment process through a reduction in the amount of paper that must be used, delivered, and stored. Also, by using electronic transfers, insurers might benefit economically from a reduced incidence of check fraud. In addition to insurers, other firms that design, sell, install, or implement the technology needed to engage in electronic transfer and debit card systems might benefit. The public may also benefit from the added convenience of receiving claim payments in electronic form. However, firms linked to the use of traditional forms of claims payment might be affected negatively if fewer claims are paid through traditional cash forms, like checks.

D. FISCAL COMMENTS:

N/A

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

N/A

B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

N/A

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

The language in HB 313, "payment of claims may be made by debit card," lends itself to more than one interpretation. For example, read literally, the language suggests that insurers who make claims payments will actually possess a debit card and will use it to pay a claimant. Many claimants, particularly private individuals, are not able to accommodate this form of payment. On the other hand, a less strict (and more likely) interpretation of the language suggests that insurers might respond to this bill by opening debit card accounts at their bank for the benefit of claimants entitled to claim payments. These payments would be transferred electronically into claimants' accounts, and the bank would issue debit cards which would be used to draw against the funds in each account. The bill's language could be amended to avoid potential ambiguity or confusion.

Insurers might also prefer to pay claims through the issuance of "smart cards." A smart card is a form of payment where an insurer issues a card with a predetermined value recorded on it. By using this card, the claimant does not draw from an account, but depletes the value of the card with each use until it contains no more value. It is also uncertain whether the concept of a "smart card" is encompassed within the meaning of the term "debit card" or "other electronic transfer."

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON INSURANCE:

Prepared by:

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