1998

Session Law 98-270

Florida Senate & House of Representatives

STORAGE NAME. h3889z.fs ****FINAL ACTION****
DATE. May 12, 1998 ****SEE FINAL ACTION STATUS SECTION****

HOUSE OF REPRESENTATIVES
COMMITTEE ON
FINANCIAL SERVICES
FINAL BILL RESEARCH & ECONOMIC IMPACT STATEMENT

BILL #. HB 3889, 2nd Engrossed (PCB FS 98-01)

RELATING TO. Motor vehicle insurance

SPONSOR(S) Committee on Financial Services, Rep. Safley, and others

COMPANION BILL(S).

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE.

(1) FINANCIAL SERVICES YEAS 10 NAYS 0
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I. FINAL ACTION STATUS

HB 3889, 2nd Engrossed, passed the Senate 30-1 on April 22, 1998, and passed the House 116-0 on April 29, 1998

II. SUMMARY:

In general, every owner or registrant of a four-wheeled motor vehicle is required to maintain personal injury protection (PIP) insurance, also known as no-fault insurance. Subject to copayments and other restrictions, PIP covers injuries sustained in motor vehicle accidents without regard to fault.

This bill would revise the PIP law to:

Provide that when a treatment provider bills the insurer, the bill may not include, and the insurer is not required to pay, charges for services provided more than 30 days before the date of the bill, except for past due amounts and except for hospital services and ambulance services. A provider's bill could cover a 60-day period if the provider gives the insurer notice within 21 days after the first examination or treatment of the injured party.

Provide that an insurer's independent medical examination could be conducted within the municipality where the injured person is being treated, within the municipality where the injured person resides, or within 10 miles of the injured person's home, provided the location is within the insured's county of residence.

Specify who is the "prevailing party" entitled to attorney's fees and costs when a dispute between an insurer and a medical provider is arbitrated, and require the parties to arbitration to specify the issues for arbitration in advance.

The bill also allows an insurance agent to charge an applicant a fee to cover the agent's costs of obtaining motor vehicle records, to the extent that those costs are not otherwise compensated.

III SUBSTANTIVE RESEARCH:

A PRESENT SITUATION.

Personal Injury Protection (PIP) insurance: background

In general, every owner or registrant of a four-wheeled motor vehicle is required to maintain personal injury protection (PIP) insurance, also known as no-fault insurance PIP covers the vehicle owner, relatives residing in the same household, passengers who do not have their own PIP coverage, and persons driving the vehicle with the owner's permission With respect to injuries sustained in a motor vehicle accident, regardless of who is at fault, a vehicle owner's PIP coverage will generally pay 80 percent of medical costs and 60 percent of lost wages and similar costs, up to a limit of $10,000

Premiums charged for PIP coverage vary by company, location, and driving record According to premium comparisons provided by the Department of Insurance, a vehicle owner with a clean record and no youthful drivers in the household could expect to pay an annual PIP premium of $115 to $363 in Miami, $81 to $275 in Orlando, and $54 to $166 in Tallahassee If the owner had one at-fault accident and two moving violations within the preceding 18 months, the owner could expect to pay PIP premiums of $195 to $430 in Miami, $142 to $348 in Orlando, and $99 to $180 in Tallahassee. Other motor vehicle insurance coverages, such as bodily injury liability and collision, are generally much more expensive than PIP coverage.

PIP: payment of claims; independent medical examinations; documentation; arbitration.

An insurer must pay PIP benefits within 30 days after receiving notice of the claim and the amount of the loss.

A PIP insurer may refuse to pay for treatment when the treatment is not reasonable, not related to the covered motor vehicle accident, or not necessary. Such a determination is generally based on a medical examination conducted by a physician selected by the insurer, known as an independent medical examination (IME). In order for an insurer to exercise its right to require an IME, the insurer must be aware of the fact that treatment is being provided The insurer has the authority to require that it be given written notice "as soon as practicable" after an accident, but there is no statutory authorization for a PIP policy to require notice of treatment and PIP policies generally do not include such a requirement. The lack of a notice requirement means that an insured could receive a lengthy series of treatments and be fully recovered before the insurer becomes aware of the treatment; in such a situation, the insurer would lose its ability to determine whether the treatment was reasonable, related, or necessary, and would be required to pay the claim

The IME must be conducted within the municipality in which the injured party resides or within the municipality in which the injured party is receiving treatment. When there is no qualified physician within the municipality of the injured party's residence, the IME must be conducted "in an area of the closest proximity" to the residence. With respect to an injured party who resides in a small municipality that has few practicing physicians, the requirement of an IME within the municipality may limit the independence of an IME by restricting the choice of physicians to conduct the IME, if there are no qualified physicians in the municipality, the ambiguous term "area of closest proximity" could be

read either to give insurers broad discretion or to require insurers to select the one physician who is geographically closest to the injured party's home

At the request of the insurer, the provider must submit a written report of the history, condition, treatment, dates, and costs of treatment, together with a sworn statement that the treatment or services were reasonable, necessary, and related to the motor vehicle accident. The provider must also produce and allow the insurer to copy the provider's records regarding the history, condition, treatment, dates, and costs of treatment.

When a dispute arises between an insurer and a provider of medical services as to the appropriate charge, the dispute is subject to binding arbitration, with the prevailing party (as determined by the arbitrator, or, if challenged, by a court) being entitled to attorney's fees and costs. The statutory provision requiring an arbitration clause in all PIP policies does not specify what constitutes a "prevailing party;" when the result of arbitration is an award higher than the amount offered by the insurer but lower than the amount claimed by the provider, either party could be viewed as the "prevailing" party Staff research located no reported cases construing the term "prevailing party" in the context of PIP arbitration.

Agent fees. In general, the unfair insurance trade practices law, s 626.9541, F.S., prohibits insurance agents from collecting charges for insurance in excess of the approved premium. Subsection 627.7295(5), F S , provides an exception to the general prohibition: with respect to a policy providing only PIP and property damage liability coverage (the minimum automobile coverage allowed by law), the agent may charge a per-policy fee of up to $10 to cover administrative costs associated with selling the policy if the fee is included in the insurer's rate filing.

Motor vehicle records are used by some agents in determining the appropriate insurer for a particular applicant for insurance and in calculating the appropriate premium. The cost of obtaining a motor vehicle report from the Department of Highway Safety and Motor Vehicles is between $3.10 and $3.60, depending on the method used to access the data, commercial services also provide motor vehicle reports to agents An insurance agent who obtains a motor vehicle report will absorb the cost of the motor vehicle report in certain circumstances, such as when the insurer does not compensate the agent for the report or when the transaction does not result in the sale of a policy.

B. EFFECT OF PROPOSED CHANGES:

The bill makes the following changes to laws governing personal injury protection (PIP) and agent fees:

Billing requirements. Except for services rendered at a hospital-owned facility and billed ~~by the hospital, and~~ except for emergency ambulance services, the statement of charges presented to the insurer could not cover--and the insurer would not be required to pay--charges for treatment or services provided more than 30 days before the postmark date of the statement (except for past due amounts that were originally timely billed). The injured party would not be liable for any charges that were unpaid as a result of the failure to comply with the billing requirements and would not be able to waive this limitation on liability. As an alternative to the 30-day billing requirement, a provider could give the insurer notice of treatment within 21 days after the provider's first examination or

treatment of the injured party, in which event its bill could cover treatments rendered in a 60-day period instead of a 30-day period

A specified notice of the billing requirements would be required on the notice of insured's rights which the insurer is required to provide after notice of an accident The result of these billing requirements is that insurers would be aware of the commencement of treatment and would be in a better position to assure that treatment is reasonable, related to the motor vehicle accident, or necessary

The bill would also standardize billing by requiring that all bills for medical services be submitted to the insurer on a standard form[1] and follow the "Physicians' Current Procedural Terminology."

These provisions would apply to accidents occurring on or after October 1, 1998

Documentation When an insurer requests documentation from a provider within 20 days after receiving notice of a covered loss, the insurer's deadline for payment of the portion of the covered loss related to the requested documentation would be extended until 10 days after the insurer receives the documentation (unless a later deadline would otherwise apply) This provision would apply to accidents occurring on or after October 1, 1998

PIP arbitration: The bill would specify which party is the "prevailing party" and therefore entitled to an award of attorney's fees and costs. When the award to the claimant (provider) consists of the amount offered by the insurer plus more than 50% of the difference between the offer and the amount claimed, the claimant would be the prevailing party; when the award consists of the amount offered by the insurer plus less than 50% of the difference between the offer and the amount claimed, the insurer would be the prevailing party, and when the award consists of the amount offered by the insurer plus 50% of the difference between the offer and the amount claimed, there would be no prevailing party. The relevant offer and claim would be the last offer made at least 30 days before the arbitration and the last claim made at least 30 days before the arbitration.

The demand for arbitration would be required to identify the issues to be arbitrated for each disputed examination or treatment; the other party would then be required to issue a statement specifying any other issues for arbitration These statements could not be amended within 30 days of the arbitration The arbitration would be limited to the issues identified in these statements.

The arbitration provisions of the bill would apply to arbitrations commenced on or after October 1, 1998.

To the extent that a claimant may currently be considered the "prevailing" party in any case in which the arbitration award exceeds the amount offered by the insurer, this change could be expected to reduce the number of situations in which insurers are required to pay the attorney's fees and costs of medical services providers

[1] The Health Care Finance Administration 1500 form, UB 92 form, or any other standard form approved by the Department of Insurance.

Location of independent medical examination: An IME could be conducted in the municipality in which the injured party is receiving treatment or in a location reasonably accessible to the injured party, defined as a location within the municipality in which the injured party resides or a location within 10 miles by road of the injured party's residence, as long as the location is within the county in which the injured party resides. When there is no qualified physician within a "location reasonably accessible," the IME could, as under current law, be conducted in "an area of the closest proximity to the insured's residence." These changes would broaden an insurance company's choice of physicians to conduct the IME in situations where the number of practicing physicians in a municipality is limited. This provision would apply to new and renewal policies with an effective date of October 1, 1998, or later.

Agent fees: When an agent's cost of obtaining motor vehicle reports on applicants for motor vehicle insurance is not otherwise compensated, the agent could charge the applicant a nonrefundable fee, in addition to any other authorized fees. The amount of the fee could not exceed the agent's actual costs that are not otherwise compensated, that is, if the agent's out-of-pocket cost of obtaining the motor vehicle reports was not included in the insurer's rate filing or otherwise included in the commission paid to the agent, the agent could recoup the actual cost from the applicant. This provision would apply to transactions occurring on or after October 1, 1998.

C APPLICATION OF PRINCIPLES.

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Yes The bill establishes requirements for a medical services provider's bill for treatment covered by personal injury protection insurance.

