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HOUSE OF REPRESENTATIVES
COMMITTEE ON
INSURANCE
ANALYSIS

BILL #: HB 679

RELATING TO: Insurance

SPONSOR(S): Representative Brown

TIED BILL(S): None

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

(1) INSURANCE
(2) COUNCIL FOR COMPETITIVE COMMERCE
(3)
(4)
(5)

I. SUMMARY:

This bill would make changes affecting advance premium payments for private passenger motor vehicle insurance requirements and the amount of service fees charged by insurance companies and agents under premium finance arrangements.

Concerning advance premium payments, an insurer is required to collect from prospective policyholders premium covering a two month period before initially issuing a private passenger motor vehicle insurance policy or policy binder. The Legislature has approved a number of exceptions to this requirement. One of these is when all payments are paid pursuant to an automatic electronic funds transfer payment plan from an agent or a managing general agent and the policy includes, at a minimum, personal injury protection coverage, property damage liability coverage, and bodily injury coverage in the amount of $10,000 for one person and $20,000 for two or more persons.

This bill would expand this exception to include instances when policies are issued through the transfer of an agent's book of business from one insurer to another if the policy includes the specified minimum coverages.

Concerning premium finance charges, under current law an insurance company or insurance agent or agency may charge an annual rate of interest not to exceed 18 percent simple interest per year on the unpaid balance in lieu of imposing maximum service charges of up to $12 annually. Under this bill, insurance companies, agents, and agencies would be allowed to charge interest, either as an interest rate, as under current law, or as a service charge, of up to 18 percent simple interest per year on the average unpaid balance as billed over the term of the policy. This would have the effect of permitting an insurance company, agent, or agency to charge the higher service charges without having to be licensed as a premium finance company. The Department of Insurance currently interprets the applicable statutes as permitting an insurance company, agent or agency, to recover up to an 18 percent rate of interest in the form of an interest charge or a service charge.

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

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

1. Less Government Yes [X] No [] N/A []

2. Lower Taxes Yes [] No [X] N/A []

Changes relating to the maximum service fees an insurance agent and agency, and insurance company, could charge when financing premium payments while not “taxes” could have the effect of increasing policyholder costs when financing premium payments, if the 18 percent rate now applicable to interest charges is broadened as proposed in the bill as a cap on service charges.

3. Individual Freedom Yes [X] No [] N/A []

4. Personal Responsibility Yes [] No [] N/A [X]

5. Family Empowerment Yes [] No [] N/A [X]

B. PRESENT SITUATION:

Advance Premium Payments

Since 1995, an insurer has been required to collect from prospective policyholders from their own funds premium covering a two-month period before initially issuing a private passenger motor vehicle insurance policy or policy binder.[1] Since enacting this requirement, the Legislature has approved a number of exceptions. As a result, the advance premium requirement does not apply when:

- An insured or member of the insured’s family is renewing or replacing a policy written by the same insurer or member of the same insurer group;
- The coverage is issued to military personnel on active duty or former military personnel or their dependents;
- All payments are paid pursuant to a payroll deduction plan or an automatic electronic funds transfer payment plan from the policyholder, provided the first payment is made by cash or check;
- All payments are paid pursuant to an automatic electronic funds transfer payment plan from an agent or a managing general agent and the policy includes, at a minimum, personal injury protection coverage, property damage liability coverage, and bodily injury coverage in the amount of $10,000 for one person and $20,000 for two or more persons;
- The policy has been in effect for at least 6 months, the insured’s agent has been terminated by the insurer, and the insured obtains coverage with a new insurer through that terminated agent; or,
- An insured or family member is purchasing additional coverage or adding coverage for an additional vehicle from the same insurer or insurer group.

1 Section 627.7295(7), F.S.

Premium Finance Charges

Insurance premiums may be paid in installments through a premium finance company,[2] or an installment plan set up by an insurance company, agent, or agency. The charges allowed under premium financing arrangements are illustrated in the following table.

