HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 19 Motor Vehicle Insurance
SPONSOR(S): Commerce Committee; Grall and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 150

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Commerce Committee	18 Y, 7 N, As CS	Lloyd	Hamon

SUMMARY ANALYSIS

The Florida Motor Vehicle No-Fault Law (also known as personal injury protection or PIP) requires owners and operators to obtain and maintain PIP, which provides $10,000 in medical, disability, and funeral expenses, without regard to fault, subject to a limit of $2,500 for non-emergency medical care. In exchange for providing PIP coverage, vehicle owners and operators are immune from tort claims within the limits of the PIP law.

The owner is also required to obtain and maintain coverage of at least $10,000 for property damage (PD). In response to an accident, they must also provide proof of bodily injury (BI) coverage. BI coverage requires the ability to respond for at least $10,000 in damages due to the bodily injury or death of any one person and $20,000 for bodily injury or death to two or more persons. An insurance policy or allowable form of self-insurance is acceptable proof of BI coverage.

The bill repeals PIP. By repealing PIP, the bill removes the limitation on tort liability provided under PIP. When drivers are at fault in an accident, they will be fully liable for any damages they cause. Due to this change, the bill expands the scope of legal liabilities covered under an uninsured/underinsured motorist policy.

In place of PIP, BI coverage will be required at the time of registration of a motor vehicle. It increases the minimum BI coverage limits to $25,000 in damages due to the bodily injury or death of any one person and $50,000 for bodily injury or death to two or more persons. The minimum PD coverage limit is not changed. The minimum security limits for self-insurance of BI and PD requirements are increased.

Motor vehicle policies issued on or after January 1, 2019, may not include PIP coverage. The bill provides that the No-Fault Law and certain specified PIP claims related statutes will remain in full force and effect for all accidents covered under a policy issued prior to January 1, 2019. It also provides for continued enforcement of suspensions, revocations, and anti-fraud measures for actions occurring under the PIP law.

The bill provides for the transition of motor vehicle insurance policies issued prior to January 1, 2019, from PIP requirements to BI requirements. In addition, insurers are required to provide their policyholders a notice describing the effect of the elimination of PIP and change to BI, by September 1, 2018. The notice is subject to approval by the Office of Insurance Regulation.

The bill provides that resident relatives must be included in coverage provided by motor vehicle liability policies. It limits coverage of motor vehicles that are not identified on the policy, if an individual insured by the policy has owned the vehicle, or the temporary vehicle was furnished for regular use, for more than 30 consecutive days.

The bill has an indeterminate fiscal impact on state revenues and expenditures and no fiscal impact on local government. The bill has indeterminate positive and negative impacts on the private sector.

The bill is effective January 1, 2019, except as otherwise expressly provided by the bill.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Financial Responsibility Law

Florida's Financial Responsibility Law requires proof of ability to pay monetary damages for bodily injury (BI) and property damage (PD) liability arising out of a motor vehicle accident or serious traffic violation.[1] The owner or operator of a motor vehicle is not required to provide proof of BI coverage at the time of vehicle registration. Motorcycle owners also are not required to provide proof of BI coverage at the time of registration. Proof of such coverage is only required after an accident.[2] At that time, a driver proves financial responsibility by furnishing an active motor vehicle liability policy, a certificate showing a qualifying security deposit with the Department of Highway Safety and Motor Vehicles (DHSMV), or proof of qualifying self-insurance.[3]

The required minimum amounts of BI insurance coverages are $10,000, in the event of bodily injury to, or death of, one person, and $20,000, in the event of bodily injury to, or death of, two or more persons. The required minimum amount of PD insurance coverage is $10,000, in the event of damage to property of others, or $30,000 combined for both BI and PD coverage.[4] Some refer to these coverage amounts in a summary manner, i.e., $10,000/$20,000/$10,000 or 10/20/10.

A driver's license and vehicle registration are subject to suspension for failure to comply with the PD coverage requirement.[5] One may obtain driver's license and registration reinstatement by obtaining a liability policy and by paying a fee to DHSMV.[6]

Financial responsibility requirements are common. All states have financial responsibility laws that require persons involved in auto accidents (or serious traffic infractions) to furnish proof of BI and PD liability insurance. The minimum coverage amounts vary among the states.

Florida Motor Vehicle No-Fault Law

Florida's Motor Vehicle No-Fault Law (No-Fault Law)[7] requires motorists to carry no-fault insurance known as personal injury protection (PIP) coverage. The purpose of PIP coverage under the No-Fault Law is to provide for medical, surgical, funeral, and disability insurance benefits without regard to who is responsible for a motor vehicle accident. In return for assuring payment of these benefits, the No-Fault Law provides limitations on the right to bring lawsuits arising from motor vehicle accidents. Florida motorists are required to carry $10,000 of PIP coverage.[8] However, motorcycles are excluded from this requirement.

