

HOUSE MESSAGE SUMMARY

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BILL: CS/SB 1362
SPONSOR: Banking and Insurance Committee and Senator Latvala
SUBJECT: Motor Vehicle Insurance
PREPARED BY: Senate Committee on Banking and Insurance
DATE: March 21, 2002

I. Amendments Contained in Message:

House Amendment 1--- 803811 (body and title)

House Amendment 2 --- 083709 (body and title)

II. Summary of Amendments Contained in Message:

House Amendment 1 is a delete-all amendment.

Deletes the provision of CS/SB 1362 that revises the maximum interest rate that an agent or insurer may charge when it finances the premium, currently limited to 18 percent simple interest per year on the unpaid balance. The bill revised the interest rate language to specify that the interest rate may not exceed 18 percent simple interest per year on the average unpaid balance as billed over the term of the policy and subject to endorsement changes, and that the interest may be billed in equal installments. This would allow for equal monthly interest charges as compared to a declining interest rate charge, where the total amount of interest paid under both methods is the same, but the amendment deletes this provision. [Note, however, that a similar provision is included in CS/SB 2214 (on 3/21 Special Order) and CS/CS/HB 1247 (in Sen. Messages, 3/21).]

Maintains (in Section 3) the provision of CS/SB 1362 which adds an exception to the current requirement that at least 2 months' premium be paid as a down payment for a motor vehicle insurance policy. The exception would be for a policy issued pursuant to the transfer of a private passenger automobile insurance book of business by an agent from one insurer to another, provided that the policy includes at least \$10,000/\$20,000 in bodily injury liability coverage in addition to mandatory personal injury protection (PIP) and property damage coverage. The bill also revises a current exemption that applies when all premium payments are paid pursuant to a payroll deduction plan or an automatic electronic funds transfer plan, provided that the first payment is made by cash, check, or money order. As amended, the first premium payment would be allowed, but not required, to be by cash, check, or money order.

Adds the following provisions:

Financial Responsibility - Sections 1 and 2 to revise the excess insurance requirements for business entities that meet their financial responsibility requirements by posting a surety bond or depositing cash or securities with the Department of Highway Safety and Motor Vehicles. Currently, under the Financial Responsibility Law, motor vehicle owners and operators involved

in an accident causing injuries or convicted of certain traffic offenses must demonstrate their ability to respond to damages in an accident. The main option is obtaining, for each vehicle, a motor vehicle liability insurance policy with minimum limits of \$10,000 bodily injury for one person in one crash, \$20,000 bodily injury to two or more persons in one crash, and \$10,000 property damage in any one crash (i.e., \$10,000/\$20,000/\$10,000). Other options are posting a surety bond, furnishing a deposit of cash or securities, or self-insuring, under certain conditions.

Under current law, an owner or lessee of at least 300 taxicabs, limousines, jitneys, or any other for-hire passenger transportation vehicles may prove financial responsibility by securing a motor vehicle liability policy meeting minimum insurance liability requirements or by self-insuring. Under Section 1 of this amendment, those choosing to satisfy the financial responsibility requirements by self-insuring would be permitted to self-insure up to a maximum of \$300,000 on a per-occurrence basis, rather than the current maximum of \$100,000 on a per-occurrence basis.

For any person (other than a natural person), choosing to prove financial responsibility by posting a surety bond or furnishing a cash or security deposit, Section 1 of this amendment increases the minimum required excess liability insurance limits from \$50,000/\$100,000/\$50,000 or \$150,000 combined single limits to \$125,000/\$250,000/\$50,000 or \$300,000 combined single limits. However, the amendment also increases the claim amount at which point the excess insurance attaches, from \$10,000/\$20,000/\$10,000 or \$30,000 combined single limits, to \$25,000/\$50,000/\$10,000 or \$60,000 combined single limits. So, the excess insurance would not “kick in” until claims reach this amount, although the upward limits of the policy are substantially increased. The Department reports that very few businesses use this method of meeting financial responsibility, but it is believed that at least some taxicab companies do.

