

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 401 Noncancelable Insurance Policies

**SPONSOR(S):** Regulatory Affairs Committee; Transportation & Highway Safety Subcommittee, Goodson

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 490

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee	12 Y, 0 N	Reilly	Cooper
2) Transportation & Highway Safety Subcommittee	13 Y, 0 N, As CS	Davy	Miller
3) Regulatory Affairs Committee	16 Y, 0 N, As CS	Reilly	Hamon

### SUMMARY ANALYSIS

Every owner or registrant of a motor vehicle required to be licensed and registered in Florida must maintain security continuously throughout the registration or licensing period. Generally, the security requirement is satisfied through the purchase of a motor vehicle insurance policy. At a minimum, Florida motorists are required to maintain \$10,000 in Personal Injury Protection coverage (PIP, or no-fault insurance) and \$10,000 in Property Damage liability (PD) coverage. Drivers found guilty of or who have entered a plea of guilty or nolo contendere to a charge of driving under the influence (DUI) must purchase additional insurance or furnish a certificate of deposit. Specifically, such drivers must purchase Bodily Injury liability coverage of \$100,000 in the event of bodily injury to, or death of, one person in any crash, \$300,000 in the event of bodily injury to, or death of, two or more persons in a crash, and \$50,000 in PD coverage. In the alternative, these drivers may furnish a certificate of deposit of at least \$350,000. The higher levels of coverage must be carried for three years.

A person whose driving privileges have been suspended or revoked for DUI must secure "noncancelable coverage" to have their driving privileges reinstated. A noncancelable policy must be issued for at least six months and, as to minimum coverage requirements, cannot be canceled by the insured for any reason. The insurer, however, has 30 days in which to complete underwriting, and may cancel the policy during this time. Coverage is in effect during the underwriting period. When underwriting is completed, the insurer must notify the Department of Highway Safety and Motor Vehicles (DHSMV) that the policy is in full force and effect. Once in force, the policy cannot be canceled for the remainder of the policy period. It also cannot be modified for any reason, even to increase coverage or add an additional risk. For any change, the insured must purchase another noncancelable policy. When a second policy is purchased, the unearned premium from the initial policy is credited toward the second policy only if both policies were issued by the same insurer.

The bill increases the underwriting period from 30 to 60 days for the noncancelable coverage required to reinstate driving privileges revoked or suspended for DUI or failure to maintain required security. With this change, the underwriting period for all motor vehicle insurance policies in Florida will be 60 days. The bill also removes language prohibiting any modification to a noncancelable policy that is in force and requires insureds who seek changes to purchase another noncancelable policy. The bill permits modification of a noncancelable policy as long as the minimum coverages are maintained.

The DHSMV estimates that it will incur \$20,800 in programming costs in implementing the changes made by the bill. There is no fiscal impact on local government.

The bill will take effect July 1, 2014.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Background

Every owner or registrant of a motor vehicle<sup>1</sup> is required to be licensed and registered in Florida and must maintain security continuously throughout the registration or licensing period. Most motorists maintain the required security by purchasing a motor vehicle insurance policy.<sup>2</sup> At a minimum, motorists must purchase \$10,000 of Personal Injury Protection coverage (PIP, or no-fault motor vehicle insurance), and \$10,000 of Property Damage liability (PD) coverage.<sup>3</sup> The insurer has 60 days for underwriting during which it may cancel a policy.<sup>4</sup>

After notice and an opportunity to be heard, the Department of Highway Safety and Motor Vehicles (DHSMV) must suspend the registration and driver's license of any owner or registrant of a motor vehicle who fails to maintain a motor vehicle insurance policy providing the minimum required PIP and PD coverage.<sup>5</sup> A suspended driver license or registration may be reinstated by obtaining the minimum required motor vehicle insurance and paying DHSMV a nonrefundable reinstatement fee of \$150 for the first reinstatement, \$250 for the second reinstatement, and \$500 for each subsequent reinstatement during the three years following the first reinstatement. A person reinstating his or her insurance must secure noncancelable coverage as described in ss. 324.021(8), 324.023, and 627.7275(2), F.S., and present proof that the coverage is in force and maintain proof for two years.<sup>6</sup>

Every owner or operator who, regardless of adjudication of guilt, has been found guilty of or entered a plea of guilty or nolo contendere to a charge of driving under the influence (DUI) under s. 316.193, F.S., must maintain a motor vehicle insurance policy that provides Bodily Injury liability coverage of \$100,000 in the event of bodily injury to, or death of, one person in a crash, \$300,000 of coverage in the event of bodily injury to, or death of, two or more persons in a crash, and \$50,000 in PD coverage. In the alternative, drivers may furnish a certificate of deposit of \$350,000 or more. The higher levels of coverage must be carried for three years.<sup>7</sup>