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[1] ch. 324, F.S.
[2] ss. 320.02 and 324.011, F.S.
[3] ss. 324.031, 324.061, 324.161, and 324.171, F.S. Businesses that choose to self-insure the financial responsibility requirements must deposit $30,000 per vehicle, up to a maximum of $120,000, with the DHSMV and maintain excess insurance with limits of $125,000/$250,000/$300,000. Individuals that choose to self-insure must deposit $30,000 with the DHSMV. Individuals and businesses can also obtain a certificate of self-insurance to satisfy the financial responsibility requirements. Individuals must have an unencumbered net worth of $40,000 and businesses must have either an unencumbered net worth of $40,000 for the first vehicle and $20,000 for each additional vehicle or a sufficient net worth determined by the DHSMV by rule. Currently, the applicable rule provides that $40,000 for the first vehicle and an amount less than $20,000 for each additional vehicle is sufficient if the applicant carries excess insurance in the amounts of $25,000/$50,000/$100,000. The amount applicable to each additional vehicle is determined annually under a "Manual of Financial Responsibility Rates" (Revised 05-89) adopted by rule by the Office of Insurance Regulation. Rule 15A-3.011, F.A.C.
[4] s. 324.022, F.S.
[5] s. 324.0221(2), F.S. Failure to maintain PIP coverage will also result in suspension of the driver's license and vehicle registration.
[6] s. 324.0221(3), F.S.
[7] ss. 627.730-627.7405, F.S.
[8] s. 627.7275, F.S. Under Florida's Financial Responsibility Law (ch. 324, F.S.), motorists must also provide proof of ability to pay monetary damages for Bodily Injury and Property Damage liability at the time of motor vehicle accidents or when serious traffic

PIP General Provisions

Required Coverage	All owners or registrants of motor vehicles with four or more wheels, except school buses, limos, and taxicabs, are required to carry PIP.[9]
Individuals Covered	The named insured, relatives living in the same household, persons operating the vehicle, passengers in the vehicle, and persons struck and injured while not occupying the vehicle.
Tort Limitation	Limited exemption from tort liability; injured persons may pursue certain tort claims as specified by the PIP law.
Benefits	$10,000 in emergency medical and disability benefits (limited to $2,500 in medical benefits for non-emergency medical conditions) and $5,000 in death benefits. Coverage of 60 percent of lost income due to disability.
Timely Treatment	Medical benefits are paid only if initial treatment is received within 14 days of the accident.
Timely Payment	Payments are overdue if not paid within 30 days of insurer receipt of written notice.
Medical Reimbursement	80 percent of reasonable medical expenses paid to eligible medical providers.[10]
Excluded Treatment	Massage and acupuncture are not PIP medical benefits. Services, supplies, or care that is not reimbursable under Medicare or workers' compensation is not required to be reimbursed by the insurer.
Attorney Fees	Prevailing insureds and beneficiaries may receive a reasonable attorney fees award.

PIP in Other States

Over the last couple of decades, 24 jurisdictions have repealed their No-Fault laws or made them non-compulsory.[11] Only 17 jurisdictions have compulsory PIP laws. Of those with compulsory PIP laws, only nine have No-Fault laws. Five jurisdictions, including some that do not have compulsory PIP laws, give the insured the option to choose No-Fault protections.

Jurisdiction	**Compulsory PIP**	**No-Fault**
Arizona	Yes	No
Delaware	Yes	No
District of Columbia	No	Optional
Florida	Yes	Yes
Hawaii	Yes	Yes
Kansas	Yes	Yes
Kentucky	No	Optional

violations occur. The Financial Responsibility Law requires $10,000, per person, and $20,000, per incident, of Bodily Injury coverage, and $10,000 of Property Damage liability coverage.

[9] This includes non-resident owners who keep a vehicle in Florida for more than 90 days during the previous 365 days. s. 627.733(2), F.S.

[10] Insurers may limit reimbursements to a fee schedule tied to the Medicare allowed amount. s. 627.736(5)(a)1., F.S. For many services, 80 percent of 200 percent of the Medicare allowed amount is the standard reimbursement under this fee schedule.

[11] National Association of Insurance Commissioners, *Final Auto Study Group Report* (Nov. 18, 2014) and Insurance Information Institute, *Compulsory Auto/Uninsured Motorists* (Sept. 2017) http://www.iii.org/issue-update/compulsory-auto-uninsured-motorists (last visited Oct. 31, 2017).

Maryland	Yes	No
Massachusetts	Yes	Yes
Michigan	Yes	Yes
Minnesota	Yes	Yes
New Jersey	Yes	Optional
New York	Yes	Yes
North Dakota	Yes	Yes
Oregon	Yes	No
Pennsylvania	No	Optional
Texas	Yes	Optional
Utah	Yes	Yes
Virgin Islands	Yes	No
Washington	Yes	No

Recent Legislative History

The Legislature revised the PIP law multiple times following a Statewide Grand Jury in 2000 that found rampant fraud in the PIP system. The Legislature enacted PIP reform legislation in 2001 and 2003. The 2003 legislation included a sunset of the PIP law on October 1, 2007. A Governor's veto of a bill extending the sunset of the law resulted in the law expiring in 2007. Following a 2007 Special Session, the PIP law was revived effective January 1, 2008. The Legislature again revised the PIP law in 2012.

