

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Banking and Insurance Committee

BILL: CS/SB 40-C

INTRODUCER: Banking and Insurance Committee and Senator Posey

SUBJECT: Motor Vehicle Insurance

DATE: October 4, 2007 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Knudson, Emrich	Deffenbaugh	BI	Fav/CS
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

Please see Section VIII. for Additional Information:

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|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

Reenacts and Revises No-Fault Law on February 15, 2008

- The no-fault law, as revised, is effective Feb. 15, 2008. All vehicle owners must obtain personal injury protection (PIP) by that date and insurers must add PIP to policies in force on that date.
- Vehicle owners are not required to have PIP from Oct. 1, 2007, until Feb. 15, 2008, and the no-fault law does not apply during that time. But the requirements to maintain property damage (PD) liability continue to apply.
- Insurers must send notice to policyholders as required by law (which is 45 days in advance) that PIP is being added to their policies on Feb. 15, 2008, and the premium that is due, including any changes to optional medical payments coverage.
- Insurers must make rate filings as required by law to revise the rates for all affected coverages, including bodily injury liability coverage (BI) and uninsured motorist coverage (UM), to be effective on Feb. 15, 2008 and to be applied pro rata for the remainder of the policy period for policies in force on that date.
- Legislative findings are made that it is necessary to revise policies on Feb. 15, 2008, in order to protect the public health safety and welfare.

Medical Benefits -- PIP continues to pay 80 percent of medical expenses up to \$10,000, but the benefits are limited to services and care provided, lawfully supervised, ordered, or prescribed by a physician, osteopath, or dentist or provided by:

- Hospital or ambulatory surgical center
- Emergency transportation and treatment by an ambulance or emergency medical technician
- Chiropractic physician
- Entities wholly owned by physicians, osteopaths, chiropractors, dentists, or such practitioners and their spouse, parent, child, or sibling
- Entities wholly owned by a hospital or hospitals
- Licensed health care clinics that are accredited by a specified accrediting organization or the health care clinic:
 - Has a medical director that is a Florida licensed physician, osteopath, or chiropractor;
 - Has either been continuously licensed for more than 3 years or is a publicly traded corporation; and
 - Provides at least four of the following medical specialties: 1) general medicine; 2) radiography; 3) orthopedic medicine; 4) physical medicine; 5) physical therapy; 6) physical rehabilitation; 7) prescribing or dispensing outpatient prescription medication; 8) laboratory services.
- Persons providing magnetic resonance imaging (MRI) services if lawfully ordered by a health care practitioner.

Medical Fee Limits for PIP - Allows PIP insurers to limit reimbursement to 80 percent of the following schedule of maximum charges:

- For emergency transport and treatment (ambulance, emergency medical technicians), 200 percent of Medicare;
- For emergency services and care provided by a hospital, 75 percent of the hospital's usual and customary charge;
- For emergency services and care and related hospital inpatient services rendered by a physician, the usual and customary charges in the community;
- For hospital inpatient services, 200 percent of Medicare Part A;
- For hospital outpatient services, 200 percent of Medicare Part A;
- For all other medical services, 200 percent of Medicare Part B, not to be lower than the 2007 Medicare fee schedule;
- If medical care is not reimbursable under Medicare, the insurer may limit reimbursement to 80 percent of the workers' compensation fee schedule. If the medical care is not reimbursable under either Medicare or workers' compensation, the insurer is not required to pay.
- The insurer may not apply any utilization limits that apply under Medicare or workers' compensation.
- The insurer must reimburse any health care provider rendering services under the scope of their license, regardless of any restriction under Medicare that restricts payments to certain types of health care providers for specified procedures.
- If an insurer limits payment as authorized, the medical provider may not bill the insured for any excess amount, except for amounts that are not covered due to the coinsurance amount or maximum policy limits.

Priority of Payment for Physicians Rendering Care in a Hospital

- If the PIP insurer receives notice of an accident, the insurer must reserve \$5,000 of PIP benefits for payment to physicians or dentists rendering emergency care or inpatient care in the hospital.
- 30 days after the insurer receives notice of an accident, the unclaimed amount of the reserve may be used to pay claims from other providers.
- The required time to pay claims to other providers is tolled for the time period the insurer is required to hold such claims due to this requirement.

Demand Letter -- Increases from 15 days to 30 days for an insurer to pay a claim (with interest and penalty) after a provider has sent a “demand letter” for late payment of a claim. (A provider may not file suit and potentially collect attorney fees until the end of this period.)

Mandatory Consolidation of PIP Claims - Requires that all PIP claims against an insurer related to the same health care provider for the same injured person must be brought together in a single lawsuit, unless good cause is shown why such claims should not be brought separately.

PIP Death Benefits -- Clarifies current law that the death benefit is \$5,000, or the remainder of unused PIP benefits, whichever is less.

Unfair Trade Practices; Attorney General Powers

An insurer that fails to pay valid PIP claims with such frequency as to indicate a general business practice violates the unfair and deceptive practice provisions of the Insurance Code. The Dept. of Legal Affairs (Atty. Gen.) may investigate and initiate actions for such violations, as specified in part II of ch. 501 (Deceptive and Unfair Practices.)

Clarification of Property Damage Liability Mandate - Clarifies that property damage liability is mandatory and remains effective during any period that PIP is not required.

This bill substantially amends the following sections of the Florida Statutes: 316.646, 320.02, 321.245, 324.022, 627.7275, 627.7295.

This bill creates the following sections of the Florida Statutes: 324.0221

This bill revives and reenacts the following sections of the Florida Statutes: 627.730, 627.731, 627.732, 627.734, 627.737, 627.739, 627.7401, 627.7403, 627.7405

This bill revises, reenacts, and amends the following sections of the Florida Statutes: 627.733, 627.736 and 627.739

II. Present Situation:

Pursuant to legislation¹ enacted in 2003, the state’s Motor Vehicle No-Fault law,² was repealed on October 1, 2007. With the repeal of the no-fault law, Florida will revert to a tort or fault-based automobile insurance system.

