

STORAGE NAME: h0313s1z.in

DATE: May 8, 2000

****AS PASSED BY THE LEGISLATURE****

CHAPTER #: 2000-113, Laws of Florida

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
INSURANCE
FINAL ANALYSIS**

BILL #: CS/HB 313

RELATING TO: Insurance Claims/Electronic Payments

SPONSOR(S): Committee on Insurance; Representative Waters

TIED BILL(S): None

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

(1) INSURANCE YEAS 16 NAYS 0

(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. CS/HB 313 would allow insurers to pay claims through the use of a debit card account or other electronic transfer when the recipient or the recipient's representative approves such a payment in writing. Any fees charged to the recipient for payment by debit card or other form of electronic transfer would be required to be disclosed in writing to the recipient or the recipient's representative.

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 checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input 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"/> |

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 in writing by the recipient or the recipient's representative. Any fees or costs charged against the recipient for this type of payment would be required to be disclosed in writing at the time of authorization.

D. SECTION-BY-SECTION ANALYSIS:

N/A

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

None

STORAGE NAME: h0313s1z.in

DATE: May 8, 2000

PAGE 3

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

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. In addition, there may be fees associated with payment in this manner.

D. FISCAL COMMENTS:

None

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

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require a city or county to spend funds or to take any action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the revenue raising authority of any city or county.

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

The bill does not reduce the amount of state tax shared with counties and municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None

B. RULE-MAKING AUTHORITY:

None

C. OTHER COMMENTS:

The language in CS/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:

On December 7, 1999, the Committee on Insurance adopted an amendment and an amendment to that amendment and voted the bill out as a committee substitute. CS/HB 313 differs from the original bill, as follows:

- ◆ A representative of the recipient would be allowed to authorize payment by debit card or other form of electronic transfer.
- ◆ Authorization for payment by debit card or other form of electronic transfer would be required in writing.
- ◆ Any fees to be charged to the recipient for payment by debit card or other form of electronic transfer would be required to be disclosed in writing to the recipient or the recipient's representative.

VII. SIGNATURES:

COMMITTEE ON INSURANCE:

Prepared by:

William C. Garner

Staff Director:

Stephen T. Hogge

STORAGE NAME: h0313s1z.in

DATE: May 8, 2000

PAGE 5

FINAL ANALYSIS PREPARED BY THE COMMITTEE ON INSURANCE:

Prepared by:

Staff Director:

Meredith Woodrum Snowden

Stephen Hogge