PIP Reform

The reforms enacted between 2001 and 2012 included:

- Establishing requirements for and limiting access to motor vehicle crash reports;
- Providing limitations on medical services, reimbursement, and eligible providers;
- Requiring provider licensing;
- Requiring pre-suit demand letters;
- Increasing criminal penalties;
- Defining certain activities by claims handlers as unfair and deceptive trade practices;
- Establishing limitations on benefits for emergency and non-emergency medical conditions; and
- Creating limitations on attorney's fees.

The 2012 reform required insurers to make rate filings by October 1, 2012, and January 1, 2014, that provided a minimum 10 percent and 25 percent decrease in PIP premiums, respectively. However, this reform permitted insurers to file and the Office of Insurance Regulation (OIR) to approve smaller decreases or increases, if appropriately justified. This resulted in an estimated average statewide rate decrease in PIP premiums of 13.2 percent, as of January 22, 2014. This legislation also required OIR to issue a PIP data call and report the results. OIR reported the data call results on January 1, 2015 (see Recent Reports by OIR, below).

PIP Repeal Proposals

The PIP law has been the subject of multiple repeal proposals over the last several years. The House considered bills in 2013, 2014, 2015, and 2017 that would have repealed PIP and required increased BI coverage under the Financial Responsibility Law.[12] A 2016 bill would have repealed PIP, effective January 1, 2019, but would have maintained current BI and PD requirements. Except for 2017, the House bills died in the Insurance & Banking Subcommittee. CS/HB 1063 (2017) passed the House on April 19, 2017, and died in the Senate Appropriations Subcommittee on Health and Human Services.

[12] ch. 324, F.S.

Recent Changes

As part of a pair of broader insurance related bills, the Legislature amended the PIP law in 2015 and 2016. HB 165 (2015) clarified the application of the PIP medical reimbursement fee schedule. HB 165 (2015) and HB 659 (2016) each created an additional exemption from a licensure requirement under the PIP law that permits reimbursement of certain health care clinics for PIP related medical services.

Recent Reports by OIR

PIP Data Call

The 2012 reform, HB 119, required OIR to perform a comprehensive data call regarding PIP. Thirty-five insurers representing 83.5 percent of the market participated in the data call. This included the top 25 insurers, by market share. The report did not rely on information from several insurers due to data quality issues. OIR published their analysis of the data call on January 1, 2015. The report provided detailed information on seven of the eight required elements mentioned in the bill. The bill required the report to address, at a minimum, the following points:

1. Quantity of personal injury protection claims.
2. Type or nature of claimants.
3. Amount and type of personal injury protection benefits paid and expenses incurred.
4. Type and quantity of, and charges for, medical benefits.
5. Attorney fees related to bringing and defending actions for benefits.
6. Direct earned premiums for personal injury protection coverage, pure loss ratios, pure premiums, and other information related to premiums and losses.
7. Licensed drivers and accidents.
8. Fraud and enforcement.

The published report did not include detail or analysis regarding item 5. However, the report included limited information about insurer costs related to defense of claims, which includes attorney fees. OIR documented and analyzed all other items in detail.

While OIR did not provide a summary of their findings in the body of the report, they summarized their findings in a press release dated January 5, 2015,[13] as follows:

> The findings showed a general decrease in the per claim costs and the overall number of claims (frequency and severity) for PIP since the implementation of HB 119 on January 1, 2013. The regional analysis concludes that South Florida and the Tampa/St. Petersburg regions experienced the most significant decreases in Florida. However, the data also exposed that other coverages, such as Bodily Injury (BI) and Uninsured Motorists (UM), experienced increases in both frequency and severity when some benefits covered under PIP moved to these coverages. These trends are expected to continue over the next year.
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> Prior to 2012 and the passage of this law, the pervasive nature of PIP fraud and staged auto accidents created an unsustainable cost trajectory of PIP claims. The Division of Insurance Fraud (DIF), within the Department of Financial Services (DFS), is responsible for investigating this type of fraud. According to the DIF, there has been a substantial decline in PIP fraud since the implementation of HB 119 with a projected 16% decrease during Fiscal Year 2013 – 2014 from Fiscal Year 2011 – 2012.

[13] FLORIDA OFFICE OF INSURANCE REGULATION, *News Releases*, *Office Releases Personal Injury Protection (PIP) Insurance Data Call Report*, http://www.floir.com/PressReleases/viewmediarelease.aspx?id=2094 (last visited Oct. 31, 2017).