¹ Senate Bill 32-A; enacted in Special Session “A”; Chapter 2003-411, L.O.F. The provision authorized insurers to provide,

Florida Motor Vehicle No-Fault Law

Under the state's no-fault law, owners or registrants of motor vehicles were required to purchase \$10,000 of personal injury protection (PIP) insurance which compensates persons injured in accidents regardless of fault. Policyholders were indemnified by their own insurer with the intent being to provide such persons with prompt medical treatment. This coverage also provided policyholders with immunity from liability for economic damages up to the policy limits and limits tort suits for non-economic damages (pain and suffering) below a specified injury threshold. In contrast, under a tort liability system, the negligent party is responsible for damages caused and an accident victim can sue the at-fault driver to recover both economic or non-economic damages.

Under the no-fault law, Florida drivers were required to purchase both personal injury protection (PIP) and property damage liability (PD) insurance; however, currently motorists are only obligated to purchase PD coverage.³ Personal injury protection provided \$10,000 of coverage for 80 percent of reasonable medical expenses, 60 percent of loss of income, 100 percent of replacement services, plus a \$5,000 death benefit, for bodily injury sustained in a motor vehicle accident, without regard to fault. No-fault covered the named insured, certain relatives and other specified persons.

Automobile Insurance Coverage After No-Fault's Repeal

Under current law, the only required coverage is property damage liability (PD) coverage (third-party coverage) in the amount of \$10,000. Such coverage pays for the physical damage expenses caused by the insured to third parties in the accident. However, the repeal of no-fault affects the enforcement of PD liability, due to the repeal of the requirement for insurers to notify the Department of Highway Safety and Motor Vehicles (DHSMV) of policy cancellations and non-renewals, which triggers a requirement for DHSMV to suspend the driver's license of persons who do not obtain replacement coverage, and requires the owner to pay specified reinstatement fees.

Florida's financial responsibility law requires proof of ability to pay monetary damages for bodily injury and property damage liability arising out of a motor vehicle accident or serious traffic violation.⁴ However, the owner and operator of a motor vehicle need not demonstrate financial responsibility, i.e., obtain BI and PD coverages, until *after the accident*. At that time, a driver's financial responsibility is proved by the furnishing of an active motor vehicle liability policy.⁵ The minimum amounts of liability coverages required are \$10,000 in the event of bodily injury to, or death of, one person, \$20,000 in the event of injury to, or death of, two or more

in all policies issued or renewed after October 1, 2006, that such policies may terminate on or after October 1, 2007. The repealed statutory provisions are: ss. 627.730, 627.731, 627.732, 627.733, 627.734, 627.736, 627.737, 627.739, 627.7401, 627.7403, and 627.7405, F.S.

² Sections 627.730-627.7405, F.S., are cited as the "Florida Motor Vehicle No-Fault Law."

³ See the Opinion of Senior Assistant General Counsel Alderman with the Department of Highway Safety and Motor Vehicles (dated Aug. 21, 2007) which finds that No-Fault's repeal does not effect the requirement for Florida drivers to obtain and maintain PD coverage.

⁴ Chapter 324, F.S.

⁵ Section 324.031, F.S. Compliance with the financial responsibility law may be met by holding a motor vehicle liability policy (BI/PD); posting a satisfactory bond of a surety company with the Department of Highway Safety and Motor Vehicles (DHSMV), cash or securities deposited with DHSMV, or a self-insurance policy issued by DHSMV (Section 324.031, F.S.)

persons, and \$10,000 in the event of damage to property of others, or \$30,000 combined BI/PD policy. If the owner or operator of the vehicle was not financially responsible at the time of the accident, his driver's license is suspended as well as the registration of the owner of the vehicle. A driver's license and registration may be reinstated by obtaining a liability policy and by paying a \$15 fee to the Department of Highway Safety and Motor Vehicles.⁶

As Florida moves from a no-fault automobile insurance system to a tort system, the costs associated with an auto accident will shift to other auto insurance coverages, to the health care system, or to the consumer. Motorists will have to choose between a range of coverage options in order to protect themselves, and persons (or property) they might injure, should they be in an accident. These options include:

- Property Damage Liability (PD) pays for the physical damage expenses caused by the insured to other parties in an accident. (Mandatory coverage, as explained above.)
- Bodily injury liability (BI) pays for bodily injury caused by the insured to other parties. This coverage pays the medical bills, lost wages, and non-economic damages to third-parties and provides legal representation and payment of attorney fees to the insured, if sued.
- Uninsured motorist (UM) pays the policyholder and passengers in his or her vehicle for bodily injury caused by the owner or operator of an uninsured or inadequately insured (underinsured) vehicle.
- Medical payments (Med Pay) typically covers medical expenses, regardless of fault. It also usually covers reasonable funeral expenses.
- Collision pays for repair or replacement to the insured's own vehicle, regardless of fault.
- Comprehensive protects against loss resulting from damage to the insured's vehicle, other than from a collision (fire, theft, etc.).

Because the tort system does not pay for motorists who are injured by either their own negligence or when there is no at-fault driver, such motorists must choose whether to obtain some type of medical payments coverage. Motorists who have health insurance may decide to decline purchasing such coverage since it may duplicate their own health insurance.

Florida's Auto Insurance Market Prior to the Repeal of No-Fault

The auto insurance market in Florida is competitive and motor vehicle insurance is readily available to Florida drivers. There were 357 companies writing private passenger automobile insurance with a total of 12 billion dollars in direct written premiums during 2006.⁷ The total direct written premium for PIP coverage during this same period was \$2,523,180,556.⁸ The number of drivers in Florida's residual or involuntary market has been declining over the past several years which is another indicator that the voluntary market is viable. As of June 30, 2007, there were only 39 private passenger vehicles insured by the Florida Automobile Joint Underwriting Association as compared to 1,546 vehicles insured on June 30, 2005.

The great majority of Florida drivers carry the two mandated coverages (PIP and PD) according to estimates by the Department of Highway Safety and Motor Vehicles (DHSMV) which

⁶ Section 324.071, F.S.

⁷ National Association of Insurance Commissioners and Florida Office of Insurance Regulation.

⁸ Office of Insurance Regulation.

maintains data as to the number and percentage of vehicles that have at least the minimum required coverages.⁹ There are an estimated 12,386,222 private passenger, non-commercial vehicles registered in Florida and 94.51 percent (11,706,218) of these vehicles have the requisite PIP and PD insurance, while 5.49 percent (680,004) are uninsured.¹⁰

The latest statistics from the Division of Insurance Fraud indicate that fraud and abuse continue to permeate the no-fault system. Incidents of PIP fraud and abuse are increasing and constitute the majority of criminal cases referred to the Division. According to Division representatives, the PIP laws are being exploited by sophisticated criminal organizations in schemes that involve staging crashes, manufacturing false crash reports, adding occupants to existing crash reports, filing PIP claims using contrived injuries, colluding with dishonest medical treatment providers and unscrupulous attorneys to fraudulently bill insurance companies for unnecessary or non-existent treatments, and patient-brokering (referring patients to medical providers for a bounty).