	Premium Finance Company[3]	Agent or Agency[4]	Insurance Company[5]
Licensure as premium finance company	Required.	Not required, unless total service charge or interest exceeds allowed charge or rate, see below.	Not required, unless charging "substantially" more than fees or interest allowed to agents and agencies.
Interest charges	No provision; service charge and other fees, only.	18 percent simple interest per year on unpaid balance, in lieu of allowed service charge.	Not "substantially" more than that allowed agents or agencies.
Service charges	$12 per $100 of premium financed, per year.	Not more than $1 per installment, or: $6 per year on premiums of $120 or less; $9 per year on premiums between $120 and $220; $12 per year on premiums over $220.	Not "substantially" more than that allowed agents or agencies.
Other fees	"Set up" charge – $20, once annually. Delinquency or collection charge – $10 or 5 percent, whichever is greater.[6] Attorney's fees – not to exceed 20 percent. Insufficient funds – $15.	Not authorized.	Not authorized.

The Department of Insurance currently interprets the applicable statutes as permitting an insurance company, agent or agency, to recover up to an 18 percent rate of interest in the form of an interest charge or a service charge.

C. EFFECT OF PROPOSED CHANGES:

Advance Premium Payments

The bill would expand an existing exception to the two-month down payment requirement for a private passenger motor vehicle policy that waives the requirement when all payments are paid through an electronic funds transfer payment plan and the policy includes certain minimum coverages. The bill would extend the exception to include policies issued through the transfer of an agent's book of business from one insurer to another if the policy includes certain minimum coverages.

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[2] Premium finance companies are licensed by the Department of Insurance and must meet minimum net worth requirements and maintain an errors and omissions insurance policy of no less than $500,000. S. 627.828, F.S.
[3] Part XV, Ch. 627, F.S.
[4] Part XVI, Ch. 627, F.S.
[5] Id.
[6] The maximum delinquency charge is $10 in the case of premium financing on primarily personal, family, or household goods. S. 627.841, F.S.

Premium Finance Charges

The bill also would allow insurance companies, agents, and agencies to charge interest, either as an interest rate, as under current law, or as a service charge, of up to 18 percent simple interest per year on the average unpaid balance as billed over the term of the policy. This would be in place of an interest rate, in lieu of specified service charges, of 18 percent simple interest per year on the unpaid balance.

Also, the bill would appear to allow these fees to be charged anew by the insurer whenever there is a change made to the policy through endorsement.

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:

Changes relating to the maximum service fees an insurance agent and agency, and insurance company, could charge when financing premium payments could have the effect of enabling them to enjoy the benefits of charging higher fees (if the 18 percent rate generates fees in excess of the statutory dollar cap on service fees) by using the service fee mechanism in lieu of interest charges without having to be licensed and regulated as premium finance companies. This could increase policyholder costs to finance premium payments, adding to the overall cost of purchasing insurance. But these changes also could increase revenues for insurance agents and agencies, and insurance companies not now relying on the interest rate mechanism.

D. FISCAL COMMENTS:

N/A

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that counties or municipalities have to raise revenues in the aggregate.

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

This bill does not reduce the percentage of state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

N/A

C. OTHER COMMENTS:

A separate but related bill, HB 1247, by Rep. Ross, also addresses premium finance charges. HB 1247 would allow insurance companies, agents, and agencies to charge, in addition to the fees or interest currently allowed, certain other fees that premium finance companies are currently allowed to charge. Also, an insurance company would have to be licensed as a premium finance company if they offer an installment payment plan that exceeds, rather than "substantially" exceeds, the service charge permitted of agents or agencies, or certain specified fees allowed of licensed premium finance companies.

Section 1 of the bill uses the term "book of business" in relation to a new exception to the two-month down payment requirement for personal passenger motor vehicle coverage. "Book of business" is not defined in statute or rule; although, it is a frequently used term in the insurance industry to refer to the "total amount of insurance on an insurer's books at a particular time."[7]

According to the Department of Insurance, there have been class action suits brought against insurance companies and agents or agencies concerning the method of applying the interest fees authorized by s. 627.901, F.S. According to the lawsuits, the method of applying the interest fees on a level basis across the term of the policy yields an overcharge as the unpaid balance is reduced over time.

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[7] *Dictionary of Insurance Terms, Fourth Ed.*, Barron's Business Guides, 2000.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON INSURANCE:

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