(3) any entitlement to a government service or benefit?

N/A

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2 Lower Taxes:

a. Does the bill increase anyone's taxes?

No.

b Does the bill require or authorize an increase in any fees?

Yes The bill authorizes insurance agents to charge a fee to cover their uncompensated costs of obtaining motor vehicle reports on applicants for insurance.

c Does the bill reduce total taxes, both rates and revenues?

No.

d. Does the bill reduce total fees, both rates and revenues?

No.

e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

b Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

a Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

The bill broadens the authority of insurance companies to select physicians to conduct independent medical examinations in connection with personal injury protection claims.

b Does the bill prohibit, or create new government interference with, any presently lawful activity?

N/A

5 Family Empowerment.

a. If the bill purports to provide services to families or children

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority.

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED.

Sections 627 7295, 627.736, F S

E. SECTION-BY-SECTION RESEARCH:

Section 1 amends s. 627 7295, F.S., to authorize agents to charge additional fees as described in "Effect of Proposed Changes," above

Section 2 amends s 627 736, F S., to make the changes to the personal injury protection insurance law described in "Effect of Proposed Changes," above

Section 3 specifies the applicability of the various provisions of the bill, as described in "Effect of Proposed Changes," above

Section 4 provides that the bill will take effect October 1, 1998

IV FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

N/A

2. Recurring Effects

N/A

3. Long Run Effects Other Than Normal Growth.

N/A

4. Total Revenues and Expenditures:

See "Fiscal Comments," below

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth.

N/A

C DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs.

The provisions specifying who is the prevailing party (and therefore entitled to award of attorney's fees and costs) in arbitration of disputes between PIP insurers and medical services providers could reduce the number of instances in which fees and costs are awarded to the provider.

To the extent that the revision of geographic requirements for an independent medical examination (IME) increases the likelihood that an IME would be conducted by a physician preferred by the insurer, there may be an increase in denied claims, however, to the extent that this change reduces the likelihood that an IME would be conducted by a physician not preferred by the insurer, there may be a decrease in PIP claims payments for treatments that are unreasonable, unrelated to the motor vehicle accident, or unnecessary

Insurance agents could charge consumers fees to cover the cost of obtaining motor vehicle reports

2. Direct Private Sector Benefits:

The bill would increase a PIP insurer's ability to prevent payment for treatment that was unreasonable, unrelated to a covered accident, or unnecessary, and could thereby lower the insurer's cost of providing PIP coverage. The billing requirements and the revision of geographic requirements for an independent medical examination (IME) of a claimant could make the IME a more effective cost-control tool These cost savings could benefit consumers by reducing the costs upon which insurers base PIP premiums and counteracting upward pressures on PIP premiums.

The bill would allow agents to recover their otherwise uncompensated costs of obtaining motor vehicle reports on applicants for insurance

3 Effects on Competition, Private Enterprise and Employment Markets.

N/A

D. FISCAL COMMENTS:

N/A

V CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION

A APPLICABILITY OF THE MANDATES PROVISION:

N/A

B REDUCTION OF REVENUE RAISING AUTHORITY.

N/A

C REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES

N/A

VI COMMENTS

N/A

VII AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

HB 3889, 2nd Engrossed, incorporates a Senate amendment that differs from the bill as originally passed by the House, as follows:

The original bill provided alternative means by which an insurer could meet its obligation of paying interest on overdue PIP claims payments, as enacted, the bill does not include this provision.

The billing provisions of the original bill applied only to situations where the claimant assigns PIP benefits to a treatment provider, as enacted, the bill applies to all PIP claims. The original bill exempted hospital services rendered within the first 30 days after an accident; the bill as enacted includes a broader exemption for hospital and ambulance services The original bill contained a 30-day billing requirement, but did not include the alternative of allowing a bill to cover a 60-day period if the provider gives the insurer notice of treatment within 21 days of the first treatment or examination, which alternative is included in the bill as enacted. The original bill did not prohibit the injured party from waiving the provision that holds the injured party harmless for a provider's failure to comply with billing requirements, as enacted, the bill contains such a prohibition. The original bill did not provide for standardized billing forms, the bill as enacted provides for such standardization

The original bill did not address the issue of a provider's submission of documentation to the insurer and the insurer's ability to delay payment until it receives the documentation, as enacted, the bill allows an insurer to delay payment until after it receives the documentation

The original bill did not specify who would be the "prevailing party" in arbitration, as in the bill as enacted, but instead created rebuttable presumptions regarding the prevailing party The original bill provided that the relevant offer and claim were the offer and claim made at arbitration, rather than the last offer and claim made at least 30 days before arbitration, as in the bill as enacted. The original bill did not address the scope of arbitration or the content of a demand for arbitration; as enacted, the bill requires the parties to the dispute to specify the issues to be arbitrated.

The original bill provided an October 1, 1998, effective date, but did not specify applicability; presumably, all provisions would have applied only to policies issued or renewed on or after October 1, 1998. As enacted, the bill specifies that certain provisions will apply to accidents occurring on or after that date, certain provisions will apply to arbitrations beginning on or after that date, and certain provisions will apply to new or renewal policies with an effective date of October 1, 1998, or later.

HB 3889 as originally passed by the House on April 1, 1998, was identical to HB 3889 as filed by the Committee on Financial Services, except that the House-passed bill included language narrowing the scope of the agent fees in Section 1 of the bill. (See the House Journal for March 31, 1998, pages 366-367)

VIII. SIGNATURES.

COMMITTEE ON FINANCIAL SERVICES.

Prepared by.	Legislative Research Director
Leonard Schulte	Stephen Hogge

FINAL RESEARCH PREPARED BY COMMITTEE ON FINANCIAL SERVICES:

Prepared by:	Legislative Research Director:
	
Leonard Schulte	Stephen Hogge

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Date: March 31, 1998 Revised: _____ _____ _____ _____

Subject: Insurance (Motor Vehicle)

	Analyst	Staff Director	Reference	Action
1	Emrich	Deffenbaugh	BI	Favorable/CS
2				
3				
4				
5				

I. Summary:

In general, every owner or registrant of a four-wheeled motor vehicle is required to maintain $10,000 of personal injury protection (PIP) insurance, also known as no-fault insurance. Subject to copayments and other restrictions, PIP insurance provides compensation for injuries to the insured driver and passengers regardless of who is at fault in an accident.

Committee Substitute for Senate Bill 2052 would revise the PIP law to

- Allow an insurance agent to charge an applicant a fee to cover the agent's actual costs of obtaining motor vehicle records, to the extent that those costs are not otherwise compensated
- Mandate providers submit medical bills directly to the insurer within 30 days of service. Alternatively, if the provider furnishes the insurer with 21 days notice of initiation of treatment, the provider may submit medical bills within 60 days of the service date. Neither the insurer nor the injured person is required to pay medical bills untimely submitted
- Specify a method to determine who is the "prevailing party" entitled to attorneys fees and costs when a dispute between an insurer and a medical provider is arbitrated. Requires that the amount of the offer or claim at arbitration is the amount of the last written offer made more than 30 days before arbitration. Issues to be considered are to be submitted up to 30 days prior to arbitration
- Provide that all statements and bills for medical services are to be submitted to the insurer on specified forms with specified procedural codes
- Extend the time period within which the payment is due for a claim for personal injury protection insurance benefits under circumstances when an insurer makes a discovery request to a provider

- Provide that an insurer's independent medical examination may be conducted within the municipality where the injured person is being treated, within the municipality where the injured person resides, or within 10 miles of the injured person's home, provided the location is within the insured's county of residence

This bill amends sections 627 7295 and 627.736 of the Florida Statutes

II. Present Situation:

Under the Florida Motor Vehicle No-Fault law (ss 627.730-627 7405, F S) four-wheeled motor vehicle owners are required to maintain $10,000 of personal injury protection (PIP) insurance and, pursuant to s 324 022, F S , $10,000 in property damage liability insurance PIP covers the vehicle owner, relatives residing in the same household, passengers who do not have their own PIP coverage, and persons driving the vehicle with the owner's permission. With respect to injuries sustained in a motor vehicle accident, regardless of who is at fault, a vehicle owner's PIP coverage will generally pay 80 percent of medical costs and 60 percent of lost wages and similar costs, up to a limit of $10,000 Property damage liability pays for property (vehicle) damage to others when the insured driver is at fault

Premiums charged for PIP coverage vary by company, location, and driving record According to premium comparisons provided by the Department of Insurance, a vehicle owner with a clean record and no youthful drivers in the household could expect to pay an annual PIP premium of $115 to $363 in Miami, $81 to $275 in Orlando, and $54 to $166 in Tallahassee If the owner had one at-fault accident and two moving violations within the preceding 18 months, the owner could expect to pay PIP premiums of $195 to $430 in Miami, $142 to $348 in Orlando, and $99 to $180 in Tallahassee Other motor vehicle insurance coverages, such as bodily injury liability and collision, are generally much more expensive than PIP coverage

In general, the unfair insurance trade practices law, s 626 9541, F S , prohibits insurance agents from collecting charges for insurance in excess of the approved premium Currently, subsection 627 7295(5), F S , provides an exception to the general prohibition with respect to a policy providing only PIP and property damage liability coverage (the minimum automobile coverage allowed by law), the agent may charge a per-policy fee of up to $10 to cover administrative costs associated with selling the policy if the fee is included in the insurer's rate filing

Motor vehicle records (MVRs) are used by some agents in determining the appropriate insurer for a particular applicant for insurance and in calculating the appropriate premium Since MVRs contain proprietary information, the MVR cannot be obtained directly from the Department of Highway Safety and Motor Vehicles, but must be obtained from private companies who offer this service (s 119 07, F S) The cost of obtaining a MVR varies between $3 10 and $4 00, depending on the method used to access the data An insurance agent who obtains a motor vehicle report will absorb the cost of the motor vehicle report in certain circumstances, such as when the insurer does not compensate the agent for the report or when the transaction does not result in the sale of a policy

Under subsection 627.736(4), F S , an insurer must pay PIP benefits within 30 days after receiving notice of the claim and the amount of the loss When a dispute arises between an insurer and a provider of medical services as to the appropriate charge, the dispute is subject to binding arbitration, with the prevailing party (as determined by the arbitrator, or, if challenged, by a court) being entitled to attorney's fees and costs However, the provision (s 627.736(5), F S) requiring an arbitration clause in all PIP policies does *not* specify what constitutes a "prevailing party." When the result of arbitration is an award higher than the amount offered by the insurer, but lower than the amount claimed by the provider, either party could be viewed as the "prevailing" party Staff research located no reported cases construing the term "prevailing party" in the context of PIP arbitration