The General Appropriations Act for 2007-08 appropriated an additional \$1.25 million to the Division, which funded eight additional Law Enforcement Investigator II positions to be located in Miami. The positions will be utilized primarily to investigate PIP fraud, but will also be used to investigate other types of insurance fraud cases. In addition, the appropriation enabled the Division to increase the salaries of thirty investigators based on merit. These positions are located throughout the agency and handle all types of criminal fraud investigations. The Division is in the process of creating a Law Enforcement Trainee Program which will allow the agency to supplement its current force with both sworn and non-sworn personnel to investigate and analyze insurance fraud cases. The program is in the development phase.

Auto Premiums and Expenditures

Florida drivers paid the 8th highest auto insurance premiums in the country in 2004, according to the most recent data obtained from the National Association of Insurance Commissioners (NAIC).¹¹ The 2004 combined average premium for the primary coverages is \$1,150.64, which is 20 percent greater than the national average of \$959.76. Florida is the 6th highest among all states when calculating average expenditures (\$1,062.31), which is 27 percent higher than the national average of \$837.86.¹² Florida's ranking has risen since 2002, when the state ranked 14th (\$931.15) in combined average premiums and 13th (\$870.35) in average expenditures. In that year, Florida's average premiums were 6 percent greater than the national average (\$879.99) and 12 percent higher than the national average (\$773.68) for average expenditures.

⁹ Motorists must show evidence of insurance at the time of vehicle registration with the DHSMV (s. 320.02(5) (a), F.S.), when purchasing or renewing license tags (s. 320.02(5), F.S.), and such proof must be carried at all times while a driver operates a vehicle (S. 316.646, F.S.). Motorists are subject to civil and in some cases criminal sanctions should they violate these provisions (s. 316.646, F.S.).

¹⁰ This data is based on DHSMV reports for July 2007.

¹¹ National Association of Insurance Commissioners, *Auto Insurance Database Report, 2004*. The NAIC data for 2004 measures the relative cost of automobile insurance to consumers in each state. The combined average premium per insured vehicle is calculated by summing the average premiums for three coverages: liability, collision and comprehensive coverages. The result is the average cost of an auto insurance policy in the state that contains all three coverages.

¹² The average expenditure per insured vehicle is the total written premium for liability (BI, PD, Med. Pay, and in no-fault states, PIP), collision and comprehensive coverages divided by the liability written car-years (exposures) in that state. This assumes that all insured vehicles carry liability coverage, but do not necessarily carry the physical damage coverages, collision and/or comprehensive.

Florida's no-fault system, like other no-fault jurisdictions, typically provides the most comprehensive benefits as to scope of coverage for minor and serious injuries resulting from an auto accident. Because no-fault states restrict the right of injured parties to sue for non-economic damages ("pain and suffering") for most injuries, they offer broader first-party PIP benefits than do tort states. This tends to put upward pressure on costs in no-fault states.

Personal injury protection costs are unnecessarily high in Florida and other no-fault states because, for the most part, there are few cost controls for medical services.¹³ The state's no-fault system lacks the cost controls found in health insurance, e.g., fee schedule arrangements with providers, utilization protocols, preferred provider networks, HMO groups. Average premiums/expenditures therefore appear to be highest in no-fault and add-on jurisdictions as opposed to tort states. In 2004, thirteen no-fault and add-on jurisdictions ranked among the top half of all states for both combined average premiums and average expenditures.

Another factor which contributes to higher premiums/expenditures is traffic density. Florida has the 9th highest motor vehicle density in the country which is an indicator of concentration resulting in a higher-than-average number of collisions and hence, insurance claims.¹⁴ Insurance rates tend to be higher in more densely populated and urbanized areas than rural areas. Eight out of every 10 miles (81.5 percent) are driven on urban roads in Florida.¹⁵ Other indicators of an urban environment believed to result in higher auto rates are more expensive health care (primarily due to a lack of cost controls), a greater level of claims consciousness and a greater tendency for auto accident victims to hire attorneys.¹⁶

Florida's Auto Insurance Market After the Repeal of No-Fault

Under tort, auto injury claimants seek payment from the at-fault driver for both economic and non-economic damages from dollar one. Such a system, as adopted in 38 states, represents a more traditional legal philosophy of holding persons responsible for injuries caused by their negligent actions and is generally viewed by the public as consistent with the concept of personal responsibility.

The most direct effects of repealing no-fault and returning to a tort system is eliminating the requirement that motorists purchase \$10,000 of PIP and that insurers provide this coverage. Removing this coverage can be viewed as a savings, but it is a savings due to a loss of coverage. However, some motorists believe that PIP is duplicative of their own health insurance and its elimination will lower their overall insurance premiums. Under a tort system, consumers will have the option to purchase medical payments coverage, at a level best suited for their own needs. Switching to a tort system will increase premiums for bodily injury liability (BI) and uninsured motorist (UM) coverages due to shifting of costs or losses from PIP to these two coverages.

¹³ Peter Kinzler, J.D., *Auto Insurance Reform Options: How to Change State Tort and No-Fault Laws to Reduce Premiums and Increase Consumer Choice*, August 2006; Policy Paper of the National Ass. Of Mutual Insurance Companies, at p. 16; (hereinafter "Kinsler").

¹⁴ Density is the number of registered vehicles per square mile. See *An Analysis of the Florida Private Passenger Automobile Insurance System*, Property Casualty Insurers Association of America, November 6, 2006.

¹⁵ *Id.*

¹⁶ *Id.* at p. 8. Other indicators correlated with state auto insurance premiums and expenditures are miles driven per number of highway miles and higher disposable income per capita.

The repeal of the no-fault law does not repeal the requirement for vehicle owners to obtain \$10,000 of property damage liability coverage, but affects its enforcement, as explained above. Therefore, unless otherwise addressed, the repeal of no-fault could also result in a greater number of vehicles uninsured for PD liability due to the abrogation of these enforcement provisions.