The Office also compiled a summary of the rate filings effective on or after January 1, 2011 for the top 25 insurers representing 80.9% of the total personal auto market in Florida. These filings were segregated into two sets of data: Pre-HB 119 and Post-HB 119 (to include all filings submitted since, and including, the first required HB 119 filing due on October 1, 2012). The average statewide approved rate changes were:

	Pre-HB 119	**HB 119**
PIP	+46.3%	-13.6%
Liability (incl. PIP)	+20.9%	-0.5%
Overall (incl. Comp. & Coll.)	+12.9%	-0.1%

The report noted many insurers had residual rate need due to deteriorating PIP experience prior to the implementation of the bill that were used to offset some of the expected savings from HB 119. For an individual policyholder, the rate changes may vary considerably from the statewide averages listed above, taking into account other factors, such as differences by insurer, by territory, etc.

Overall, there was limited data available to determine the true impact of HB 119; however, the data call analysis reveals the law has had a major impact on the personal auto market and changed the trajectory of trends being seen prior to its enactment.

The report also documented an increase in the frequency of automobile crashes in Florida during 2013 and 2014. Data from the DHSMV shows that this trend continued through 2015. OIR reported that crash frequency per 100 licensed drivers in Florida had dropped by 13.7 percent from 2004 to 2011. In 2011, there were 1.48 crashes per 100 licensed drivers. For 2015, crash frequency increased over 61 percent to 2.40 crashes per 100 licensed drivers.

OIR Cost Projection on Certain PIP Reform Proposals

In June 2016, OIR contracted with Pinnacle Actuarial Resources (Pinnacle) for actuarial services to produce a "Review of PIP Legislation."[14] The objective of the review was to "provide a draft and final report documenting [a] comprehensive study on the effect of HB 119 and the potential impact to Floridians if the personal injury protection coverage requirements were repealed and replaced with varying levels of Bodily Injury coverage, or if the current requirements to purchase auto insurance were completely repealed." Pinnacle is the same vendor that produced the 2012 rate impact analysis that was required by HB 119 (2012).[15]

Pinnacle issued their report on September 13, 2016.[16] They found that:

- The study of HB 119 evaluated sixteen provisions of the bill and concluded that the HB 119 reforms produced an estimated aggregate savings since enactment in PIP claim costs of 17.5 percent and an estimated statewide average savings in PIP premiums of 15.1 percent.
- If no-fault insurance were repealed in Florida, there would be an estimated overall reduction in premiums of 9.6 percent on the *liability coverage package* or $81 per car annually for the average driver. For *all coverages combined*, the estimated premium decrease is 6.7 percent.

[14] DFS OIR RFP 15/16-15, *Actuarial Consulting Services for Review of PIP Legislation*, http://www.myflorida.com/apps/vbs/vbs_pdf.download_file?p_file=F18316_DFSOIRRFP151615PIPActuarialStudy.pdf (last visited Oct. 31, 2017).
[15] In 2012, Pinnacle Actuarial Resources, Inc., was retained by OIR to conduct an independent actuarial study to calculate the savings to be expected because of HB 119 (2012). s. 15, HB 119 (2012). OIR published the report on August 21, 2012. FLORIDA OFFICE OF INSURANCE REGULATION, *Press Release*, http://www.floir.com/PressReleases/viewmediarelease.aspx?id=1956 (last visited Oct. 31, 2017).
[16] Pinnacle Actuarial Resources, Inc., *Florida Office of Insurance Regulation: Review of Personal Injury Protection Legislation*, Sept. 13, 2016, *available at* https://www.floir.com/siteDocuments/FLOIRReviewPIP20160913.pdf (last visited Nov. 2, 2017).

- Finally, an analysis of premium impacts if the requirement to purchase auto insurance was repealed in addition to the repeal of no-fault insurance found there would be an estimated additional reduction in the PIP repeal savings of 0.2 percent to 0.4 percent.

Pinnacle also provided estimates that considered the outcome if the consumer purchased Medical Payments (Med Pay) coverage, at either $2,500 or $5,000 coverage limits, and if the BI limit was increased by law to $25K/$50K. The following table illustrates the estimated savings in each scenario.

Estimated Savings on Auto Insurance Premiums, by Scenario			
Situation	Coverage Type	Require BI at $10K/$20K	Require BI at $25K/$50K
PIP repeal	Liabilities, only[17]	9.6%	8.1%
	Overall	6.7%	5.6%
PIP repeal and $2,500 Med Pay	Liabilities, only	4.9%	3.4%
	Overall	3.4%	2.4%
PIP repeal and $5,000 Med Pay	Liabilities, only	1.0%	-0.5%
	Overall	0.7%	-0.3%

Overview of Colorado PIP Insurance Reform

Colorado had a no-fault auto insurance law from 1974 to 2003. In reaction to increasing costs of auto insurance, including a 38 percent increase in auto premiums from 1992 to 2002, Colorado repealed their no-fault law, effective July 2003. Colorado now handles crash liabilities through the tort system. Under the tort system, the person at fault in an auto crash is responsible for paying the losses of the victim and the victim enforces their rights in civil court.