A person whose driving privileges have been suspended or revoked for DUI must secure "noncancelable coverage"<sup>8</sup> to have their driving privileges reinstated. A noncancelable policy must be issued for at least six months and, as to minimum coverage requirements, cannot be canceled by the insured for any reason. However, the insurer has 30 days in which to complete underwriting, and may cancel the policy during this time.<sup>9</sup> Coverage is in effect during the underwriting period. When underwriting is completed, the insurer must notify DHSMV that the policy is in full force and effect. Once in force, the policy cannot be canceled for the remainder of the policy period. It also cannot be modified for any reason, even to increase coverage or add an additional risk. For any change in coverage or risk, the insured must purchase another noncancelable policy. When a second policy is purchased, the unearned premium from the initial policy is credited toward the second policy only if both policies were issued by the same insurer.<sup>10</sup>

##### Effect of Bill

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<sup>1</sup> Other than a school bus or limousine. *See* s. 627.733(1).

<sup>2</sup> The required security may also be provided through self-insurance. *See* s. 627.733(3), F.S.

<sup>3</sup> Sections 627.736(1) and 324.022, F.S.

<sup>4</sup> Section 627.728(2)(c), F.S.

<sup>5</sup> Section 324.0221(2), F.S.

<sup>6</sup> Section 324.0221(3), F.S.

<sup>7</sup> Section 324.023, F.S.

<sup>8</sup> Through a motor vehicle insurance policy or self-insurance.

<sup>9</sup> Section 627.7275(2), F.S.

<sup>10</sup> Section 627.7275(2)(b)

The bill increases the underwriting period from 30 to 60 days for the noncancelable coverage required to reinstate driving privileges revoked or suspended for DUI or failure to maintain required security. With this change, the underwriting period for all motor vehicle insurance policies in Florida will be 60 days. The bill also removes language that prohibits any modification to a noncancelable policy that is in force and requires insureds who seek changes to purchase another noncancelable policy. The bill permits modification of a noncancelable policy as long as the state-required minimum coverages for Bodily Injury liability, PD, and PIP are maintained. Thus, it eliminates the need for consumers to purchase multiple noncancelable policies with a duration of six months or longer whenever they seek any change to the policy.

**B. SECTION DIRECTORY:**

**Section 1.** Amends s. 627.7275, F.S., relating to motor vehicle liability insurance.

**Section 2.** Provides for the bill to take effect July 1, 2014.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

The DHSMV estimates that it will incur \$20,800 in programming costs to implement the changes made by the bill.<sup>11</sup>

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

Allowing modification of noncancelable policies may provide an indeterminate economic benefit for consumers. The premiums for noncancelable policies are paid in full, up front. Currently, if a change is sought and a second policy is purchased, the consumer will immediately pay the entire premium on the second policy (or the balance due after the consumer is credited for the unearned premium on the first policy when both policies are purchased from the same insurer). Circumstances may arise that result in consumers purchasing noncancelable coverage for longer durations than they actually need. For example, if there are two months left on a noncancelable policy and the policyholder wants to add coverage for a new driver, such as a child who has just received his or her driver license, the policyholder must purchase a new, noncancelable policy that is issued for six months, which is the minimum duration for a noncancelable policy.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

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<sup>11</sup> DHSMV bill analysis of SB 490. On file with the Transportation & Highway Safety Subcommittee staff.  
**STORAGE NAME:** h0401e.RAC  
**DATE:** 3/21/2014

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to: require counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or, reduce the percentage of a state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The Office of Insurance and Regulation (OIR) has pointed out that the language requires that the level of coverage shall not fall beneath the state-required levels for Bodily Injury liability, PD, and PIP coverage. While the language specifically references statutes for required levels of Bodily Injury liability and PD coverage, no reference is made to s. 627.736, F.S., containing the required levels of PIP coverage.<sup>12</sup>

#### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 4, 2014, the Transportation & Highway Safety Subcommittee adopted one amendment to HB 401 and reported the bill favorably as a committee substitute. The amendment changed the bill's effective date to July 1, 2014 to match the Senate Bill's effective date. This analysis is drafted to the committee substitute as reported by the Transportation & Highway Safety Subcommittee.

On March 20, 2014, the Regulatory Affairs Committee adopted one amendment and reported the bill favorably as a committee substitute. The amendment changed the title of the bill from "An act relating to underwriting, cancellation period, and other terms of motor vehicle insurance policies" to "An act relating to noncancelable insurance policies."

The analysis is drafted to the committee substitute as passed by the Regulatory Affairs Committee.

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<sup>12</sup> OIR bill analysis of HB 401. On file with the Transportation & Highway Safety Subcommittee.