There will likely be a larger percentage of motorists who will not be covered for their own bodily injuries when PIP sunsets, because there will be no alternative requirement to carry Med Pay, BI, or UM (unless an accident or traffic violation triggers the requirement to carry BI under the Financial Responsibility Law). Currently, approximately 94.5 percent of vehicles (11,706,218) have the mandated PIP and PD coverages, while 5.49 percent (680,004) are uninsured. Based on data received from the National Association of Insurance Commissioners, committee staff estimate that about 954,057 vehicles are currently insured for only PIP and PD coverages, and not BI, while 10,752,161 vehicles (87 percent) have BI coverage as well as PIP and PD. When added to the 680,004 vehicles that are currently uninsured, this would total about 1.63 million vehicles (13 percent) which could be uninsured for bodily injury in Florida under tort.

Auto Premiums After No-Fault's Repeal--In anticipation of no-fault's sunset, 30 auto insurers (representing a statewide combined market share of 45.1 percent) have made rate filings (as of September 1, 2007) with the Florida Office of Insurance Regulation and the overall average premium reduction is -13.8 percent for all coverages combined. This estimate includes the state's two largest auto insurers, State Farm (21.5 percent market share) and Allstate (14.3 percent market share). The average BI premium for the 30 carriers is increased by 21.2 percent and the average premium for UM coverage is increased by 12.5 percent. The premium impact for PIP is decreased by 100 percent since it is no longer in effect. The overall premium decrease (-13.8 percent) is attributable to the elimination of PIP coverage. The average 13.8 percent savings also incorporates each insurer's method of estimating the impact on its Med Pay premiums, which was not consistent. For example, the State Farm rate filing assumed a 100 percent reduction in Med Pay premiums. This overstates the savings, due to the unlikely assumption that State Farm will collect no Med Pay premiums, i.e., no policyholders will purchase the new Med Pay coverage. If the policyholder elects optional Med Pay coverage to replace PIP, the -13.8 percent savings would be substantially lowered or even eliminated.

Impact of No-Fault's Repeal on Medical Insurers, Providers, and the Courts--Medical costs previously paid by PIP will not only be transferred to other auto coverages as explained above, but shifted to some extent to the health care system, e.g., health insurers, health care providers, government programs (Florida's State Group Health Insurance program, Medicare, Medicaid), to employers and consumers. According to the OIR, four health insurer rate filings have been approved (as of September 2007) by the agency in anticipation of PIP's repeal (Blue Cross and Blue Shield of Florida and its health maintenance organization (HMO), Health Options; Aetna Health Inc. and Aetna Life Insurance Company). The four companies represent 42 percent of the small employer group health insurance market (1 to 50 eligible employees) in the state and the individual rate increases range from 0.7 to 1.7 percent.

There will be an impact of the tort system on hospitals, particularly emergency departments and trauma centers, as to payment delays, administrative costs for billing and collections, and higher

patient default rates. In a study of the Colorado health care system completed after that state repealed its no-fault system, hospital respondents stated that payments were delayed and administrative costs for collections increased under their tort system. This occurred particularly with hospital emergency departments which are required under federal law to provide care regardless of ability to pay. Hospitals are also forced to seek reimbursement for uninsured patients through the court system. In contrast, claims were paid more promptly under the previous no-fault system.

Under a tort system, fault must be established in every accident that results in an injury to determine who is liable. Florida is a comparative fault state, meaning that the percentage of fault will also need to be allocated among the parties to the accident.¹⁷ But, this is the current law under no-fault for property damage claims and in cases where economic costs exceed policy limits, so the finding of fault is required currently for two-party accidents. However, liability lawsuits seeking non-economic damages (pain and suffering) will now be permitted for non-permanent injuries, which is likely to increase litigation. Also, for bodily injury cases, returning to a tort system is likely to result in longer periods of time for insurers to make payments, to resolve claims and to compensate claimants for cases that are litigated.

However, there should be less litigation over claims by health care providers under a tort system. With PIP, which lacked a fee-schedule, the great majority of cases litigated involve disputes between insurers and providers over medical necessity and the reasonableness of charges since most auto insurers do not have contractual agreements or utilization protocols with providers. Auto insurers would also be relieved from paying (or the threat of paying) attorney's fees in most auto injury liability cases if no-fault is repealed. The statutory requirement to pay attorneys' fees under s. 627.428, F.S., applies if the insured (or his assignee) successfully sues in court his/her own insurer regarding an insurance policy or contract. In a third-party liability suit, the insurer is generally not required to pay attorney's fees to the plaintiff, unless it is determined that the insurer acted in bad faith in denying the claim.

Critics of the tort liability system assert that proving negligence is often difficult after an accident and that in some cases negligence cannot be determined or established, e.g., in accidents occurring during rush hours on busy highways. Also, recovery is often slow in areas where courts are backlogged with cases. Some critics cite that claimants are not always indemnified fairly in that small claims (called nuisance claims) are often overcompensated, while large claims are under compensated. Proponents of a tort system argue that it encourages good driving because drivers who cause accidents will find their insurance premiums increased. Due to the adversarial relationship existing between plaintiff and defendant, damages and all other facts have to be proved, and thus fraud is greatly reduced. In many cases, claims are settled in less than six months without litigation and a small number of claims proceed to court.

III. Effect of Proposed Changes:

Sections 1-7 clarify the current law that \$10,000 of property damage (PD) liability coverage is mandatory for specified motor vehicles and to provide for the full enforcement of this mandate, independent of mandatory PIP insurance requirements. Currently, some enforcement provisions

¹⁷ Section 768.81, F.S.

refer only to the PIP mandate due to the requirement in s. 627.7275, F.S., that PIP policies must also include PD liability. Specifically:

Section 1. Amends s. 316.646, F.S., to require persons to have proof of PD liability coverage (insurance card) in their immediate possession while operating a motor vehicle (as currently required for PIP).

Section 2. Amends s. 320.02, F.S., to specify that proof of PD liability presented at registration is not a warranty of its accuracy and that neither the Department of Highway Safety and Motor Vehicles (DHSMV) or any tax collector is liable for any insufficiency or falsification (as currently provided for PIP).

Section 3. Amends s. 321.245, F.S., relating to use of certain funds in the Highway Safety Operating Trust Fund, to correct a cross-reference to provisions that are transferred by the bill. (See Section 5.)

Section 4. Amends s. 324.022, F.S., to clarify that \$10,000 of PD liability coverage is mandatory for specified motor vehicles.