PIP Benefits; Charges for Treatment of Injured Persons - Section 4 makes the following changes to s. 627.736, F.S., which relate to charges for treatment of injured persons who are insured by a personal injury protection insurance (PIP) policy:

MRI Fee Schedule; deleting reference to medical CPI “for Florida”: The PIP legislation enacted in 2001 (CS/CS/SB 1092; ch. 2001-277) imposed a limit on the allowable PIP charges for magnetic resonance imaging (MRI). The act provided that on November 1, 2001, the maximum allowable charge is 175 percent of the allowable amount under Medicare Part B for year 2001 for the area in which the treatment was rendered, adjusted annually by an additional amount equal to the medical Consumer Price Index (CPI) for Florida. For facilities accredited by the American College of Radiology or the Joint Commission on Accreditation of Healthcare Organizations, the maximum charge (beginning Nov. 1, 2001) is 200 percent of the Medicare Part B for 2001, also adjusted annually by the medical CPI for Florida. However, there is not actually a separate medical CPI index for each state. The amendment addresses this problem by providing that the base rate (beginning November 1, 2001) would be 175 percent of the allowable amount under the participating physician fee schedule of Medicare Part B for year 2001 in effect on June 19, 2001, for the area in which the treatment was rendered, adjusted annually in February of each year, beginning with February 2003, by an additional amount equal to the prior year’s annual Medical Care Item of the CPI for All Urban Consumers as determined by the Bureau of Labor Statistics of the U.S. Department of Labor. The same change would be made for the 200 percent cap for the accredited MRI facilities.

MRI Fee Schedule Between June 19 and November 1, 2001 -- Last year's bill was unclear with regard to the maximum allowable charge for MRI's between the date the act became law (June 19, 2001) and November 1, 2001. The law provides for MRI charges to initially be capped at 200 percent of the Medicare Part B fee schedule and to be reduced to 175 percent beginning November 1, 2001. The question is when the 200% limit began. In s. 627.736(5)(b)5, F.S., the law states, "Effective upon this act becoming a law and before November 1, 2001, the allowable amount that may be charged . . . for [MRI] services shall not exceed 200 percent of the allowable amount under Medicare Part B for year 2001 . . ." This may indicate that the MRI fee schedule took effect on the day the Governor signed the bill, which was June 19, 2001. However, the effective date section at the end of the act stated, "Paragraphs . . . (5)(b) . . . of section 627.736, Florida Statutes, as amended by this act . . . shall apply to treatment and services occurring on or after October 1, 2001 . . ." Therefore, it may be unclear whether the initial MRI fee cap of 200% of Medicare began on the June 19, 2001, or October 1, 2001. The Department of Insurance issued an Informational Memorandum (01-03-M) on July 20, 2001 (after discussing the issue with interested parties and legislative staff), stating the 200% cap was effective June 19, 2001. However, some county court judges have issued orders determining that the 200% cap was effective October 1, 2001.

The amendment addresses this issue by providing that the cap on MRI charges of 200% of Medicare Part B was effective June 19, 2001 (i.e., not October 1, 2001).

Fee Schedule for Other Procedures -- The 2001 act (current law) also provides that the workers' compensation fee schedule applies to charges for medically necessary cephalic thermograms, peripheral thermograms, spinal ultrasounds, extremity ultrasounds, video fluoroscopy, and surface electromyography. However, reportedly, the workers' compensation fee schedule does not list a maximum charge for surface electromyography. The amendment provides that if a procedure is not listed, the procedure is not reimbursable.

Brokers - The 2001 act (current law) provides that an insurer or insured is not required to pay a claim made by a broker or by a person making a claim on behalf of a broker. The amendment specifies that this shall not be construed to require reimbursement for persons not otherwise reimbursable.

Amendment 2

Amends s. 627.7283, F.S., related to cancellation of an auto insurance policy and return of premium. Currently, the law provides that if the insured or insurer cancels the policy, the insurer must return the unearned portion of the premium within 30 days after issuance or receipt by the insurer of notice of cancellation. If the unearned premium is not returned within the 30-day period, the insurer must pay 8 percent interest on the amount due. If the unearned premium is not returned within 45 days, the insured may bring an action pursuant to the civil remedy statute, s. 624.155, F.S.

The amendment replaces these provisions with a requirement that if the *insured* cancels a policy, the insurer must mail the unearned portion of the premium paid within 30 days after the effective date of the policy cancellation or receipt of notice or request for cancellation, whichever is later. This requirement applies to a cancellation initiated by an insured for any reason. If an *insurer*

cancels a policy, the insurer must mail the unearned premium within 15 days after the effective date of the cancellation. If the unearned premium is not mailed within the applicable period (whether canceled by the insurer or insured), the insurer must pay 8 percent interest on the amount due; if the unearned premium is not mailed within 45 days, the insured may bring a civil remedy action under s. 624.155, F.S.