

CS/HB 13-C — Motor Vehicle Insurance

by Jobs and Entrepreneurship Council and Rep. Bogdanoff and others (CS/SB 40-C by Banking and Insurance Committee and Senators Posey and Margolis)

The bill (Chapter 2007-324, L.O.F.) reenacts and revises the Florida Motor Vehicle No-Fault Law (ss. 627.730-627.7405, F.S.) effective January 1, 2008. All motor vehicle owners must obtain personal injury protection (PIP) coverage by that date, and insurers must add PIP coverage to motor vehicle insurance policies in force on that date. Insurers are required to send notice to policyholders by November 15, 2007, that PIP coverage will be added to their policies on January 1, 2008, and the premium that is due. Insurers are to use the same rates and forms that they had in effect under the prior no-fault law in effect on September 30, 2007 (the day before it was repealed), unless the insurer makes new rate and form filings. Motor vehicle owners are not required to have PIP coverage from October 1, 2007, until January 1, 2008. The no-fault law tort restrictions (which prohibit recovery of non-economic damages for non-permanent injuries) will not apply to accidents occurring on October 1, 2007, through December 31, 2007, unless the plaintiff and defendant in an accident both have PIP coverage that meets the requirements of the no-fault law that was in effect on September 30, 2007. The bill also clarifies that the requirement that motor vehicle owners maintain property damage liability coverage continues to apply.

The bill revises the Florida Motor Vehicle No-Fault Law as follows, effective January 1, 2008:

Medical Benefits

Personal injury protection (PIP) coverage will continue to pay 80 percent of medical expenses up to \$10,000. However, benefits are limited to services and care lawfully provided, supervised, ordered or prescribed by a licensed physician, osteopath, chiropractor or dentist; or provided by:

- A hospital or ambulatory surgical center;
- An ambulance or emergency medical technician that provided emergency transportation or treatment;
- An entity wholly owned by physicians, osteopaths, chiropractors, dentists, or such practitioners and their spouse, parent, child or sibling;
- An entity wholly owned by a hospital or hospitals;
- Licensed health care clinics that are accredited by a specified accrediting organization;

- Licensed health care clinics that:
 - Have a medical director that is a Florida licensed physician, osteopath, or chiropractor;
 - Have been continuously licensed for more than 3 years or are a publicly traded corporation; and
 - Provide 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.

Medical Fee Limits for PIP Reimbursement

The bill allows insurers to limit reimbursement for benefits payable from PIP coverage to 80 percent of the following schedule of maximum charges:

- For emergency transport and treatment (ambulance and 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 charges;
- For emergency services and care and related hospital inpatient services rendered by a physician or dentist, 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, supplies, and care, 200 percent of Medicare Part B, not to be lower than the 2007 Medicare fee schedule;
- For medical care not reimbursable under Medicare, 80 percent of the workers' compensation fee schedule. If the medical care is not reimbursable under either Medicare or workers' compensation then the insurer is not required to pay.

The insurer may not apply any utilization limits that apply under Medicare or workers' compensation. Also, the insurer must reimburse any health care provider rendering services under the scope of his or her license, regardless of any restriction under Medicare that restricts payments to certain types of health care providers for specified procedures. Medical providers are not allowed to bill the insured for any excess amount when an insurer limits payment as authorized in the fee schedule, except for amounts that are not covered due to the PIP

coinsurance amount (the 20 percent co-payment) or for amounts that exceed maximum policy limits.

Priority of Payment for Physicians Rendering Care in a Hospital

The insurer must reserve \$5,000 of PIP benefits for payment to licensed physicians, osteopaths, or dentists rendering emergency care or inpatient care at a hospital. The funds must be reserved for 30 days after the insurer receives notice of an accident that is potentially covered by PIP benefits, after which time 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 to the extent that the PIP benefits not held in reserve are insufficient to pay the claim.

Demand Letter

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

Mandatory Consolidation of PIP Claims

The bill 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.