Prior to the change, Colorado had the ninth highest premium per insured auto in the nation. For 2014 (the most current year available), Colorado had the 21st highest auto premium in the nation. According to the Colorado Legislative Council Staff, auto premiums in the state as of January 2007 had decreased ten to 14 percent following the elimination of the no-fault system.[18]

In comparison, according to data from the National Association of Insurance Commissioners and reported by the Insurance Information Institute, from 2006 through 2014, Florida has consistently ranked fifth in the nation for highest average auto insurance cost per vehicle. Florida ranked as low as sixth in 2009 and 2014 and as high as fourth in 2008 and 2012, with the remaining years being ranked fifth.[19]

	Colorado			Florida		
	Average Auto Premium Cost	National Rank	Percent Change over 2002 Cost	Average Auto Premium Cost	National Rank	Percent Change over 2003 Cost
2002	$921.00	9		n/a	n/a	
2003	$923.00	12		$1,018.00	5	
2004	$850.00	18	-7.7%	$1,062.00	5	4.3%
2005	$829.00	21	-10.0%	$1,064.00	6	4.5%
2006	$785.00	23	-14.8%	$1,069.00	5	5.0%
2007	$738.00	24	-19.9%	$1,043.00	5	2.5%
2008	$728.67	26	-20.9%	$1,054.89	5	3.6%
2009	$741.28	22	-19.5%	$1,006.20	6	-1.2%

[17] "Liabilities, only" includes Bodily Injury, Personal Injury Protection, Uninsured Motorist, and Property Damage coverages.
[18] Colorado Legislative Council, *Issue Brief Number 07-01, Automobile Insurance in Colorado*, Jan. 2007.
[19] INSURANCE INFORMATION INSTITUTE, *Auto Insurance, Costs and Expenditures*, http://www.iii.org/table-archive/21247 (last visited Oct. 31, 2017).

2010	$730.42	25	-20.7%	$1,037.36	5	1.9%
2011	$723.61	27	-21.4%	$1,090.58	5	7.1%
2012	$737.95	25	-19.9%	$1,128.53	4	10.9%
2013	$777.95	23	-15.5%	$1,143.73	5	12.4%
2014	$821.19	21	-10.8%	$1,140.84	6	12.1%

Private Passenger Auto Insurance Requirement Comparison

	Colorado	Florida
No-fault/PIP	None	$10,000 medical, disability and funeral Non-emergency medical limited to $2,500 Mandatory for vehicle registration
Bodily Injury or Death	$25,000 per person, $50,000 per accident Mandatory for vehicle registration	$10,000 per person, $20,000 per accident, or $30,000 single limit Mandatory, may be secured post-registration
Property Damage	$15,000 Mandatory for vehicle registration	$10,000 Mandatory for vehicle registration
Uninsured/Under-insured Motorist	Mandatory offer at BI/PD limits, written rejection required	Mandatory coverage at BI limits, if BI purchased; written rejection required
Medical Payment	$5,000 mandatory offer, written rejection required	Optional

Impacts of the Colorado Reform

In February 2008, the Office of the Governor of Colorado published a report that studied the impacts of the repeal of the no-fault system on auto insurance, health insurance, the trauma system, Medicaid and Colorado Indigent Care Program, and consumers.[20] The report's findings include the following:

AUTO INSURANCE

- For the eight largest auto insurers in Colorado by market share, average auto insurance premiums declined 35 percent from July 2003 to December 2007.
- The average premium decrease attributable to the elimination of PIP was 22 percent immediately following the repeal of no-fault.[21]
- Colorado's national rank for average annual auto insurance premium per vehicle fell following the repeal.
- Premiums for each of the non-PIP auto coverage types increased, except comprehensive coverage (no baseline data was available for medical payment coverage, so the effect was unknown).
- Ninety-nine percent of Colorado auto insurers were offering medical payment coverage post-reform and 31 percent of consumers were purchasing this coverage.

HEALTH INSURANCE

- Based on the responses of health insurers (totaling 1.57 million policyholders) to a 2003 survey by the Colorado Division of Insurance, health insurance premiums increased by an estimated 1.6 percent.

[20] BBC Research & Consulting, *Auto Insurance/Trauma System Study*, 5, Feb. 2008.

[21] Information in *Issue Brief Number 07-01* and the *Auto Insurance/Trauma System Study* are seemingly at odds regarding the change in auto premiums post-reform. The reason for the difference may be that *Issue Brief Number 07-01* is referencing the change in average premiums for Colorado overall at January 2007 and the *Auto Insurance/Trauma System Study* is only focused on the eight largest auto insurers in Colorado at December 2007.