Currently, the PD liability requirement applies to a motor vehicle that is subject to ss. 627.730-627.7405, the Florida Motor Vehicle No-Fault Law. This raises the issue of whether the PD liability mandate continues to apply after the No-Fault law is repealed on October 1, 2007. A recent legal opinion from DHSMV (Aug. 21, 2007) concluded that the repeal of No-Fault does not affect the requirement for maintaining PD liability coverage.

The bill amends this section to make the PD liability mandate independent of any PIP mandate, whether repealed or not. The definition of “motor vehicle” and “owner” are substantively the same as the motor vehicles and owners subject to the No-Fault Law in s. 627.733, F.S. (repealed on Oct. 1) but technically revised for purposes of clarity. The language requiring a PD liability policy to meet the requirements of s. 324.151 (p. 9, line 22-26) is current law transferred from s. 627.7275, F.S. The limited exemption for a member of the U.S. Armed Forces is the same exemption from PIP in s. 627.733(5), F.S. (repealed on Oct. 1). However, a broader exemption for military personnel from the Financial Responsibility requirements of ch. 324, F.S. was enacted in 2007 (ch. 2007-49, L.O.F.; amending s. 324.021(1), F.S.)

Section 5. Creates s. 324.0221, F.S., to enforce mandatory PD liability and PIP, as required for PIP in s. 627.733(6)-(7) and 627.736(9), F.S. (repealed on Oct.1). This section requires insurers to report to DHSMV policy cancellations, non-renewals, and new policies written, and requires DHSMV to suspend the driver’s license of persons who do not obtain the required coverage. A person whose license is suspended is subject to a \$150 driver’s license reinstatement fee, a \$250 fee for a second reinstatement and \$500 for each subsequent reinstatement within a 3-year period. These are the same requirements for enforcing PIP that are subject to repeal on Oct.1, except that the public records exemption for the reports by insurers is deleted. A separate bill, SBS 42-C, would create a new (but narrower) public records exemption for this information.

Section 6 Amends. 627.7275, F.S., related to motor vehicle liability policies, to make technical conforming changes. This section maintains the requirement that a policy that provides PIP

coverage must also include PD liability coverage. (This section is not subject to repeal.) The bill strikes language that is transferred to s. 324.022, F.S., and corrects a cross-reference to provisions transferred from s. 627.733 to s. 324.0221.

Section 7. Amends s. 627.7295, F.S., which currently requires a policy that provides both PIP and PD liability to be non-cancellable for a 60-day period and to require a minimum two months down payment of the premium, with exceptions. The bill specifies that this requirement applies to a policy providing PIP, PD liability, or both. (This section is not subject to repeal.)

Sections 8 - 19 revive and reenact the Florida Motor Vehicle No-Fault Law, without change, except for provisions that are deleted in Sections 11 and 13 and transferred to Sections 4 and 5 related to enforcement of PIP and PD liability. See Section 21 for which policies are subject to this law. Specially:

Section 8. Revives and reenacts s. 627.730, F.S., that entitles s. 627.730, F.S. through 627.7405, F.S., as the “Florida Motor Vehicle No-Fault Law.”

Section 9. Revives and reenacts s. 627.731, F.S., which contains a statement of purpose for the Florida Motor Vehicle No-Fault Law.

Section 10. Revives and reenacts s. 627.732, F.S., which contains statutory definitions applicable to the Florida Motor Vehicle No-Fault Law.

Section 11. Revives, reenacts, and amends s. 627.733, F.S., regarding required security for the owners and operators of motor vehicles. Reenacts the requirement that each owner or registrant of a motor vehicle in Florida must main security by obtaining an insurance policy that contains PIP benefits, or in the case of the owner of operator of a for-hire transportation vehicle by the means of posting security authorized by s. 324.031(2), (3), and (4), F.S., or by self-insuring pursuant to s. 768.28(16), F.S. The requirements regarding driver’s license suspension of a person who fails to obtain or maintain the necessary security in s. 627.733(6) and (7), F.S., are moved to s. 324.0221(2) and (3), F.S., where they are amended in Section 4 of this bill.

Section 12. Revives and reenacts s. 627.734, F.S., which applies the requirements for giving and maintaining proof of financial responsibility in ch. 324, F.S., to the Florida Motor Vehicle No-Fault Law. The section also specifies that filing false proof of financial responsibility is a first degree misdemeanor.

Section 13. Revives, reenacts, and amends s. 627.736, F.S. Subsections (1) through (7) are unchanged from current law.

- Subsection (1) mandates that each motor vehicle insurance policy include \$10,000 in PIP benefits to cover 80 percent of all reasonable expenses for medical benefits, 60 percent of all disability benefits for the loss of gross income and earning capacity, and up to \$5,000 in death benefits.
- Subsection (2) specifies the circumstances under which an insurer is authorized to exclude benefits.
- Subsection (3) specifies the policyholder’s right to special damages recovered in a tort claim, and that no recovery is available for damages for which PIP benefits are available.

- Subsection (4) specifies the time frames for payment of PIP benefits by an insurer, and the circumstances under which an insurer must pay PIP benefits. Generally, an insurer must pay benefits within 30 days after receiving written notice of a covered loss.
- Subsection (5) specifies that a person lawfully rendering treatment covered by PIP insurer may only charge a reasonable amount that is not in excess of their customary charges for such services or supplies. The subsection specifies circumstances under which an insurer is not required to pay a claim. Requirements regarding the submission of bills by a medical provider to an insurer are contained in this section. The section also contains a fee schedule for specified diagnostic tests.
- Subsection (6) specifies that facts that an insurer may discover when a dispute regarding a PIP claim arises.
- Subsection (7) requires a claimant to submit to a mental or physical examination at the request of an insurer.

Subsection (8) contains a technical amendment to a cross reference. Subsection (8) relates to the applicability of s. 627.428, F.S., regarding the right of an insured or insured's assignee to recover attorney's fees.

The bill deletes what was subsection (9) regarding the reporting by insurers to the DHSMV of cancellations, renewals, and nonrenewals of coverage, instead creating substantially similar requirements in new s. 324.0221, F.S., as created by this bill.

The bill renumbers what were subsections (10) through (14) and makes them subsections (9) through (13).