A PIP insurer may refuse to pay for treatment when the treatment is not reasonable, not related to the covered motor vehicle accident, or not necessary (s 627 736(7), F S) Such a determination is generally based on a medical examination conducted by a physician selected by the insurer, known as an independent medical examination (IME) In order for an insurer to exercise its right to require an IME, the insurer must be aware of the fact that treatment is being provided The insurer has the authority to require that it be given written notice "as soon as practicable" after an accident, but there is no statutory authorization for a PIP policy to require notice of treatment and PIP policies generally do not include such a requirement. The lack of a notice requirement means that an insured could receive a lengthy series of treatments and be fully recovered before the insurer becomes aware of the treatment Such a situation impairs the insurers ability to determine whether the treatment was reasonable, related, or necessary, and would be required to pay the claim

The IME must be conducted within the municipality in which the injured party resides or within the municipality in which the injured party is receiving treatment (s 627 736(7), F S) When there is no qualified physician within the municipality of the injured party's residence, the IME must be conducted "in an area of the closest proximity" to the residence With respect to an injured party who resides in a small municipality that has few practicing physicians, the requirement of an IME within the municipality restricts the choice of physicians to conduct the IME If there are no qualified physicians in the municipality, the ambiguous term "area of closest proximity" could be interpreted either to give insurers broad discretion or to require insurers to select the one physician who is geographically closest to the injured party's home

III. Effect of Proposed Changes:

Section 1. Amends s. 627 7295, F S , to allow general lines agents to charge an applicant for motor vehicle insurance a reasonable, non-refundable fee to obtain a motor vehicle report (MVR) to reimburse the agent the actual cost of obtaining the report This provision would apply to the extent an agents cost of obtaining MVRs on applicants for motor vehicle insurance is not otherwise compensated The amount of the fee could not exceed the agents *actual costs* in obtaining the report that are not otherwise compensated That is, if the agent's out-of pocket cost of obtaining the MVR was not included in the insurers rate filing or otherwise included in the commission paid to the agent, the agent could recoup the actual cost from the applicant *Actual*

cost is defined as the cost of obtaining the report on an individual driver basis or the pro rata cost per driver when the report is obtained on more than one driver Additionally, in no case may the actual cost include subscription or access fees associated with obtaining MVRs via on-line computer

Section 2. Amends s 627.736, F S , relating to the personal injury protection insurance law to provide that except in the case of hospital services provided within the first 30 days after the motor vehicle accident and except for past due amounts previously billed on a timely basis, the statement of charges presented to the insurer by the provider could not include, and the insurer would not be required to pay, charges for treatment or services rendered more than 30 days before the postmark date of the statement. However, if the provider submits to the insurer a notice of the initiation of treatment within 21 days of its first examination or treatment of the claimant, then the statement may include charges for treatment or services rendered up to, but not more than, 60 days before the postmark date of the statement

The injured party would not be liable for, and the provider could not bill the injured party for, any charges that were unpaid as a result of the failure of the provider to comply with the billing requirements Additionally, any agreement requiring the injured person or insured to pay for such charges would be unenforceable A specified notice of the billing requirements would be outlined on the notice of insured's rights which the insurer is required to provide after notice of an accident The result of both the 30-day and 60-day billing requirements, is that insurers would be aware of the commencement of treatment and would be in a better position to assure that treatment is reasonable, related to the motor vehicle accident, or necessary. Additionally, these provisions would reduce the practice of *bulk billing* by some providers which occurs when treatments are rendered over a period of time and the insurer is subsequently billed for multiple treatments

The bill would clarify which party is the "prevailing party" and therefore entitled to an award of attorney's fees and costs when a dispute between an insurer and a medical provider is arbitrated. When the award to the claimant (provider) consists of the amount offered by the insurer at arbitration plus *more than 50 percent* of the difference between the offer and the amount claimed at arbitration, the claimant would be the prevailing party When the award consists of the amount offered by the insurer at arbitration plus *less than 50 percent* of the difference between the offer and the amount claimed at arbitration, the insurer would be the prevailing party Furthermore, when the award consists of the amount offered by the insurer at arbitration plus 50 percent of the difference between the offer and the amount claimed at arbitration, there would be no prevailing party To the extent that a claimant may currently be considered the "prevailing" party in any case in which the arbitration award exceeds the amount offered by the insurer, this change could be expected to reduce the number of situations in which insurers are required to pay the attorney's fees and costs of medical services providers

The bill provides a deadline as to arbitration issues and the amount of the offer or claim to be presented at arbitration. Specifically, the amount of the offer or claim at arbitration is the amount of the *last* written offer or claim made more than 30 days before the arbitration Each party must

identify individual issues relating to examination or treatment which are in dispute up to 30 days prior to arbitration and each party is precluded from adding additional issues after that deadline The effect of these provisions is that each party would have the benefit of knowing in advance each issue which would be determined at arbitration Furthermore, these provisions would appear to encourage fairer, more expedited resolution of disputes.

Under this bill, all statements and charges for medical services rendered by medical providers must be submitted to the insurer on standard forms approved by the Department of Insurance, i e , HCFA (Health Care Financing Administration) 1500 forms, UB 92 forms. Furthermore, such statements, to the extent applicable, must contain appropriate physicians' current procedural terminology (CPT) in the year in which the services are rendered. Also, medical services requiring licenses must be performed by validly licensed persons Lastly, the insurer shall not be considered to have been furnished with proper notice of the amount of covered loss of medical bills due unless such statements comply with the provisions outlined above These provisions attempt to standardize billing statements and would have the effect of reducing any ambiguity as to which medical treatments were provided These provisions would make it easier for insurers to understand precisely what medical services they are compensating

The bill sets forth certain time limits as to the discovery provisions under the PIP law If the insurer makes a written request for documents within 20 days of receiving notice of the amount of covered loss under s 627 736(4)(a), F S , the insurer's obligation to pay must be in accordance with s 627 736(4)(b), F S , which is 30 days after notice of covered loss and amount of such loss, or within 10 days after the insurer's receipt of the requested documentation, whichever occurs *later* The term *receipt* includes inspection and copying of documents Should the provider fail to timely provide medical records to the insurer, the insurer's 30-day payment requirement would be tolled until 10 days *after* the insurer receives the records This provision would aid insurance companies by allowing them to review their insured's medical treatment records and ascertain whether services were performed and billed correctly

The bill further provides that an independent medical examination (IME) could be conducted in the municipality in which the injured party is receiving treatment or in a location reasonably accessible to the injured party, defined as a location within the municipality in which the injured party resides or a location within 10 miles by road of the injured party's residence, as long as the location is within the county in which the injured party resides When there is no qualified physician within a "location reasonably accessible," the IME could, as under current law, be conducted in "an area of the closest proximity to the insured's residence " These changes would broaden an insurance company's choice of physicians to conduct the IME in situations where the number of practicing physicians in a municipality is limited

Section 3. Provides that the bill will take effect October 1, 1998

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None

B Public Records/Open Meetings Issues.

None

C. Trust Funds Restrictions

None

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues

See discussion below under Private Sector Impact Section

B. Private Sector Impact

The bill would allow agents to charge applicants for motor vehicle insurance a fee to recover their otherwise uncompensated costs of obtaining motor vehicle reports on applicants for insurance The amount of the fee is likely to be $3-$4

The specification as to who is the prevailing party (and therefore entitled to award of attorney's fees and costs) in arbitration of disputes between PIP insurers and medical services providers could reduce the number of instances in which fees and costs are awarded to the provider and increase the number of instances in which fees and costs are awarded to the insurer It may also act as a "chilling effect" on a provider's decision whether to arbitrate a dispute. Instituting time limitations as to arbitration would result in more disputes being settled, thereby reducing costs

The bill would increase a PIP insurers ability to prevent payment for treatment that was unreasonable, unrelated to a covered accident, or unnecessary, and could thereby lower the insurer's cost of providing PIP coverage The 30 and 60 day billing requirements, the standardization of medical statements and codes, and the revision of geographic requirements for an independent medical examination (IME) of a claimant could make the IME a more effective cost-control tool These cost savings could benefit consumers by reducing the costs upon which insurers base PIP premiums and counteracting upward pressures on PIP premiums Providers who fail to meet the notice requirements will not be compensated for their services

To the extent that the revision of geographic requirements for an independent medical examination (IME) increases the likelihood that an IME would be conducted by a physician preferred by the insurer, there may be an increase in denied claims However, to the extent that this change reduces the likelihood that an IME would be conducted by a physician not preferred by the insurer, there may be a decrease in PIP claims payments for treatments that are unreasonable, unrelated to the motor vehicle accident, or unnecessary

C. Government Sector Impact:

Government-owned vehicles (except certain mass-transit vehicles) are covered under Florida's No-Fault law's PIP insurance requirements. As a policyholder or self-insurer, governmental entities would experience the same impact as would policyholders and insurers, described above

VI. Technical Deficiencies:

None

VII. Related Issues:

The term "hospital services" under s 627 736(5)(b), F S , is not defined in the bill or in the chapter being amended It is not clear whether medical services performed by a physician in a hospital and billed directly by the physician to the insurer would be exempt from the provisions of the 30 and 60 day billing provisions

The arbitration time limit provisions under s 627 736(5), F S , are not the same as to when the offer and demand must be made and when issues are to be identified prior to arbitration Offers or claims must be made "more than 30 days prior to arbitration" whereas issues must be identified "up to 30 days prior to arbitration "

VIII. Amendments:

None

By the Committee on Banking and Insurance and Senator Diaz-Balart

311-1887E-98

A bill to be entitled

An act relating to insurance; amending s. 627.7295, F.S.; authorizing certain fees to be collected by general lines agents; amending s. 627.736, F.S.; prohibiting a provider's statement of charges from including certain charges for services covered by personal injury protection benefits; specifying which party is the prevailing party in arbitration of disputes relating to personal injury protection claims; specifying requirements for arbitration; prescribing forms for submission of medical services; specifying payment time limitations; specifying where an independent medical examination of a claimant may be conducted; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (5) of section 627.7295, Florida Statutes, is amended to read:

627.7295 Motor vehicle insurance contracts.--

(5)(a) A licensed general lines agent may charge a per-policy fee not to exceed $10 to cover the administrative costs of the agent associated with selling the motor vehicle insurance policy if the policy covers only personal injury protection coverage as provided by s. 627.736 and property damage liability coverage as provided by s. 627.7275 and if no other insurance is sold or issued in conjunction with or collateral to the policy. The per-policy fee must be a component of the insurer's rate filing and may not be charged

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

by an agent unless the fee is included in the filing. The fee is not considered part of the premium except for purposes of the department's review of expense factors in a filing made pursuant to s. 627.062.