TRAUMA SYSTEM

Hospitals

- The report could not quantify the impact on acute care hospital reimbursements for emergency and outpatient services.
- Comparing payments for 2002 to those for 2006 for inpatient care of auto accident patients at acute care hospitals, the percentage of payments from private insurance, which includes both auto and health insurance, decreased by about one third (75.4 percent for 2002 and 49.3 percent for 2006). The proportion of payment by all other payer types increased. The greatest increase was in self-payment (13.4 percent in 2002 and 27.2 percent in 2006). Self-payment may also include self-filing of insurance. Medicare showed the next highest increase (2.9 percent in 2002 and 7.7 percent in 2006).
  - A similar pattern was seen in all inpatient cases; however, the amount of the decrease in the proportion of private insurance payments was much less (51.1 percent for 2002 and 46.6 percent for 2006).
- The reimbursement rate (percent of charge reimbursed) for acute care hospital inpatient auto crash patients fell from 60 percent to 36 percent for hospitals that responded to a survey. The report asserted the cause of the reduction to be more patients without insurance and, for patients with insurance, more payments based on negotiated rates (non-PIP insurers allegedly rely more on negotiated rates).

Emergency Medical First Responders

- Based on a small sample of first responders, i.e., those that could provide detailed billing and reimbursement information, non-reimbursed charges increased 37 percent for 2006 over 2002. Governmental first responders indicated that they made up deficits related to lower patient care/transfer reimbursements from non-user sources such as taxes and general fund transfers.
- The average number of days to collect first responder payment on auto crash related cases increased from 74 days in 2002 to 144 days in 2006.

MEDICAID AND COLORADO INDIGENT CARE PROGRAM

- Medicaid – the Medicaid program's exposure to auto crash claims increased, but the report could not quantify the cost.
- Colorado Indigent Care Program – while exposure was increased, caps on the federal and state portions of the program's funding limited increases in expenditures. This increases unreimbursed provider charges.

Effect of the Bill

Effective January 1, 2019, the bill repeals the portions of the Florida Motor Vehicle No-Fault Law (PIP). The bill provides that the No-Fault Law and certain specified PIP claims related statutes[22] will remain in full force and effect for all accidents covered under a policy issued prior to January 1, 2019. It also provides for continued enforcement of suspensions,[23] revocations, and anti-fraud measures for actions occurring under the No-Fault Law.

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[22] In addition to the Florida Motor Vehicle No-Fault Law, ss. 627.730 – 627.7405, F.S., the following statutes will remain in full force and effect for accidents covered under a PIP policy issued prior to January 1, 2019: ss. 400.9905 (Health Care Clinic definitions), 400.991 (Health Care Clinic licensure), 456.057 (Records of Health Care Practitioners), 456.072 (medical upcoding), 627.7263 (order of insurance priorities in motor vehicle rental and leasing), 627.9541(1)(i) (unfair and deceptive trade practices), 817.234(7)(c) (false and fraudulent insurance claims – medical opinions), and 817.234(8), F.S. (false and fraudulent insurance claims – solicitation).

[23] The bill also expands DHSMV's authority to suspend the registrations and licenses of drivers who fail to maintain BI when required under ss. 324.023 (DUI conviction), 324.032 (for-hire transportation), 627.7415 (commercial motor vehicles), and 627.742, F.S. (non-public sector buses), and who fail to carry proof of BI when operating a motor vehicle.

Changes to Financial Responsibility

Beginning January 1, 2019, proof of compliance with the Financial Responsibility Law (BI coverage) will be required at the time of registration of a motor vehicle,[24] instead of post-registration or at the time of an accident as is currently required. It increases the minimum BI coverage limits from $10,000 per person and $20,000 per incident to $25,000 per person and $50,000 per incident. The minimum PD coverage limit is not changed. This results in required 25/50/10 coverage in most instances.

The bill increases minimum security limits for self-insurance of financial responsibility requirements in the following ways:

- For individuals:
  - Certificate of deposit – increased from $30,000 to $60,000.
  - Certificate of self-insurance – increased from $40,000 to $60,000.

- For businesses:
  - Certificate of deposit – increased from $30,000 to $60,000.
  - Certificate of self-insurance – increased from $40,000 for the first vehicle and $20,000 for each additional vehicle to $60,000 and $30,000, respectively.

Transition of Coverages

The bill provides for the transition of motor vehicle insurance policies into compliance with the changes made by the bill if the policies were issued prior to January 1, 2019, but are in force on that date. Those issued on or after January 1, 2019, are prohibited from including PIP coverage. In force policies that were issued in compliance with law at the time of issuance are deemed to meet the new requirements until renewed, nonrenewed, or canceled. Insurers are required to allow policyholders with PIP coverage to obtain BI coverage that complies with the changes made by the bill without charge other than changes in premium due. Payment of the change in premium and refunds, if either result from the change in coverage, depending upon the actual coverages on the policy, are required.