Unfair Trade Practices for Failure to Pay Valid Claims

An insurer that fails to pay valid PIP claims with such frequency that it indicates a general business practice violates the unfair and deceptive practice pursuant to the Insurance Code, subject to penalty pursuant to s. 626.9521, F.S. The Office of Insurance Regulation is authorized to investigate, impose fines, and enter a cease and desist order against such an insurer through exercising the powers and duties specified in ss. 626.9561-626.9601, F.S. The Department of Legal Affairs (Attorney General) may investigate and initiate actions for such violations, as specified in ch. 501, part II, F.S., The Florida Deceptive and Unfair Trade Practices Act.

Death Benefits

The bill clarifies current law that the PIP death benefit is \$5,000, or the remainder of unused PIP benefits, whichever is less.

Property Damage Liability Mandate

The bill clarifies that property damage liability is mandatory and remains effective during any period that PIP coverage is not required.

The provisions were approved by the Governor and became effective October 11, 2007. However, the provisions of the bill reenacting and amending the Florida Motor Vehicle No-Fault Law, other than provisions regarding the no-fault law's application, are effective January 1, 2008.

Vote: Senate 37-0; House 105-4

CS/HB 15-C — Public Records/Motor Vehicle Insurance

by Jobs and Entrepreneurship Council and Rep. Bogdanoff (CS/SB 42-C by Banking and Insurance Committee and Senator Posey)

The bill (Chapter 2007-325, L.O.F.) requires the Department of Highway Safety and Motor Vehicles to hold, as confidential and exempt from the public records law, personal identifying information of an insured or former insured and insurance policy numbers regarding personal injury protection and property damage liability insurance policies. Such information held by the department is confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I, State Constitution. The exemption applies to such information held by the department before, on, or after the effective date of this bill.

Upon written receipt by the department of a written request and copy of a crash report as specified, the department must release the policy number for a vehicle involved in a motor vehicle accident to any person involved in such accident, the attorney of any person involved in the accident, or a representative of the insurer of any person involved in the accident.

This new public records exemption in s. 324.242, F.S., as created by the bill, is similar to the public records exemption in s. 627.736(9), F.S., that was repealed on October 1, 2007, as part of the repeal of the Florida Motor Vehicle No-Fault Law. The new public records exemption is subject to the Open Government Sunset Review Act and shall stand repealed October 2, 2012, unless reviewed and reenacted by the Legislature.

These provisions became law upon approval by the Governor on October 11, 2007.

Vote: Senate 37-0; House 107-0

**Senate Committee on
Education Pre-K – 12 Appropriations**

CS/SB 6-C — Adjustments to Education Appropriations

by Education Pre-K – 12 Appropriations Committee and Senator Wise

This bill revises several education Pre-K–12 statutory provisions to conform the statutes and the Special Appropriations Act for FY 2007-2008. The bill:

- Provides that if the appropriation for Class Size Reduction is reduced, the Commissioner of Education may recommend a reduction in the Class Size Reduction operating categorical transfer to fixed capital outlay of 10 percent.
- Provides flexibility to use specified categorical allocations for classroom instruction, and requires documentation and reporting when flexibility is used. This statutory modification expires on July 1, 2008.
- Provides that if the appropriation for the FEFP is reduced, the Legislature is to designate the percent of the decline in the unweighted FTE students to be funded for the Declining Enrollment Supplement.
- Provides expanded flexibility for a school district to use revenue from the 2 mill levy for capital outlay up to \$25 per student to pay for certain motor vehicles and property and casualty insurance. Criteria for district eligibility are revised to remove audit compliance, district responsibility for charter school class size reduction compliance, and to add a certification that the district does not need all of its 2 mill revenue for capital outlay purposes. This statutory modification expires on July 1, 2008.
- Requires that funds for the Merit Award Program be released and distributed to eligible school districts on or before July 31, and distributed to eligible recipients by October 1 with documentation and refunds of undisbursed appropriations by November 1, pursuant to the provisions of s. 1012.225 (2) (a), F.S.
- Provides that if funds available for the Excellent Teaching Program are insufficient for all payments, the payments for mentoring and related services shall be prorated among the eligible recipients.
- Incorporates by reference the legislative calculations for the Florida Education Finance Program as adjusted for the appropriations and reductions to appropriations for FY 2007-2008.
- Provides legislative intent that expenditures for classroom instruction shall not be reduced as a result of the 2007-2008 Special Appropriations Act.