(b) To the extent that a licensed general agent's cost of obtaining motor vehicle reports on applicants for motor vehicle insurance is not otherwise compensated, the agent may, in addition to any other fees authorized by law, charge an applicant for motor vehicle insurance a reasonable, nonrefundable fee to reimburse the agent the actual cost of obtaining the report for each licensed driver when the motor vehicle report is obtained by the agent simultaneously with the preparation of the application for use in the calculation of premium or in the proper placement of the risk. The amount of the fee may not exceed the agent's actual cost in obtaining the report which is not otherwise compensated. Actual cost is the cost of obtaining the report on an individual driver basis when so obtained or the pro rata cost per driver when the report is obtained on more than one driver; however, in no case may actual cost include subscription or access fees associated with obtaining motor vehicle reports on-line though any electronic transmissions program.

Section 2. Subsection (5), paragraph (b) of subsection (6), and paragraph (a) of subsection (7) of section 627.736, Florida Statutes, are amended to read:

627.736 Required personal injury protection benefits; exclusions; priority.--

(5) CHARGES FOR TREATMENT OF INJURED PERSONS.--

(a) Any physician, hospital, clinic, or other person or institution lawfully rendering treatment to an injured person for a bodily injury covered by personal injury

protection insurance may charge only a reasonable amount for the products, services, and accommodations rendered, and the insurer providing such coverage may pay for such charges directly to such person or institution lawfully rendering such treatment, if the insured receiving such treatment or his or her guardian has countersigned the invoice, bill, or claim form approved by the Department of Insurance upon which such charges are to be paid for as having actually been rendered, to the best knowledge of the insured or his or her guardian. In no event, however, may such a charge be in excess of the amount the person or institution customarily charges for like products, services, or accommodations in cases involving no insurance, provided that charges for cephalic thermograms and peripheral thermograms shall not exceed the maximum reimbursement allowance for such procedures as set forth in the applicable fee schedule established pursuant to s. 440.13.

(b) With respect to any treatment or service, other than hospital services provided within the first 30 days after the accident, the statement of charges must be furnished to the insurer by the provider and may not include, and the insurer is not required to pay, charges for treatment or services rendered more than 30 days before the postmark date of the statement, except for past due amounts previously billed on a timely basis under this paragraph, and except that, if the provider submits to the insurer a notice of initiation of treatment within 21 days after its first examination or treatment of the claimant, the statement may include charges for treatment or services rendered up to, but not more than, 60 days before the postmark date of the statement. The injured party is not liable for, and the provider shall not bill the injured party for, charges that

are unpaid because of the provider's failure to comply with this paragraph. Any agreement requiring the injured person or insured to pay for such charges is unenforceable. Each notice of insured's rights under s. 627.7401 must include the following statement in type no smaller than 12 points:

BILLING REQUIREMENTS.--Florida Statutes provide that with respect to any treatment or services, other than certain hospital services, the statement of charges furnished to the insurer by the provider may not include, and the insurer and the injured party are not required to pay, charges for treatment or services rendered more than 30 days before the postmark date of the statement, except for past due amounts previously billed on a timely basis, and except that, if the provider submits to the insurer a notice of initiation of treatment within 21 days after its first examination or treatment of the claimant, the statement may include charges for treatment or services rendered up to, but not more than, 60 days before the postmark date of the statement.

(c) Every insurer shall include a provision in its policy for personal injury protection benefits for binding arbitration of any claims dispute involving medical benefits arising between the insurer and any person providing medical services or supplies if that person has agreed to accept assignment of personal injury protection benefits. The provision shall specify that the provisions of chapter 682 relating to arbitration shall apply. The prevailing party shall be entitled to attorney's fees and costs. For purposes

of the award of attorney's fees and costs, the prevailing party shall be determined as follows:

1. When the amount of personal injury protection benefits determined by arbitration exceeds the sum of the amount offered by the insurer at arbitration plus 50 percent of the difference between the amount of the claim asserted by the claimant at arbitration and the amount offered by the insurer at arbitration, the claimant is the prevailing party.

2. When the amount of personal injury protection benefits determined by arbitration is less than the sum of the amount offered by the insurer at arbitration plus 50 percent of the difference between the amount of the claim asserted by the claimant at arbitration and the amount offered by the insurer at arbitration, the insurer is the prevailing party.

3. When neither subparagraph 1. nor subparagraph 2. applies, there is no prevailing party. For purposes of this paragraph, the amount of the offer or claim at arbitration is the amount of the last written offer or claim made more than 30 days prior to the arbitration.

4. In the demand for arbitration, the party requesting arbitration must include a statement specifically identifying the issues for arbitration for each examination or treatment in dispute. The other party must subsequently issue a statement specifying any other examinations or treatment and any other issues that it intends to raise in the arbitration. The parties may amend their statements up to 30 days prior to arbitration, provided that arbitration shall be limited to those identified issues and neither party may add additional issues during arbitration.

(d) All statements and bills for medical services rendered by any physician, hospital, clinic, or other person

or institution shall be submitted to the insurer on an HCFA 1500 form, UB 92 forms, or any other standard form approved by the department for purposes of this paragraph. All billings for such services shall, to the extent applicable, follow the appropriate physicians' current procedural terminology (CPT) in the year in which services are rendered. No statement of medical services may include charges for medical services of a person or entity that performed such services without possessing the valid licenses required to perform such services. For purposes of paragraph (4)(b), an insurer shall not be considered to have been furnished with notice of the amount of covered loss or medical bills due unless the statements or bills comply with this paragraph.

(6) DISCOVERY OF FACTS ABOUT AN INJURED PERSON; DISPUTES.--

(b) Every physician, hospital, clinic, or other medical institution providing, before or after bodily injury upon which a claim for personal injury protection insurance benefits is based, any products, services, or accommodations in relation to that or any other injury, or in relation to a condition claimed to be connected with that or any other injury, shall, if requested to do so by the insurer against whom the claim has been made, furnish forthwith a written report of the history, condition, treatment, dates, and costs of such treatment of the injured person, together with a sworn statement that the treatment or services rendered were reasonable and necessary with respect to the bodily injury sustained and identifying which portion of the expenses for such treatment or services was incurred as a result of such bodily injury, and produce forthwith, and permit the inspection and copying of, his or her or its records regarding

such history, condition, treatment, dates, and costs of treatment. Such sworn statement shall read as follows: "Under penalty of perjury, I declare that I have read the foregoing, and the facts alleged are true, to the best of my knowledge and belief." No cause of action for violation of the physician-patient privilege or invasion of the right of privacy shall be permitted against any physician, hospital, clinic, or other medical institution complying with the provisions of this section. The person requesting such records and such sworn statement shall pay all reasonable costs connected therewith. If an insurer makes a written request for documentation under this paragraph within 20 days after having received notice of the amount of a covered loss under s. 627.736(4)(a), the insurer shall pay the amount or partial amount of covered loss to which such documentation relates in accordance with s. 627.736(4)(b) or within 10 days after the insurer's receipt of the requested documentation, whichever occurs later. For purposes of this paragraph, the term "receipt" includes, but is not limited to, inspection and copying pursuant to this paragraph.

(7) MENTAL AND PHYSICAL EXAMINATION OF INJURED PERSON; REPORTS.--

(a) Whenever the mental or physical condition of an injured person covered by personal injury protection is material to any claim that has been or may be made for past or future personal injury protection insurance benefits, such person shall, upon the request of an insurer, submit to mental or physical examination by a physician or physicians. The costs of any examinations requested by an insurer shall be borne entirely by the insurer. Such examination shall be conducted within ~~the municipality of residence of the insured~~

~~or in~~ the municipality where the insured is receiving treatment, or in a location reasonably accessible to the insured, which, for purposes of this paragraph, means any location within the municipality in which the insured resides, or any location within 10 miles by road of the insured's residence, provided such location is within the county in which the insured resides. If the examination is to be conducted in a location reasonably accessible to the insured, ~~within the municipality of residence of the insured~~ and if there is no qualified physician to conduct the examination in a location reasonably accessible to the insured ~~within such municipality~~, then such examination shall be conducted in an area of the closest proximity to the insured's residence. Personal protection insurers are authorized to include reasonable provisions in personal injury protection insurance policies for mental and physical examination of those claiming personal injury protection insurance benefits. An insurer may not withdraw payment of a treating physician without the consent of the injured person covered by the personal injury protection, unless the insurer first obtains a report by a physician licensed under the same chapter as the treating physician whose treatment authorization is sought to be withdrawn, stating that treatment was not reasonable, related, or necessary.

Section 3. This act shall take effect October 1, 1998.

STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN COMMITTEE SUBSTITUTE FOR Senate Bill 2052

Deletes the provision relating to basic homeowners' insurance policies.

Allows general lines insurance agents to charge an applicant for motor vehicle insurance a reasonable, nonrefundable fee to obtain a motor vehicle report (MVR) to reimburse the agent the actual cost of obtaining the MVR.

Requires medical providers to submit treatment bills directly to insurer within 30 days of service for personal injury protection (PIP) insurance benefits. Alternatively, if the provider furnishes the insurer with 21 days notice of initiation of treatment, the provider may submit medical bills within 60 days of service date. Neither the insurer nor the injured person is required to pay medical bills untimely submitted.

Specifies a method to determine who is the "prevailing party" entitled to attorneys fees and costs when a dispute between an insurer and a medical provider is arbitrated pursuant to the PIP law. Specifies time limits as to submission of issues, offers and claims for purposes of arbitration.

Provides the time period within which payment is due for a claim for PIP benefits under circumstances when an insurer makes a discovery request to a provider.

Provides that an insurer's independent medical examination (IME) be conducted within the municipality where the injured person is being treated, within the municipality where the injured person resides, or within 10 miles of the injured person's home, provided the location is within the insured's county of residence.

Florida Legislature On-Line Sunshine

S 2052: Motor Vehicle Insurance

S 2052 GENERAL BILL/CS by Banking and Insurance; Diaz-Balart (Similar 2ND ENG/H 3889)

Motor Vehicle Insurance; authorizes certain fees to be collected by general lines agents; prohibits provider's statement of charges from including certain charges for services covered by personal injury protection benefits; specifies which party is prevailing party in arbitration of disputes re personal injury protection claims; specifies requirements for arbitration; prescribes form for submission of medical services, etc. Amends 627.7295,.736. EFFECTIVE DATE: 10/01/1998.