Notice Requirements

Insurers are required to provide a notice, by September 1, 2018, informing motor vehicle policyholders that effective January 1, 2019:

- The Florida Motor Vehicle No-Fault Law (PIP) is repealed,
- The policyholder is no longer required to carry PIP coverage,
- PIP is no longer available for purchase,
- New or renewal coverage will not include PIP,
- New BI requirements begin on January 1, 2019, which are 25/50/10,
- A policyholder may obtain uninsured/underinsured motorist coverage to protect themselves and their insureds from damages caused by an uninsured/underinsured driver,
- Policies that comply with the requirements of law at the time of issue are deemed to meet the new requirements, until the policy is renewed, nonrenewed, or canceled,
- They may change their policy to comply with the new requirements, and
- They may contact the name and telephone number provided in the notice with questions.

The notice is also required to state that PIP provides medical payments coverage for the policyholder, passengers, and resident relatives,[25] while BI protects the insured against loss if they are at fault in an

[24] Proof of compliance with the Financial Responsibility Law does not change for motorcycles.
[25] A "resident relative" is defined as "a person related to a named insured by any degree by blood, marriage, or adoption, including a ward or foster child, who usually makes her or his home in the same family unit as the named insured, whether or not he or she is temporarily living elsewhere."

accident and are legally responsible for bodily injuries or deaths of others. The notice is subject to approval by OIR.

Motor Vehicle Liability Policy Changes

The bill provides that resident relatives must be included in coverage provided by motor vehicle liability policies. It limits coverage of motor vehicles that are not identified on the policy, if an individual insured by the policy has owned the vehicle, or the temporary vehicle was furnished for regular use, for more than 30 consecutive days.

Tort Liability

By repealing PIP, the bill removes the limitation on tort liability provided under PIP. When drivers are at fault in an accident, they will be fully liable for any damages they cause. Due to this change, the bill expands the scope of legal liabilities covered under an uninsured/underinsured motorist policy. Beginning January 1, 2019, uninsured/underinsured motorist coverages in new and renewal policies will cover tort claims for pain, suffering, disability or physical impairment, disfigurement, mental anguish, inconvenience, and the past and future loss of capacity for the enjoyment of life.[26]

B. SECTION DIRECTORY:

Section 1: Titles the act as the "Responsible Roadways Act."

Section 2: Amends s. 316.646, F.S., relating to security required; proof of security and display thereof.

Section 3: Amends s. 318.18, F.S., relating to amount of penalties.

Section 4: Amends s. 320.02, F.S., relating to registration required; application for registration; forms.

Section 5: Amends s. 320.0609, F.S., relating to transfer and exchange of registration license plates; transfer fee.

Section 6: Amends s. 320.27, F.S., relating to motor vehicle dealers.

Section 7: Amends s. 320.771, F.S., relating to license required of recreational vehicle dealers.

Section 8: Amends s. 322.251, F.S., relating to notice of cancellation, suspension, revocation, or disqualification of license.

Section 9: Amends s. 322.34, F.S., relating to driving while license suspended, revoked, canceled, or disqualified.

Section 10: Amends s. 324.011, F.S., relating to purpose of chapter.

Section 11: Creates s. 324.015, F.S., relating to applicability; notice to insured.

Section 12: Amends s. 324.021, F.S., relating to definitions; minimum insurance required.

Section 13: Amends s. 324.022, F.S., relating to financial responsibility for property damage.

Section 14: Amends s. 324.0221, F.S., relating to reports by insurers to the department; suspension of driver license and vehicle registrations; reinstatement.

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[26] The limitation on tort liability provided in the PIP law will continue to apply to coverage issued on or before December 31, 2018.

Section 15: Amends s. 324.032, F.S., relating to manner of proving financial responsibility; for-hire passenger transportation vehicles.

Section 16: Amends s. 324.051, F.S., relating to reports of crashes; suspensions of licenses and registrations.

Section 17: Amends s. 324.091, F.S., relating to notice to department; notice to insurer.

Section 18: Amends s. 324.151, F.S., relating to motor vehicle liability policies; required provisions.

Section 19: Amends s. 324.161, F.S., relating to proof of financial responsibility; deposit.

Section 20: Amends s. 324.171, F.S., relating to self-insurer.

Section 21: Amends s. 324.251, F.S., relating to short title.

Section 22: Amends s. 400.9905, F.S., relating to definitions.

Section 23: Amends s. 400.991, F.S., relating to license requirements; background screenings; prohibitions.

Section 24: Amends s. 400.9935, F.S., relating to clinic responsibilities.

Section 25: Amends s. 409.901, F.S., relating to definitions.

Section 26: Amends s. 409.910, F.S., relating to responsibility for payments on behalf of Medicaid-eligible persons when other parties are liable.

Section 27: Amends s. 456.057, F.S., relating to ownership and control of patient records; report or copies of records to be furnished; disclosure of information.