- Subsection (9) was subsection (10) and authorizes the creation of preferred provider networks by insurers.
- Subsection (10) was subsection (11) and contains the requirement that a demand letter be filed by a claimant with an insurer prior to filing an action to recover PIP benefits.
- Subsection (11) was subsection (12) and permits an insurer to file a civil action for insurance fraud against specified persons.
- Subsection (12) was subsection (13) and authorizes the Financial Services Commission to increase the minimum \$10,000 PIP benefit coverage requirement if certain cost savings are met.
- Subsection (13) was subsection (14) and requires an insurer to provide to a person who files PIP claim notice that rewards are available for information leading to convictions of persons for insurance fraud, and that solicitation of a person injured in a motor vehicle crash for purposes of filing a PIP or tort claim could be a violation of the Florida Statutes or the rules regulating the Florida Bar and should be immediately reported.

Section 14. Revives and reenacts s. 627.737, F.S., relating to the exemption on tort liability for damages because of bodily injury that are payable from PIP benefits. The section also contains the "tort threshold" which must be met in order to bring a tort action for the recovery of pain and suffering damages.

Section 15. Revives and reenacts s. 627.739, F.S., relating to deductibles for PIP benefits.

Section 16. Revives and reenacts s. 627.7401, F.S., relating to notice of insureds of their right to receive PIP benefits under the Florida Motor Vehicle No-Fault Law.

Section 17. Revives and reenacts s. 627.7403, F.S., requiring the mandatory joinder of derivative claims in any tort action brought pursuant to s. 627.737, F.S.

Section 18. Revives and reenacts s. 627.7405, F.S., regarding the insurers' right of reimbursement if PIP benefits are paid due to injuries incurred while occupying a commercial motor vehicle or being struck by a commercial motor vehicle while not occupying any vehicle.

Section 19. States that this bill revives and reenacts with amendments the Florida Motor Vehicle No-Fault Law, which expired on October 1, 2007. Specifies that the act is intended to be remedial and curative in nature and to minimize confusion concerning the changes made by this act to the Florida Motor Vehicle No-Fault Law, and thus it will continue to be codified as ss. 627.730—627.7405, F.S.

Section 20. Includes the reforms to PIP coverage, by amending s. 627.736, F.S. The reforms contained in this section, as well as the re-enactment of the Florida Motor Vehicle No-Fault Law contained in sections 8 through 19 of this bill, are effective on February 15, 2008.

Providers Eligible for Reimbursement from Personal Injury Protection Benefits

Personal injury protection medical benefits outlined in subsection (1)(a) will only provide reimbursement for:

- Services and care provided, ordered, lawfully supervised, or prescribed by a physician licensed under chapters 458 or 459 (osteopath), F.S., or by a dentist licensed under ch. 466, F.S. All services and care a physician or dentist provides, orders or prescribes is eligible for reimbursement through PIP, subject to the insurer's right to contest medical necessity. Such treatment is reimbursable regardless of whether a bill is submitted to an insurer in the physician's or dentist's name.
- Services and care provided by the following persons or entities:
 - A chiropractic physician licensed under ch. 460, F.S.
 - A hospital or ambulatory surgical center licensed under ch. 395, F.S.
 - Emergency transportation and treatment by a person or entity licensed under s. 401.2101—401.45, F.S.
 - An entity wholly owned by one or more physicians licensed under chapters 458 and 459, F.S., chiropractors licensed under ch. 460, F.S., or dentists licensed under ch. 466, F.S., or by such practitioner and the spouse, parent, child, or sibling of that practitioner or practitioners.
 - An entity wholly owned, directly or indirectly, by a hospital or hospitals.
- Services or care provided by a health care clinic licensed pursuant to ss. 400.990-400.995, F.S., which is accredited by the Joint Commission on Accreditation of Healthcare Organizations, the American Osteopathic Association, the Commission on Accreditation of Rehabilitation Facilities, or the Accreditation Association for Ambulatory Health Care Inc.
- Services or care provided by a health care clinic licensed pursuant to ss. 400.990-400.995, F.S., that meets the following three requirements:
 - Has a medical director licensed under chapters 458, 459, or 460, F.S.;

- Has been continually licensed for more than 3 years or is a publicly traded corporation that issues securities traded on an exchange registered with the United States Securities and Exchange Commission as a national securities exchange; and
- Provides at least four of the following medical specialties: general medicine, radiography, orthopedic medicine, physical medicine, physical therapy, physical rehabilitation, prescribing or dispensing outpatient prescription medication, or laboratory services. Some of the medical specialties specified such as “physical medicine” are not defined by statute and may be unclear.
- Persons or entities providing magnetic resonance imaging (MRI) services if lawfully ordered by a health care provider.

The bill requires the Financial Services Commission to adopt by rule a form that must be used by an insurer and a health care provider that is specified in subparagraph 4. (an entity wholly owned by multiple physicians and perhaps their family members), subparagraph 5. (entities wholly owned by hospitals), or subparagraph 6. (specified licensed health care clinics) to document that the provider meets the criteria of the paragraph in order to qualify for reimbursement of PIP benefits.

If a physician, osteopath, or dentist *does not* order, lawfully supervise, or prescribe treatment, or treatment is not rendered by a person or entity as permitted by the bill, then treatment will not be reimbursable under PIP if rendered by any other person or entity. This includes, among others, persons licensed under the following practice acts: ch. 457, F.S. (acupuncture), ch. 462, F.S. (naturopathy), ch. 463, F.S. (optometrists), ch. 467, F.S. (midwifery), ch. 480, F.S. (massage therapists), ch. 484, F.S. (opticians and hearing aid specialists), ch. 486, F.S. (physical therapists), ch. 490, F.S. (psychology), ch. 491, F.S. (clinical counselors), part I of ch. 468, F.S. (speech language pathology and audiology), part III of ch. 468, F.S. (occupational therapists), part X of ch. 468, F.S. (dietetics), part XIII of ch. 468, F.S. (athletic trainers), part XIV of ch. 468, F.S. (orthotics, prosthetics, and pedorthics), and s. 464.012, F.S. (advanced registered nurse practitioners).

Personal Injury Protection Death Benefit

The bill clarifies that the PIP death benefits in subsection (1)(c) are equal to the lesser of \$5,000 or the remainder of unused PIP benefits.