03/03/98 SENATE Filed
03/18/98 SENATE Introduced, referred to Banking and Insurance -SJ 00193
03/26/98 SENATE On Committee agenda-- Banking and Insurance, 03/31/98, 1:30 pm, Room-EL
03/31/98 SENATE Comm. Action:-CS by Banking and Insurance -SJ 00408; CS read first time on 04/08/98 -SJ 00414
04/03/98 SENATE Placed on Calendar -SJ 00408
04/17/98 SENATE Placed on Special Order Calendar -SJ 00528; Read second time -SJ 00523; Amendment(s) adopted -SJ 00523; House Bill substituted -SJ 00523; Laid on Table, Iden./Sim./Compare Bill(s) passed, refer to HB 3889 (Ch. 98-270)

BILL TEXT: (Top)

sb2052(View As: HTML, As Printed)
sb2052c1(View As: HTML, As Printed)

AMENDMENTS: (Top)

Amendment 110056: An Amendment to sb2052(View As: HTML,As Printed)
Amendment 133678: An Amendment to sb2052(View As: HTML,As Printed)
Amendment 424904: An Amendment to sb2052(View As: HTML,As Printed)
Amendment 602320: An Amendment to sb2052(View As: HTML,As Printed)
Amendment 911228: An Amendment to sb2052(View As: HTML,As Printed)

STAFF ANALYSIS/BILL RESEARCH: (Top)

S2052 by bi(View As: As Printed)

VOTE HISTORY: (Top)

NO VOTE DATA AVAILABLE

STATUTE CITATIONS: (Top)

0627.7295
0627.736

CONSTITUTION CITATIONS:

NO CONSTITUTION CITATIONS FOUND FOR REQUESTED BILL.

Back to the Bill By Hundreds Page
Back to Online Sunshine

On motion by Senator Kurth—

CS for SB 1878—A bill to be entitled An act relating to the Child Care Executive Partnership, amending s 409 178, F S ; conforming title of the partnership program; revising membership of the partnership; authorizing administration of child care purchasing pool funds by the state resource and referral agency; providing for development of procedures for disbursement of funds through the child care purchasing pools, deleting references to pilot child care purchasing pools; revising parent fee requirements; providing an effective date.

—was read the second time by title

Pursuant to Rule 4 19, **CS for SB 1878** was placed on the calendar of Bills on Third Reading.

On motion by Senator Burt—

CS for SB 1244—A bill to be entitled An act relating to legal process, amending s. 48.031, F S , relating to service upon a sole proprietorship; providing that substitute service may be made upon person in charge of the business at the time of service, under specified circumstances; amending s. 48.183, F.S.; providing for service of process in an action for possession of residential premises; amending s 48 27, F.S ; providing for application and fee for inclusion on list of certified process servers, authorizing certain service when a civil action has been filed in a circuit or county court in the state; amending s. 55 03, F S , relating to docketing and indexing of civil process generally; revising provisions relating to rate of interest, providing an exception from certain docketing and indexing or collection requirements when rate of interest is not on the face of the process, writ, judgment, or decree; amending s 56.27, F.S., relating to payment to execution creditor of money collected; providing for payment to a junior writ of certain surplus moneys collected, amending s 56 28, F.S , requiring written demand by plaintiff as a condition for officer's liability to pay over within 10 days certain moneys collected, providing an effective date

—was read the second time by title.

An amendment was considered and failed to conform **CS for SB 1244** to **CS for HB 935**

Pending further consideration of CS for SB 1244, on motion by Senator Burt, by two-thirds vote **CS for HB 935** was withdrawn from the Committees on Judiciary; and Commerce and Economic Opportunities

On motion by Senator Burt—

CS for HB 935—A bill to be entitled An act relating to legal process; amending s. 48 031, F.S , relating to service upon a sole proprietorship, providing that substitute service may be made upon person in charge of the business at the time of service, under specified circumstances; amending s. 48 183, F.S., providing for service of process in an action for possession of residential premises; amending s 48.27, F.S ; providing for application and fee for inclusion on list of certified process servers, authorizing certain service when a civil action has been filed in a circuit or county court in the state; amending s. 55 03, F S., relating to docketing and indexing of civil process generally; revising provisions relating to rate of interest, providing an exception from certain docketing and indexing or collection requirements when rate of interest is not on the face of the process, writ, judgment, or decree, amending s 56 27, F.S., relating to payment to execution creditor of money collected; providing for payment to a junior writ of certain surplus moneys collected, amending s. 56 28, F.S ; requiring written demand by plaintiff as a condition for officer's liability to pay over within 10 days certain moneys collected, providing an effective date

—a companion measure, was substituted for CS for SB 1244 and read the second time by title.

Senator Burt moved the following amendments which were adopted:

Amendment 1—On page 2, line 10, delete "one" and insert: *two* ~~one~~

Amendment 2—On page 4, lines 16-20, delete those lines and insert Nothing contained herein shall affect a rate of interest established by written contract or obligation

Pursuant to Rule 4 19, **CS for HB 935** as amended was placed on the calendar of Bills on Third Reading.

On motion by Senator Meadows—

SB 864—A bill to be entitled An act relating to ad valorem tax exemption, amending s. 196.011, F.S.; authorizing the granting of exemption under certain circumstances to property entitled to a charitable exemption for the 1994 tax year for which application was not timely filed; providing for canceling outstanding tax certificates on, and taxes assessed against, such property and for refunding any such taxes that have been paid, providing for expiration; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **SB 864** was placed on the calendar of Bills on Third Reading

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On motion by Senator Diaz-Balart—

CS for SB 2052—A bill to be entitled An act relating to insurance; amending s. 627.7295, F.S ; authorizing certain fees to be collected by general lines agents, amending s. 627.736, F.S ; prohibiting a provider's statement of charges from including certain charges for services covered by personal injury protection benefits; specifying which party is the prevailing party in arbitration of disputes relating to personal injury protection claims; specifying requirements for arbitration; prescribing forms for submission of medical services; specifying payment time limitations; specifying where an independent medical examination of a claimant may be conducted, providing an effective date

—was read the second time by title.

Amendments were considered and adopted to conform **CS for SB 2052** to **HB 3889**

Pending further consideration of **CS for SB 2052** as amended, on motion by Senator Diaz-Balart, by two-thirds vote **HB 3889** was withdrawn from the Committee on Banking and Insurance

On motion by Senator Diaz-Balart—

HB 3889—A bill to be entitled An act relating to motor vehicle insurance, amending s. 627.7295, F.S.; authorizing certain fees; amending s. 627 736, F S ; providing alternate means of paying certain interest penalties on overdue personal injury protection benefits; prohibiting a provider's statement of charges from including certain charges; specifying which party is the prevailing party in arbitration of disputes relating to personal injury protection claims; specifying where an independent medical examination of a claimant may be conducted; providing an effective date.

—a companion measure, was substituted for **CS for SB 2052** as amended and read the second time by title.

Senator Diaz-Balart moved the following amendment which was adopted:

Amendment 1 (with title amendment)—Delete everything after the enacting clause and insert:

Section 1 Subsection (5) of section 627.7295, Florida Statutes, is amended to read:

627.7295 Motor vehicle insurance contracts —

(5)*(a)* A licensed general lines agent may charge a per-policy fee not to exceed $10 to cover the administrative costs of the agent associated with selling the motor vehicle insurance policy if the policy covers only personal injury protection coverage as provided by s. 627 736 and property damage liability coverage as provided by s. 627.7275 and if no other insurance is sold or issued in conjunction with or collateral to the policy. The per-policy fee must be a component of the insurer's rate filing and may not be charged by an agent unless the fee is included in the filing. The fee is not considered part of the premium except for purposes of the department's review of expense factors in a filing made pursuant to s. 627 062

By Senator Diaz-Balart

37-1524-98

A bill to be entitled

An act relating to insurance; amending s. 627.4143; revising requirements for providing an outline of coverage on homeowner's policies; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (1) of section 627.4143, Florida Statutes, is amended to read:

627.4143 Outline of coverage.--

(1) No private passenger automobile or ~~basic~~ homeowner's policy shall be delivered or issued for delivery in this state unless an appropriate outline of coverage has been delivered prior to issuance of the policy or accompanies the policy when issued.

Section 2. The changes made by this act apply to homeowners' policies offered, sold, issued, or renewed on or after January 1, 1999.

Section 3. This act shall take effect January 1, 1999.

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SENATE SUMMARY

Requires an outline of coverage to be delivered before any homeowner's insurance policy is delivered.

CHAPTER 98-270

House Bill No. 3889

An act relating to motor vehicle insurance; amending s. 627.7295, F.S.; authorizing certain fees to be collected by general lines agents; amending s. 627.736, F.S.; prohibiting a provider's statement of charges from including certain charges for services covered by personal injury protection benefits; specifying which party is the prevailing party in arbitration of disputes relating to personal injury protection claims; specifying requirements for arbitration; prescribing forms for submission of medical services; specifying payment time limitations; specifying where an independent medical examination of a claimant may be conducted; specifying applicability of amendments made by this act; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (5) of section 627.7295, Florida Statutes, is amended to read:

627.7295 Motor vehicle insurance contracts.—

(5)(a) A licensed general lines agent may charge a per-policy fee not to exceed $10 to cover the administrative costs of the agent associated with selling the motor vehicle insurance policy if the policy covers only personal injury protection coverage as provided by s. 627.736 and property damage liability coverage as provided by s. 627.7275 and if no other insurance is sold or issued in conjunction with or collateral to the policy. The per-policy fee must be a component of the insurer's rate filing and may not be charged by an agent unless the fee is included in the filing. The fee is not considered part of the premium except for purposes of the department's review of expense factors in a filing made pursuant to s. 627.062.

(b) To the extent that a licensed general agent's cost of obtaining motor vehicle reports on applicants for motor vehicle insurance is not otherwise compensated, the agent may, in addition to any other fees authorized by law, charge an applicant for motor vehicle insurance a reasonable, nonrefundable fee to reimburse the agent the actual cost of obtaining the report for each licensed driver when the motor vehicle report is obtained by the agent simultaneously with the preparation of the application for use in the calculation of premium or in the proper placement of the risk. The amount of the fee may not exceed the agent's actual cost in obtaining the report which is not otherwise compensated. Actual cost is the cost of obtaining the report on an individual driver basis when so obtained or the pro rata cost per driver when the report is obtained on more than one driver; however, in no case may actual cost include subscription or access fees associated with obtaining motor vehicle reports on-line though any electronic transmissions program.