Section 28: Amends s. 456.072, F.S., grounds for discipline; penalties; enforcement.

Section 29: Amends s. 626.9541, F.S., relating to unfair methods of competition and unfair or deceptive acts or practices defined.

Section 30: Amends s. 626.989, F.S., relating to investigation by department or Division of Investigative and Forensic Services; compliance; immunity; confidential information; reports to division; division investigator's power of arrest.

Section 31: Amends s. 627.06501, F.S., relating to insurance discounts for certain persons completing driver improvement course.

Section 32: Amends s. 627.0652, F.S., relating to insurance discounts for certain persons completing safety course.

Section 33: Amends s. 627.0653, F.S., relating to insurance discounts for specified motor vehicle equipment.

Section 34: Amends s. 627.4132, F.S., relating to stacking of coverages prohibited.

Section 35: Amends s. 627.7263, F.S., relating to rental and leasing driver's insurance to be primary; exception.

Section 36: Amends s. 627.727, F.S., relating to motor vehicle insurance; uninsured and underinsured vehicle coverage; insolvent insurer protection.

Section 37: Amends s. 627.7275, F.S., relating to motor vehicle liability.

Section 38: Amends s. 627.728, F.S., relating to cancellations; nonrenewals.

Section 39: Amends s. 627.7295, F.S., relating to motor vehicle insurance contracts.

Section 40: Repeals ss. 627.730, 627.731, 627.7311, 627.732, 627.733, 627.734, 627.736, 627.737, 627.739, 627.7401, 627.7403, and 627.7405, F.S., relating to Florida Motor Vehicle No-Fault Law.

Section 41: Repeals s. 627.7407, F.S., relating to application of the Florida Motor Vehicle No-Fault Law.

Section 42: Amends s. 627.748, F.S., relating to transportation network companies.

Section 43: Amends s. 627.8405, F.S., relating to prohibited acts; financing companies.

Section 44: Amends s. 628.909, F.S., relating to applicability of other laws.

Section 45: Amends s. 705.184, F.S., relating to derelict or abandoned motor vehicles on the premises of public-use airports.

Section 46: Amends s. 713.78, F.S., relating to liens for recovering, towing, or storing vehicles and vessels.

Section 47: Amends s. 817.234, F.S., relating to false and fraudulent insurance claims.

Section 48: Provides an effective date of January 1, 2019, except as otherwise expressly provided by the bill.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   Indeterminate. Premium tax revenues will be affected to the extent that lost revenues associated with PIP premiums are offset by changes in revenues associated with expected increases BI premiums.

2. Expenditures:

   Indeterminate. State hospitals may experience increased costs to the extent that medical reimbursements previously funded through PIP are shifted to secondary coverages or are lost through lack of secondary coverage.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

Indeterminate. Local governments will likely achieve savings on motor vehicle insurance, depending upon the amount of coverage secured. Local governments operating hospitals may experience increased costs to the extent that medical reimbursements previously funded through PIP are shifted to secondary coverages or are lost through lack of secondary coverage.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Indeterminate. Motor vehicle insurers will be required to file new forms and rates and adjust their practices consistent with the changes made by the bill. Individuals and businesses will have to secure coverage that complies with these changes, as well.

In a September 2016 report from OIR, Pinnacle Actuarial Resources estimated the premium impacts of PIP repeal on consumers that carry a complete set of automobile insurance coverages.[27] Pinnacle also provided estimates that considered the outcome if the BI limit increased by law to 25/50. They estimated that consumers would save 8.1 percent in liabilities only[28] premiums and 5.6 percent in overall motor vehicle premiums or $68.12 per car annually. Pinnacle also projected some negative impact on health care providers and health care insurance premiums due to the elimination of PIP.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill neither authorizes nor requires administrative rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

With minor exceptions, the bill is substantively identical to CS/HB 1063, 1st engrossed, which passed the House on April 19, 2017. The 2017 bill died in the Senate Appropriations Subcommittee on Health and Human Services. The primary differences between the bill and the 2017 bill are technical issues that are non-substantive. Technical differences include the addition of revised or deleted cross-references to PIP or the No-Fault Law and the method used to repeal the No-Fault Law while providing for continuity of management of PIP claims incurred prior to the repeal through their conclusion, which may achieve closure after the effective date of the repeal.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On November 7, 2017, the Commerce Committee considered the bill, adopted two amendments, and reported the bill favorably as a committee substitute. The amendments make a technical change to preserve certain statutory provisions related to the administration of personal injury protection (PIP) claims arising under a policy with PIP coverage in effect prior to January 1, 2019, until that policy is renewed, nonrenewed or cancelled. A section of the bill is also removed to maintain current law governing motor vehicle insurance data reporting.

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[27] *Supra* note 16 at app. 3, p. 1 (p. 272).
[28] "Liabilities, only" includes Bodily Injury, Personal Injury Protection, Uninsured Motorist, and Property Damage coverages.