PIP Benefits Reserved for Physicians Providing Emergency and Inpatient Hospital Services

Paragraph (4)(c) is created and requires a PIP auto insurer to reserve \$5,000 of PIP benefits for payment to physicians licensed under ch. 458 and 459, F.S., and dentists licensed under ch. 466, F.S., who provide emergency services and care per s. 395.002(9), F.S., or who provide hospital inpatient care. The \$5,000 must be held in reserve once the insurer receives notice of an accident that is potentially covered by PIP benefits, with the funds to be held in reserve for 30 days after notice is received. After the 30-day period, any monies for which the insurer has not received notice of a claim from a physician or dentist who provided emergency or hospital inpatient services may be used to pay other claims. To the extent that PIP benefits not held in reserve are insufficient to pay a claim, the time periods for timely payment of PIP benefits are tolled for the 30-day period of time an insurer is required to reserve funds. An insurer is not required to establish a claims reserve for accounting purposes.

Fee Schedule for Personal Injury Protection Reimbursement

Subparagraph (5)(a)2. creates a statutory fee schedule that permits an insurer to limit reimbursement for personal injury protection benefits to 80 percent of the following maximum charges:

- Emergency transport and treatment by providers licensed under ch. 401, F.S. (emergency transportation): 200 percent of Medicare.
- Emergency services and care provided by a hospital licensed under ch. 395, F.S.: 75 percent of the hospital's usual and customary charges.
- Emergency services and care rendered by a physician and related inpatient services rendered by a physician: usual and customary charges in the community.
- Hospital inpatient services other than emergency services and care: 200 percent of Medicare Part A applicable to the hospital providing care.
- Hospital outpatient services other than emergency services and care: 200 percent of the Medicare Part A Ambulatory Payment Classification applicable to the hospital providing outpatient services.
- For all other medical services, supplies and care: 200 percent of the applicable Medicare Part B fee schedule.
 - If such services, supplies or care are not reimbursable under Medicare Part B: 80 percent of the maximum reimbursement under the workers' compensation fee schedule as determined under s. 440.13, F.S., and rules adopted pursuant to that section.
- Services, supplies or care which are not reimbursable under Medicare or workers' compensation: The insurer is not required to provide reimbursement.

The applicable fee schedule under Medicare is the fee schedule in effect at the time services, supplies, or care is rendered and for the area in which such services are rendered. Thus, as Medicare fee schedules are revised by the Centers for Medicare and Medicaid services, those schedules would be used to calculate PIP reimbursement. However, for services covered under Medicare Part B (non-hospital services), the fee schedule may not be less than the 2007 Medicare fee schedule.

Application of the PIP fee schedule does not permit an insurer to apply any limitation on the number of treatments or other utilization limits that apply under Medicare or workers' compensation.

An insurer that applies the PIP fee schedule must reimburse a provider who lawfully provided care or treatment under the scope of his or her license, regardless of whether the provider would be entitled to reimbursement under Medicare due to restrictions on the type of health care provider that maybe reimbursed for a particular procedure. Thus, a PIP insurer must provide reimbursement for care and treatment provided by any provider so long as the care is within the provider's practice license, and Medicare provides reimbursement for such care or treatment to any type of provider.

A medical provider may not balance bill the insured for treatment and services for which they receive reimbursement from an insurer that applies the PIP fee schedule. However, once PIP benefits are exhausted, the PIP fee schedule does not apply to treatment and services for which the provider bills the patient or the patient's health insurer.

The bill eliminates the fee schedules for specified diagnostic procedures in subparagraphs (b)f.2 through (b)f.5. The fee schedule created by paragraph (5)2. (the PIP fee schedule) would apply instead.

Attorney's Fees

Subsection (8) is amended to specify that if multiple claims to recover PIP benefits are not joined together in a single civil action as required by subsection (15) as created by the bill, then attorney's fees are not recoverable by the claimant from the insurer as normally authorized pursuant to s. 627.428, F.S. (See Joinder of PIP Claims, below.)

Demand Letter

Subsection (10) is amended to allow insurers 30 days instead of 15 days to pay an overdue claim after receiving notice, and thus remain exempt from a legal action (and potential attorney fee liability) under the no-fault law. Additionally, an insurer is allowed 30 days instead of 15 days to agree to pay future treatment not rendered when the demand letter involves an insurer's withdrawal of payment under paragraph (7)(a) for future treatment not yet rendered, and remain exempt from a court action under the no-fault law.

Unfair or Deceptive Practice by Insurer of Not Paying Valid PIP Claims

Subsection (11) is created and states that it is an unfair and deceptive practice for an insurer fails to pay valid PIP claims with such frequency as to indicate a general business practice. Such insurer is subject to the penalties provided in s. 626.9521, F.S. Under s. 626.9521, F.S., fines may be applied of up to \$2,500 for each unwilling violation up to \$10,000 arising out of the same action and fines of up to \$20,000 for each willing violation up to \$100,000 for all willing violations arising out of the same action may be levied.

An exemption is created to the statutory exclusion in s. 501.212, F.S., that exempts entities regulated by the OIR from the Florida Unfair and Deceptive Trade Practices Act (ss. 501.201-501.213, F.S.). The bill states that the Department of Legal Affairs may investigate and initiate actions for a violation of this subsection, utilizing the powers and duties specified in the Florida Unfair and Deceptive Trade Practices Act.

Joinder of PIP Claims

Subsection (15) is created to require that in any civil action brought to recover PIP benefits by a claimant against an insurer, all claims related to the same health care provider for the same injured patient must be brought in a single action, unless good cause can be shown why the claims should be brought separately. If a court determines that a civil action is filed for a claim that should have been brought in a prior civil action, the court may not award attorney's fees to the claimant.

Electronic Data Submission

New subsection (16) provides that if all parties mutually and expressly agree, that any notice or documentation that is required or authorized under the no-fault law may be transmitted electronically, if it is transmitted by secure electronic data transfer that is consistent with state and federal privacy laws.

Section 21. The bill provides the following requirements regarding the application of the Florida Motor Vehicle No-Fault Law:

- The no-fault law, as revised, is effective February 15, 2008. All vehicle owners must obtain PIP by that date and insurers must add PIP to policies in force on that date.
- Vehicle owners are not required to have PIP from October 1, 2007 until Feb. 15, 2008, and the no-fault law does not apply during that time. But the requirements to maintain property damage (PD) liability continue to apply.
- Insurers must send notice to policyholders as required by law (which is 45 days in advance) that PIP is being added to their policies on Feb. 15, 2008, and the premium that is due, including any changes to optional medical payments coverage.
- Insurers must make rate filings as required by law to revise the rates for all affected coverages, including bodily injury liability coverage (BI) and uninsured motorist coverage (UM), to be effective on Feb. 15, 2008 and to be applied pro rata for the remainder of the policy period for policies in force on that date.
- Legislative findings are made that it is necessary to revise policies on Feb. 15, 2008, in order to protect the public health safety and welfare.