Section 2. Subsection (5), paragraph (b) of subsection (6), and paragraph (a) of subsection (7) of section 627.736, Florida Statutes, are amended to read:

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

627 736 Required personal injury protection benefits; exclusions; priority.—

(5) CHARGES FOR TREATMENT OF INJURED PERSONS.—

(a) Any physician, hospital, clinic, or other person or institution lawfully rendering treatment to an injured person for a bodily injury covered by personal injury protection insurance may charge only a reasonable amount for the products, services, and accommodations rendered, and the insurer providing such coverage may pay for such charges directly to such person or institution lawfully rendering such treatment, if the insured receiving such treatment or his or her guardian has countersigned the invoice, bill, or claim form approved by the Department of Insurance upon which such charges are to be paid for as having actually been rendered, to the best knowledge of the insured or his or her guardian. In no event, however, may such a charge be in excess of the amount the person or institution customarily charges for like products, services, or accommodations in cases involving no insurance, provided that charges for cephalic thermograms and peripheral thermograms shall not exceed the maximum reimbursement allowance for such procedures as set forth in the applicable fee schedule established pursuant to s. 440.13

(b) With respect to any treatment or service, other than medical services billed by a hospital for services rendered at a hospital-owned facility, the statement of charges must be furnished to the insurer by the provider and may not include, and the insurer is not required to pay, charges for treatment or services rendered more than 30 days before the postmark date of the statement, except for past due amounts previously billed on a timely basis under this paragraph, and except that, if the provider submits to the insurer a notice of initiation of treatment within 21 days after its first examination or treatment of the claimant, the statement may include charges for treatment or services rendered up to, but not more than, 60 days before the postmark date of the statement. The injured party is not liable for, and the provider shall not bill the injured party for, charges that are unpaid because of the provider's failure to comply with this paragraph. Any agreement requiring the injured person or insured to pay for such charges is unenforceable For emergency services and care as defined in s. 395 002 rendered in a hospital emergency department or for transport and treatment rendered by an ambulance provider licensed pursuant to part III of chapter 401, the provider is not required to furnish the statement of charges within the time periods established by this paragraph; and the insurer shall not be considered to have been furnished with notice of the amount of covered loss for purposes of paragraph (4)(b) until it receives a statement complying with paragraph (5)(d), or copy thereof, which specifically identifies the place of service to be a hospital emergency department or an ambulance in accordance with billing standards recognized by the Health Care Finance Administration. Each notice of insured's rights under s. 627.7401 must include the following statement in type no smaller than 12 points:

BILLING REQUIREMENTS.—Florida Statutes provide that with respect to any treatment or services, other than certain hospital and emergency services, the statement of charges furnished to the insurer by the

provider may not include, and the insurer and the injured party are not required to pay, charges for treatment or services rendered more than 30 days before the postmark date of the statement, except for past due amounts previously billed on a timely basis, and except that, if the provider submits to the insurer a notice of initiation of treatment within 21 days after its first examination or treatment of the claimant, the statement may include charges for treatment or services rendered up to, but not more than, 60 days before the postmark date of the statement.

(c) Every insurer shall include a provision in its policy for personal injury protection benefits for binding arbitration of any claims dispute involving medical benefits arising between the insurer and any person providing medical services or supplies if that person has agreed to accept assignment of personal injury protection benefits. The provision shall specify that the provisions of chapter 682 relating to arbitration shall apply. The prevailing party shall be entitled to attorney's fees and costs. For purposes of the award of attorney's fees and costs, the prevailing party shall be determined as follows:

1. When the amount of personal injury protection benefits determined by arbitration exceeds the sum of the amount offered by the insurer at arbitration plus 50 percent of the difference between the amount of the claim asserted by the claimant at arbitration and the amount offered by the insurer at arbitration, the claimant is the prevailing party.

2. When the amount of personal injury protection benefits determined by arbitration is less than the sum of the amount offered by the insurer at arbitration plus 50 percent of the difference between the amount of the claim asserted by the claimant at arbitration and the amount offered by the insurer at arbitration, the insurer is the prevailing party.

3. When neither subparagraph 1. nor subparagraph 2. applies, there is no prevailing party. For purposes of this paragraph, the amount of the offer or claim at arbitration is the amount of the last written offer or claim made at least 30 days prior to the arbitration.

4. In the demand for arbitration, the party requesting arbitration must include a statement specifically identifying the issues for arbitration for each examination or treatment in dispute. The other party must subsequently issue a statement specifying any other examinations or treatment and any other issues that it intends to raise in the arbitration. The parties may amend their statements up to 30 days prior to arbitration, provided that arbitration shall be limited to those identified issues and neither party may add additional issues during arbitration.

(d) All statements and bills for medical services rendered by any physician, hospital, clinic, or other person or institution shall be submitted to the insurer on an Health Care Finance Administration 1500 form, UB 92 forms, or any other standard form approved by the department for purposes of this paragraph. All billings for such services shall, to the extent applicable, follow the Physicians' Current Procedural Terminology (CPT) in the year in which services are rendered. No statement of medical services may include

charges for medical services of a person or entity that performed such services without possessing the valid licenses required to perform such services. For purposes of paragraph (4)(b), an insurer shall not be considered to have been furnished with notice of the amount of covered loss or medical bills due unless the statements or bills comply with this paragraph.

(6) DISCOVERY OF FACTS ABOUT AN INJURED PERSON; DISPUTES.—

(b) Every physician, hospital, clinic, or other medical institution providing, before or after bodily injury upon which a claim for personal injury protection insurance benefits is based, any products, services, or accommodations in relation to that or any other injury, or in relation to a condition claimed to be connected with that or any other injury, shall, if requested to do so by the insurer against whom the claim has been made, furnish forthwith a written report of the history, condition, treatment, dates, and costs of such treatment of the injured person, together with a sworn statement that the treatment or services rendered were reasonable and necessary with respect to the bodily injury sustained and identifying which portion of the expenses for such treatment or services was incurred as a result of such bodily injury, and produce forthwith, and permit the inspection and copying of, his or her or its records regarding such history, condition, treatment, dates, and costs of treatment. Such sworn statement shall read as follows: "Under penalty of perjury, I declare that I have read the foregoing, and the facts alleged are true, to the best of my knowledge and belief." No cause of action for violation of the physician-patient privilege or invasion of the right of privacy shall be permitted against any physician, hospital, clinic, or other medical institution complying with the provisions of this section. The person requesting such records and such sworn statement shall pay all reasonable costs connected therewith. If an insurer makes a written request for documentation under this paragraph within 20 days after having received notice of the amount of a covered loss under s. 627.736(4)(a), the insurer shall pay the amount or partial amount of covered loss to which such documentation relates in accordance with s. 627.736(4)(b) or within 10 days after the insurer's receipt of the requested documentation, whichever occurs later. For purposes of this paragraph, the term "receipt" includes, but is not limited to, inspection and copying pursuant to this paragraph.

(7) MENTAL AND PHYSICAL EXAMINATION OF INJURED PERSON; REPORTS —

(a) Whenever the mental or physical condition of an injured person covered by personal injury protection is material to any claim that has been or may be made for past or future personal injury protection insurance benefits, such person shall, upon the request of an insurer, submit to mental or physical examination by a physician or physicians. The costs of any examinations requested by an insurer shall be borne entirely by the insurer. Such examination shall be conducted within ~~the municipality of residence of the insured or in~~ the municipality where the insured is receiving treatment, or in a location reasonably accessible to the insured, which, for purposes of this paragraph, means any location within the municipality in which the insured resides, or any location within 10 miles by road of the insured's residence,

provided such location is within the county in which the insured resides. If the examination is to be conducted in a location reasonably accessible to the insured, ~~within the municipality of residence of the insured~~ and if there is no qualified physician to conduct the examination in a location reasonably accessible to the insured ~~within such municipality~~, then such examination shall be conducted in an area of the closest proximity to the insured's residence. Personal protection insurers are authorized to include reasonable provisions in personal injury protection insurance policies for mental and physical examination of those claiming personal injury protection insurance benefits. An insurer may not withdraw payment of a treating physician without the consent of the injured person covered by the personal injury protection, unless the insurer first obtains a report by a physician licensed under the same chapter as the treating physician whose treatment authorization is sought to be withdrawn, stating that treatment was not reasonable, related, or necessary.

Section 3. (1) Paragraph (5)(c) of s. 627.736, Florida Statutes, as amended by section 2 of this act, shall apply to arbitrations commenced on or after the effective date of this act.

(2) Paragraph (7)(a) of s. 627.736, Florida Statutes, as amended by section 2 of this act, shall apply to new and renewal policies with an effective date on or after the effective date of this act.

(3) All other provisions of section 2 of this act shall apply to accidents occurring on or after the effective date of this act.

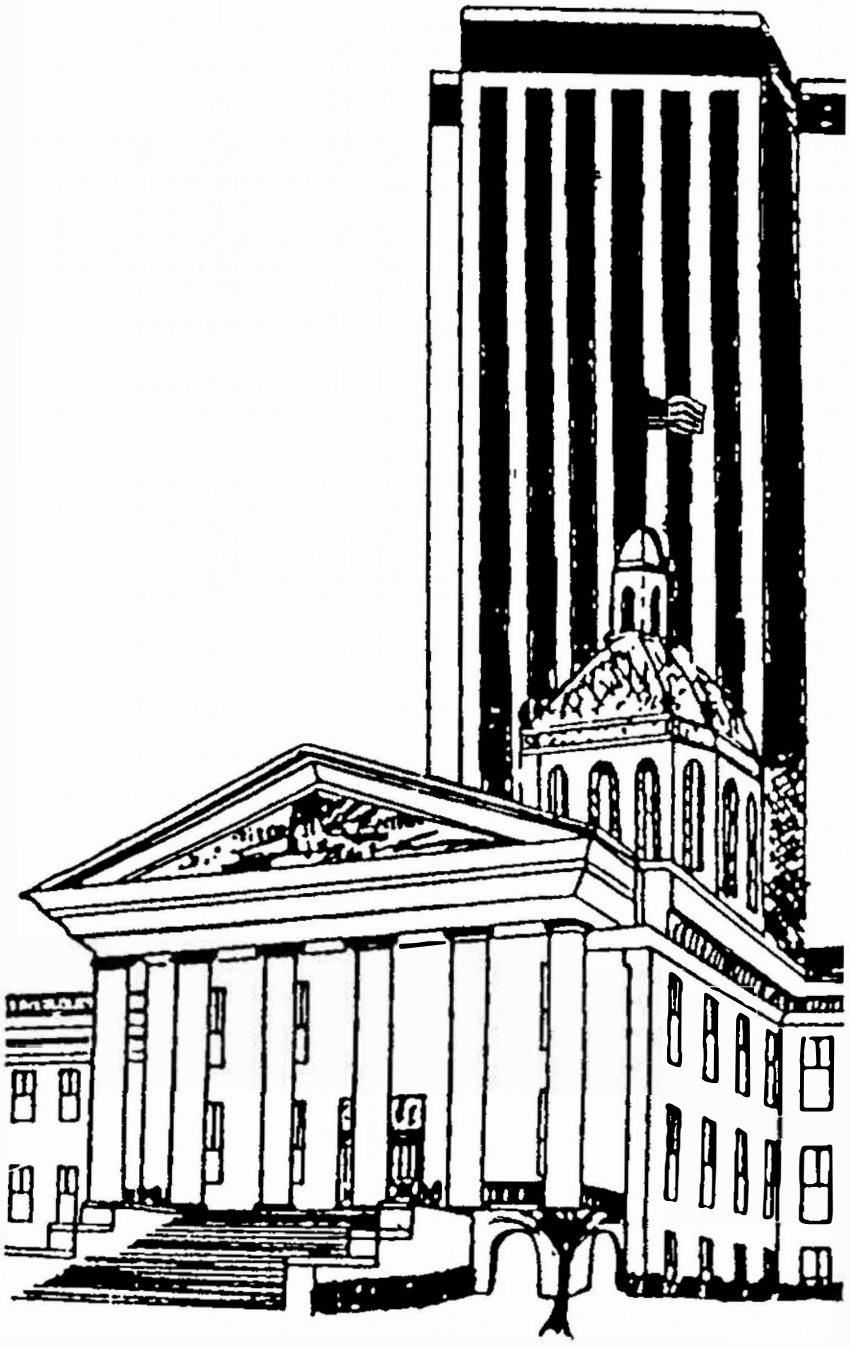
Section 4. This act shall take effect October 1, 1998.

