

By Senator Margolis

35-587-03

1 A bill to be entitled
2 An act relating to unpaid support obligations;
3 requiring the Department of Revenue to furnish
4 to insurance companies periodically a list of
5 persons with unpaid support obligations;
6 providing for insurers to determine from such
7 list the support obligations of persons who
8 have filed claims of certain size; creating a
9 lien in favor of the department in certain
10 circumstances and providing for withholding of
11 insurance payments to persons having unpaid
12 obligations; providing for contesting actions
13 of the department; immunizing insurers, their
14 employees and agents, and others from liability
15 for actions in compliance with this act;
16 providing liability of an insurer for failure
17 to comply with this act; providing an effective
18 date.

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

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22 Section 1. Interception of insurance payments.--
23 (1) The Department of Revenue shall periodically
24 within each year make available to the insurers regulated
25 under chapters 624-651, Florida Statutes, a list of names and
26 last-known addresses of individuals who, as of the date of the
27 list, owe unpaid support in excess of \$500 as shown by the
28 depository. The list shall contain the obligor's name, social
29 security number, and amount of unpaid support owed as of the
30 date of the list.

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1 (2)(a) Every domestic insurer authorized to conduct
2 business in this state which issues policies of liability
3 insurance under chapters 624-651, Florida Statutes, and every
4 worker's compensation insurer, including an employer that is
5 self-insured, shall, immediately after the filing of any claim
6 of \$500 or more by any claimant who is a resident of this
7 state or who has an accident or loss that occurred in this
8 state for third-party, personal injury, or worker's
9 compensation benefits under a contract of insurance, review
10 the information made available by the department under
11 subsection (1) to determine whether the claimant owes unpaid
12 support. If the review discloses that any claimant is a person
13 who owes unpaid support, a lien by operation of law is created
14 against any insurance payment or settlement up to the amount
15 of unpaid support owed.

16 (b) Every insurer described in paragraph (a) shall
17 obtain the information described in subsection (1) either from
18 a secure web-enabled database provided by the department or
19 another centralized source approved by the department.

20 (3) If the insurer determines from such information
21 that the claimant or payee does not owe unpaid support, the
22 insurer may make the claim or settlement payment to the
23 claimant in accordance with the insurance contract.

24 (4)(a) If the insurer determines from such information
25 that the claimant or payee owes unpaid support, the insurer
26 shall, except to the extent payments are subject to liens,
27 written notices, or interests described in subsection (7),
28 withhold from payment the amount of unpaid support. If the
29 amount of unpaid support exceeds the claim or settlement
30 payment, the insurer shall withhold the entire payment. Upon
31 withholding payment, the insurer shall immediately notify the

1 department by e-mail or other electronic means of the amount
2 withheld, the date payment was withheld, and the claimant's
3 name and social security number.

4 (b) Upon receipt of notification, the executive
5 director or his or her designee shall notify the claimant in
6 writing of the intention to intercept the withheld amount by
7 delivering such notice in person or by regular mail to the
8 claimant's last-known address, which is deemed to be adequate
9 notice.

10 (c) If the claimant fails to timely contest the action
11 after the department delivers notice of its intent to
12 intercept the withheld amount, the department may collect the
13 withheld amount of unpaid support from the insurer.

14 (d) The claimant may consent in writing to the
15 intercept at any time after receiving the notice of intent to
16 intercept.

17 (e) Upon delivering a notice to intercept to the
18 insurer by the department, the insurer shall pay the withheld
19 amount to the department.

20 (5) Upon notice by the department or court order at
21 any time, the insurer shall:

22 (a) Withhold any insurance claim payment up to the
23 amount of unpaid support owed.

24 (b) Pay the withheld amount to the department and pay
25 any remaining balance to the claimant or other person entitled
26 to it.

27 (c) Release any insurance claim payment lien
28 previously withheld.

29 (6) Any claimant aggrieved by any action taken under
30 this section may:

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1 (a) Within 21 days after receiving the notice to the
2 claimant under subsection (4), contest the action by filing a
3 petition under the applicable provisions of chapter 120,
4 Florida Statutes.

5 (b) Within 21 days after receiving a copy of the
6 notice of intent to intercept under subsection (4), contest
7 only the amount or validity of any claimed exemption under
8 subsection (7) by filing a petition under the applicable
9 provisions of chapter 120, Florida Statutes.

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11 If a claimant contests the intercept by filing either
12 petition, the insurer shall hold the withheld payment amount
13 until final disposition of the action under chapter 120,
14 Florida Statutes.

15 (7) The department's lien for unpaid support created
16 by this section is superior to all liens and security
17 interests created under the laws of this state, except that
18 nothing in this section affects the validity or priority of
19 liens or written notices of health care providers; attorney's
20 fees; insurance claim funds allocated for future medical
21 expenses, not to exceed \$5,000; holders of security interests;
22 or the assignment of rights under section 409.2561, Florida
23 Statutes, which may exist.

24 (8) Any insurer and its directors, agents, and
25 employees and central reporting organizations and their
26 respective employees authorized by an insurer to act on its
27 behalf who releases information in accordance with this
28 section, or who withholds amounts from payment based upon the
29 latest information supplied by the department under subsection
30 (1) and makes disbursements in accordance with this section
31 shall be in compliance and shall be immune from any liability

1 to the claimant, payee lienholder, payee who provided written
2 notice, security interest holder, or other person for taking
3 such action.

4 (9) If an insurer fails to review information or
5 withhold or remit payments under this section, the insurer is
6 liable for the amount the insurer should have withheld or
7 remitted, plus costs, interest, and reasonable attorney's
8 fees. The department may bring an action in circuit court for
9 an order compelling compliance with any provision of this
10 section.

11 Section 2. This act shall take effect July 1, 2003.

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14 SENATE SUMMARY

15 Requires the Department of Revenue to furnish,
16 periodically, to insurers subject to the Florida
17 Insurance Code a list of persons who owe at least \$500 in
18 unpaid support obligations. Provides for insurers to
19 withhold from payments to claimants amounts owed in
20 unpaid support pursuant to a lien in favor of the
21 department. Prescribes procedures for contesting acts of
22 the department under the act. Immunizes insurers, their
23 employees and agents, and others from acts in compliance
24 with the act and provides liability for failure to
25 comply.
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