Section 22. The bill is effective upon law, except that sections 8 through 20 take effect February 15, 2008. (This provides for the continued requirement and enforcement of the mandatory property damage liability requirements in Sections 1-7, upon becoming law. The no-fault law would be repealed, until it is revived and amended on February 15, 2007.)

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None. (Senate Bill 42-C creates a public records exemption related to this bill.)

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Section 21 of the bill requires PIP to be added to policies in force on February 15, 2007, which may be considered to be unconstitutional as a violation of the prohibition against enacting laws that impair contracts under Art. 1, Section 10 of the Florida Constitution. Section 21 of the bill also makes legislative findings why adding PIP to in-force policies is necessary to protect the public, health, safety, and welfare, which may overcome such potential impairment issues.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

The Legislature's Office of Economic and Demographic Research unofficially estimates that the repeal of no-fault will result in a loss of premium tax revenue on a recurring basis of \$10.6 million to \$15.4 million. Therefore, by reenacting no-fault, this bill will restore those lost revenues. Revenue loss or gain is directly tied to the impact on premiums, due to repeal or reenactment of PIP. As discussed in this analysis, premium reductions due to repeal will be reduced to the extent that policyholders increase their purchase of medical payments coverage or other coverage to replace PIP. Also, by delaying the reenactment of no-fault until February 15, there will be a delay in collecting premiums for "new PIP." But premiums for "old PIP" may still be collected in policies that continue to have contractual PIP after October 1, 2007.)

B. Private Sector Impact:

For consumers, the re-enactment of no-fault will mandate that all insureds obtain PIP coverage, which will result in an additional premium for that coverage, but also corresponding reductions in bodily injury and uninsured motorist coverage. Persons with personal injury protection coverage are assured \$10,000 in coverage for medical bills and lost wages related to a motor vehicle accident, which is particularly beneficial for those without medical insurance. However, such coverage may be duplicative for persons with medical insurance. Also, recovery for injuries should be quicker under PIP since there is no need to establish fault and determine which insurer should pay the benefits that PIP covers.

For insurers and their policyholders, various changes in the bill should reduce PIP loss costs and PIP premiums. The enactment of a statutory fee-schedule for PIP coverage will provide insurers with a ceiling for charges which must be paid to providers, and is designed to reduce costs and eliminate litigation regarding what is a "reasonable" charge. The limitations on which providers may receive no-fault benefits are designed to reduce fraud and unnecessary medical care as well. The joinder provision of the bill should reduce litigation and potential attorney fee awards against insurers by requiring the consolidation of claims regarding the same accident and health care patient into a single action. The increase from 15 to 30 days for an insurer to pay an overdue claim after receiving a demand letter should allow additional time to investigate possible fraudulent or non-medically necessary claims before making payment. However, any insurer that is found to have a business practice of not paying claims is subject to sanction under the Florida Unfair and Deceptive Trade Practices Act.

Reenactment of the no-fault law is beneficial to health care providers who would otherwise depend on payment from an injured party or, possibly, other types of coverage that may provide lower reimbursement. However, providers may receive a lower reimbursement amount under a fee-schedule than they did previously under the no-fault law. Hospitals in particular should benefit from the re-enactment of no-fault because it

will reduce the amount of uncompensated treatment they must render auto-accident victims in emergency rooms and trauma centers.

C. Government Sector Impact:

See Fee/Tax Issues above regarding premium tax revenues

Both the Florida Hurricane Catastrophe Fund (Fund) and Citizens Property Insurance Corporation (Citizens) have authority to assess the direct premiums for all property and casualty lines of business (including automobile insurers) under specified circumstances. Approximately \$2.5 billion, out of an assessment base of \$37 billion, is attributable to PIP insurance premiums. Representatives with the Fund and Citizens assert that it is doubtful that PIP's demise will impact the assessment capacity for either entity. This is because the assessment base is growing at a faster rate than the amount of assessment premiums that will be lost with no-fault's repeal. The increase in BI, UM, and Med Pay will offset this impact. The enactment of this bill would remove any possible concerns that no-fault's repeal could reduce these assessment bases.

The Department of Highway Safety and Motor Vehicles (DHSMV) collects approximately \$28 million annually in driver's license reinstatement fees from persons whose license has been suspended for failure to maintain PIP and PD. These revenues will be lost due to the repeal of the statutory authority for these fees, as part of the repeal of no-fault. The revenues from reinstatement fees are deposited into the Highway Safety Operating Trust Fund and provide for programs and positions within the agency. The enactment of this bill would allow the DHSMV to once again collect those funds.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

B. CS by Banking and Insurance Committee on October 4, 2007

Delays the effective date of the no-fault law as reenacted and revised by this bill until February 15, 2008. All vehicle owners must add PIP to policies in force on that date, but vehicle owners will not be required to have PIP until that date.

Insurers must send notice to policyholders as required by law that PIP is being added to their policies, inform the policyholder of the premium that is due, and include notice of any changes to optional medical payments coverage.

Requires insurers to make rate filings as required by law to revise the rates for all affected coverages, to be effective on February 15, 2008, and to be applied pro rata for the remainder of the policy period for policies in force on that date.

Clarifies that any care that is lawfully supervised by a physician is required to be covered by PIP.

Requires that MRI's must be covered if the MRI has been lawfully ordered by a licensed health care provider.

Includes dentists within the types of physicians for whom \$5,000 must be reserved to pay claims for emergency services and care or hospital inpatient care.

Clarifies that there is no tolling of the time period by which an insurer must pay a provider for treatment with regard to the \$5,000 of PIP benefits not held in reserve to pay physicians rendering emergency or inpatient care in a hospital.

Provides that for non-hospital services covered under Medicare Part B, the fee schedule may not be less than the 2007 Medicare fee schedule.

Provides that under certain conditions any notice or documentation that is required or authorized under the no-fault law may be transmitted electronically.

Deletes the section of the bill that eliminates PIP deductibles.

C. Amendments:

None.