Became a law without the Governor's approval May 28, 1998.

Filed in Office Secretary of State May 27, 1998.

FLORIDA LEGISLATURE

FINAL LEGISLATIVE BILL INFORMATION "CITATOR"



1998 Regular Session
1997 Special Session A

prepared by:

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HISTORY OF SENATE BILLS

S 2050 (CONTINUED)
03/03/98 SENATE Filed
03/18/98 SENATE Introduced, referred to Criminal Justice –SJ 00193
05/01/98 SENATE Died in Committee on Criminal Justice

S 2052 GENERAL BILL/CS by Banking and Insurance; Diaz-Balart (Similar 2ND ENG/H 3889)
Motor Vehicle Insurance, authorizes certain fees to be collected by general lines agents, prohibits provider's statement of charges from including certain charges for services covered by personal injury protection benefits, specifies which party is prevailing party in arbitration of disputes re personal injury protection claims, specifies requirements for arbitration, prescribes form for submission of medical services, etc Amends 627 7295, 736 Effective Date 10/01/1998
03/03/98 SENATE Filed
03/18/98 SENATE Introduced, referred to Banking and Insurance –SJ 00193
03/26/98 SENATE On Committee agenda—Banking and Insurance, 03/31/98, 1 30 pm, Room–EL
03/31/98 SENATE Comm Action –CS by Banking and Insurance –SJ 00408, CS read first time on 04/08/98 –SJ 00414
04/03/98 SENATE Placed on Calendar –SJ 00408
04/17/98 SENATE Placed on Special Order Calendar –SJ 00528, Read second time –SJ 00523, Amendment(s) adopted –SJ 00523, House Bill substituted –SJ 00523, Laid on Table, Iden/Sim /Compare Bill(s) passed, refer to HB 3889 (Ch 98–270)

S 2054 GENERAL BILL/CS by Banking and Insurance, Diaz-Balart (Similar H 3665, Compare CS/1ST ENG/S 1108)
Property Insurance, provides findings re moratorium on hurricane–related cancellations & nonrenewals of personal lines residential policies & condominium association policies, respectively, deletes provisions re accelerated exposure reduction plans, provides circumstances under which sections are inoperative, delays future repeal date of sections Amends 627 7013, 7014 Effective Date Upon becoming law
03/03/98 SENATE Filed
03/18/98 SENATE Introduced, referred to Banking and Insurance –SJ 00193
03/26/98 SENATE On Committee agenda—Banking and Insurance, 03/31/98, 1 30 pm, Room–EL
03/31/98 SENATE Comm Action –CS by Banking and Insurance –SJ 00344, CS read first time on 04/01/98 –SJ 00350
04/01/98 SENATE Placed on Calendar –SJ 00344
04/15/98 SENATE Placed on Special Order Calendar –SJ 00478
04/16/98 SENATE Placed on Special Order Calendar –SJ 00478
04/17/98 SENATE Placed on Special Order Calendar –SJ 00498
04/21/98 SENATE Placed on Special Order Calendar –SJ 00528
04/22/98 SENATE Placed on Special Order Calendar –SJ 00741
04/23/98 SENATE Placed on Special Order Calendar –SJ 00812
04/24/98 SENATE Placed on Special Order Calendar –SJ 00868
04/27/98 SENATE Placed on Special Order Calendar –SJ 00927
04/28/98 SENATE Placed on Special Order Calendar –SJ 00982, –SJ 01092
04/29/98 SENATE Placed on Special Order Calendar –SJ 01092
04/30/98 SENATE Placed on Special Order Calendar –SJ 01222, –SJ 01522
05/01/98 SENATE Placed on Special Order Calendar –SJ 01522, –SJ 01808, Died on Special Order Calendar, Iden /Sim / Compare Bill(s) passed, refer to CS/SB 1108 (Ch 98–173)

S 2056 GENERAL BILL/CS by Regulated Industries; Lee (Compare CS/CS/1ST ENG/H 3211, CS/1ST ENG/S 0340)
Contractor Licensing/Exemptions, exempts certain real estate licensees from contractor licensing provisions Amends 489 103, 503 Effective Date 07/01/1998
03/03/98 SENATE Filed
03/18/98 SENATE Introduced, referred to Regulated Industries –SJ 00193
03/19/98 SENATE On Committee agenda—Regulated Industries, 03/24/98, 1 30 pm, Room–EL
03/24/98 SENATE Comm Action –CS by Regulated Industries –SJ 00344, CS read first time on 04/01/98 –SJ 00350
03/27/98 SENATE Placed on Calendar –SJ 00344
05/01/98 SENATE Died on Calendar, Iden /Sim /Compare Bill(s) passed, refer to CS/CS/HB 3211 (Ch 98–250)

S 2058 GENERAL BILL by Williams
Indigent Defendants/Representation, provides for Governor to assign public defender from another circuit to represent indigent defendant charged with capital crime if conflict of interest exists for public defender in circuit where crime occurred, provides for expiration of assignment, provides for assistant public defender to perform assignment, provides for expenses of such representation to be paid by appropriation to circuit courts, etc Amends Ch 925, 27 51, 915 035 Effective Date 07/01/1998
03/03/98 SENATE Filed

S 2058 (CONTINUED)
03/18/98 SENATE Introduced, referred to Criminal Justice, Judiciary, Ways and Means –SJ 00193
05/01/98 SENATE Died in Committee on Criminal Justice

S 2060 GENERAL BILL/CS/1ST ENG by Children, Families and Seniors; Gutman; (CO-SPONSORS) Turner (Compare H 3563)
Legal Immigrant's Bridge Program, provides that unused Legal Immigrant's Temporary Income Bridge Program funds for current fiscal year may be used for food stamps for legal immigrants who are in naturalization & citizenship process or in process of seeking exemption thereto & who are children, recipients of Supplemental Security Income, or persons of specified age, etc Appropriation Effective Date 07/01/1998
03/03/98 SENATE Filed
03/18/98 SENATE Introduced, referred to Children, Families and Seniors, Ways and Means –SJ 00194
03/25/98 SENATE On Committee agenda—Children, Families and Seniors, 03/30/98, 2 00 pm, Room–309C
03/30/98 SENATE Comm Action CS by Children, Families and Seniors –SJ 00344, CS read first time on 04/01/98 –SJ 00350
04/01/98 SENATE Now in Ways and Means –SJ 00344
04/22/98 SENATE Withdrawn from Ways and Means –SJ 00758, Placed on Calendar
04/27/98 SENATE Placed on Special Order Calendar –SJ 00982
04/28/98 SENATE Placed on Special Order Calendar –SJ 00982, –SJ 01092, Read second time –SJ 01091, Amendment(s) adopted –SJ 01092, Ordered engrossed –SJ 01092
04/29/98 SENATE Read third time –SJ 01167, CS passed as amended, YEAS 38 NAYS 0 –SJ 01167
04/29/98 HOUSE In Messages
05/01/98 HOUSE Died in Messages

S 2062 GENERAL BILL by Horne
School District Performance Reviews, requires that preference be given to certain firms to conduct such reviews Amends 11 515 Effective Date Upon becoming law
03/03/98 SENATE Filed
03/18/98 SENATE Introduced, referred to Education, Governmental Reform and Oversight –SJ 00194
05/01/98 SENATE Died in Committee on Education

S 2064 GENERAL BILL by Horne
Education/Prof Development Schools, declares legislative intent re professional development schools Effective Date Upon becoming law
03/03/98 SENATE Filed
03/18/98 SENATE Introduced, referred to Education, Ways and Means –SJ 00194
05/01/98 SENATE Died in Committee on Education

S 2066 GENERAL BILL by Clary
Education, prescribes legislative intent to revise laws re education
03/03/98 SENATE Filed
03/18/98 SENATE Introduced, referred to Education, Ways and Means –SJ 00194
03/25/98 SENATE Withdrawn from Education, Ways and Means –SJ 00272, Withdrawn from further consideration –SJ 00272

S 2068 GENERAL BILL/CS by Community Affairs; Forman; (CO-SPONSORS) Klein (Similar CS/CS/H 3193, H 4129, CS/S 0544)
Homeowners' Associations, specifies location of board meetings, prohibits commingling of association funds, requires developer to deliver specific documents to newly elected board, prohibits certain clauses in homeowners' association documents, provides for establishment of reserve & operating accounts, defines term "dispute", provides for voluntary binding arbitration of disputes, etc Amends 617 303, 307, 311, 689 26, creates 617 3075, 3077 Effective Date 10/01/1998
03/03/98 SENATE Filed
03/18/98 SENATE Introduced, referred to Community Affairs, Judiciary –SJ 00194
04/09/98 SENATE On Committee agenda—Community Affairs, 04/14/98, 9 00 am, Room–309C
04/14/98 SENATE Comm Action CS by Community Affairs –SJ 00479, CS read first time on 04/15/98 –SJ 00482
04/15/98 SENATE Now in Judiciary –SJ 00479
05/01/98 SENATE Died in Committee on Judiciary, Iden /Sim /Compare Bill(s) passed, refer to CS/CS/HB 3193 (Ch 98–261)

S 2070 GENERAL BILL by Kirkpatrick (Similar S 2290, Compare S 2142)
Everglades Pollution Abatement, provides legislative findings & intent, requires Joint Legislative Committee on Everglades Oversight to recommend funding mechanism for any additional water quality improvements developed under certain provisions, requires South Florida Water Management District, in coordination with DEP to assist joint committee by conducting specified analyses, provides for public workshops & hearings, etc Creates

(CONTINUED ON NEXT PAGE)

HISTORY OF HOUSE BILLS

H 3887 GENERAL BILL/1ST ENG by Lynn (Compare 3RD ENG/H 1019, CS/2ND ENG/H 3883, CS/S 2170)

Public Records/Child Abuse/Neglect, revises provisions re confidentiality of CFS Dept reports & records of cases of child abuse & neglect, provides exemption from public records requirements for department reports & records of cases of child abandonment, requires certain recordkeeping & preservation by department, takes effect on same date as HB 3883 or similar legislation takes effect, if such legislation is adopted in same legislative session or extension thereof, etc Amends FS Effective Date Contingent

03/03/98	HOUSE	Filed, Introduced –HJ 00064
03/16/98	HOUSE	Referred to Family Law & Children (JC), Governmental Operations (GRC), Health & Human Services Appropriations –HJ 00238, On Committee agenda—Family Law & Children (JC), 03/19/98, 8 00 am, 16–HOB
03/19/98	HOUSE	Comm Action Unanimously Favorable with 1 amendment(s) by Family Law & Children (JC) –HJ 00307
03/20/98	HOUSE	Now in Governmental Operations (GRC) –HJ 00307
03/25/98	HOUSE	Withdrawn from Governmental Operations (GRC) –HJ 00340, Now in Health & Human Services Appropriations
03/30/98	HOUSE	On Committee agenda—Health & Human Services Appropriations, 04/02/98, 9 00 am, 317C
04/02/98	HOUSE	Comm Action –Unanimously Favorable by Health & Human Services Appropriations –HJ 00451
04/03/98	HOUSE	Pending Consent Calendar –HJ 00451
04/08/98	HOUSE	Available for Consent Calendar
04/16/98	HOUSE	Placed on Consent Calendar, Read second time –HJ 00662, Amendment(s) adopted –HJ 00662, Read third time –HJ 00662, Passed as amended, YEAS 116 NAYS 0 –HJ 00662, Immediately certified –HJ 00677
04/16/98	SENATE	In Messages
04/21/98	SENATE	Received, referred to Children, Families and Seniors, Governmental Reform and Oversight –SJ 00754
05/01/98	SENATE	Died in Committee on Children, Families and Seniors, Iden /Sim/Compare Bill(s) passed, refer to HB 1019 (Ch 98–403)

H 3889 GENERAL BILL/2ND ENG by Financial Services (EIC); Safley; (CO–SPONSORS) Bainter; Flanagan; Tamargo, Lawson; Dennis; Cosgrove; Lippman (Similar CS/S 2052)

Motor Vehicle Insurance, authorizes certain fees to be collected by general lines agents, prohibits provider's statement of charges from including certain charges for services covered by personal injury protection benefits, specifies which party is prevailing party in arbitration of disputes re personal injury protection claims, specifies where independent medical examination of claimant may be conducted, specifies applicability of amendments, etc Amends 627 7295, 736 Effective Date 10/01/1998

03/03/98	HOUSE	Filed, Introduced –HJ 00064
03/13/98	HOUSE	In Economic Impact Council, pending ranking –HJ 00238
03/24/98	HOUSE	Placed on Economic Impact Council Calendar –HJ 00337
03/31/98	HOUSE	Read second time –HJ 00366, Amendment(s) adopted –HJ 00366
04/01/98	HOUSE	Read third time –HJ 00393, Passed as amended, YEAS 112 NAYS 1 –HJ 00393
04/07/98	SENATE	In Messages
04/09/98	SENATE	Received, referred to Banking and Insurance –SJ 00432
04/17/98	SENATE	Withdrawn from Banking and Insurance –SJ 00523, Substituted for CS/SB 2052 –SJ 00523, Read second time –SJ 00523, Amendment(s) adopted –SJ 00523
04/22/98	SENATE	Read third time –SJ 00765, Passed as amended, YEAS 30 NAYS 1 –SJ 00765, Immediately certified –SJ 00765
04/22/98	HOUSE	In returning messages
04/29/98	HOUSE	Concurred –HJ 01681, Passed as amended, YEAS 116 NAYS 0 –HJ 01682, Ordered engrossed, then enrolled –HJ 01683
05/12/98		Signed by Officers and presented to Governor
05/28/98		Became Law without Governor's Signature, Chapter No 98–270

H 3891 GENERAL BILL by Lawson (Similar S 1618)

Industrial Life Insurance Policies, prohibits delivery or issuance of industrial life insurance policies after certain date, provides application, requires disclosure of certain information to policyholders or premium payors Creates 627 5015 Effective Date Contingent

03/03/98	HOUSE	Filed, Introduced –HJ 00064
03/13/98	HOUSE	Referred to Financial Services (EIC) –HJ 00238
03/24/98	HOUSE	On Committee agenda—Financial Services (EIC), 03/30/98, 1 30 pm, Reed Hall
03/30/98	HOUSE	Comm Action –Unanimously Favorable by Financial Services (EIC) –HJ 00435
04/01/98	HOUSE	Pending Consent Calendar –HJ 00435
04/06/98	HOUSE	Available for Consent Calendar
04/16/98	HOUSE	Placed on Consent Calendar, Read second and third times –HJ 00651, Passed, YEAS 115 NAYS 1 –HJ 00651, Immediately certified –HJ 00677

H 3891 (CONTINUED)

04/16/98	SENATE	In Messages
04/21/98	SENATE	Received, referred to Banking and Insurance –SJ 00750
05/01/98	SENATE	Died in Committee on Banking and Insurance

H 3893 GENERAL BILL by Lawson

Postsecondary Education, directs Board of Regents to conduct study re establishment of college of medicine at Florida Agricultural & Mechanical University, provides components of study Effective Date Upon becoming law

03/03/98	HOUSE	Filed, Introduced –HJ 00064
03/13/98	HOUSE	Referred to Colleges & Universities (AEC), Education Appropriations –HJ 00238
05/01/98	HOUSE	Died in Committee on Colleges & Universities (AEC)

H 3895 GENERAL BILL/CS/1ST ENG by Health Care Services (GSC); Saunders; (CO–SPONSORS) Crist (Similar CS/CS/CS/S 1432, Compare 1ST ENG/H 4535, CS/CS/2ND ENG/S 0484)

Delivery of Health Care Services, provides exemption from Insurance Code for certain health care services, creates "Provider Sponsored Organization Act", provides legislative findings & purposes, prohibits provider sponsored organizations from transacting insurance business other than offering of Medicare Choice plans, directs AHCA to establish outpatient specialty services pilot project, provides criteria for participation, etc Amends Chs 624, 641, 409 912 Effective Date Contingent

03/03/98	HOUSE	Filed, Introduced –HJ 00064
03/13/98	HOUSE	Referred to Health Care Services (GSC), Health & Human Services Appropriations –HJ 00238
03/18/98	HOUSE	On Committee agenda—Health Care Services (GSC), 03/24/98, 1 30 pm, Morris Hall
03/24/98	HOUSE	Comm Action CS by Health Care Services (GSC) –HJ 00388
03/31/98	HOUSE	CS read first time on 03/31/98 –HJ 00385
03/27/98	HOUSE	Now in Health & Human Services Appropriations –HJ 00388
04/02/98	HOUSE	On Committee agenda—Health & Human Services Appropriations, 04/08/98, 1 00 pm, 317C—Meeting cancelled
04/08/98	HOUSE	On Committee agenda—Health & Human Services Appropriations, 04/14/98, 3 45 pm, 317C
04/14/98	HOUSE	Comm Action –Unanimously Favorable with 3 amendment(s) by Health & Human Services Appropriations –HJ 00689
04/16/98	HOUSE	In Government Services Council, pending ranking –HJ 00689
04/20/98	HOUSE	Placed on Government Services Council Calendar –HJ 00741
04/24/98	HOUSE	Placed on General Calendar, Read second time –HJ 01150, Amendment(s) adopted –HJ 01151, Amendment pending –HJ 01151, Pending amendment adopted –HJ 01194
04/28/98	HOUSE	Senate Bill substituted, Laid on Table, Refer to 1998 CS/CS/CS/SB 1432 (Died in Senate Returning Messages), Refer to CS/CS/SB 484 (Ch 98–191) –HJ 01524

H 3897 GENERAL BILL/1ST ENG by Mackenzie; (CO–SPONSORS) King; Jones; Culp (Similar CS/CS/S 1366)

Motor Vehicle Lease/Sales Warranties, modifies disclosure form for motor vehicle lease, modifies definitions applicable to motor vehicle sales warranties Amends 521 004, 681 102 Effective Date Contingent

03/03/98	HOUSE	Filed, Introduced –HJ 00064
03/13/98	HOUSE	Referred to Business Regulation & Consumer Affairs (EIC) –HJ 00238
03/19/98	HOUSE	On Committee agenda—Business Regulation & Consumer Affairs (EIC), 03/25/98, 8 00 am, Reed Hall
03/25/98	HOUSE	Comm Action –Unanimously Favorable with 1 amendment(s) by Business Regulation & Consumer Affairs (EIC) –HJ 00386
03/26/98	HOUSE	Pending Consent Calendar –HJ 00386
03/31/98	HOUSE	Available for Consent Calendar
04/16/98	HOUSE	Placed on Consent Calendar, Read second time –HJ 00643, Amendment(s) adopted –HJ 00643, Read third time –HJ 00643, Passed as amended, YEAS 117 NAYS 0 –HJ 00643, Immediately certified –HJ 00677
04/16/98	SENATE	In Messages
04/21/98	SENATE	Received, referred to Commerce and Economic Opportunities, Transportation –SJ 00754
05/01/98	SENATE	Died in Committee on Commerce and Economic Opportunities, Iden /Sim /Compare Bill(s) passed, refer to CS/CS/SB 1366 (Ch 98–128)

H 3899 GENERAL BILL/CS/CS by Finance & Taxation (FRC); Financial Services (EIC); Finance & Taxation (FRC); Starks; (CO–SPONSORS) Melvin; Brooks; Kosmas; Fasano; Maygarden, Trovillion; Kelly, Alexander; Feeney; Byrd; Argenziano; Livingston; Murman; Posey; Culp; Sindler; Flanagan; Valdes; Wallace; Ball; Harrington; Putnam;

(CONTINUED ON NEXT PAGE)

Florida Legislature On-Line Sunshine

H 3889: Motor Vehicle Insurance

H 3889 GENERAL BILL/2ND ENG by Financial Services (EIC); Safley; (CO-SPONSORS) Bainter; Flanagan; Tamargo; Lawson; Dennis; Cosgrove; Lippman (Similar CS/S 2052)

Motor Vehicle Insurance; authorizes certain fees to be collected by general lines agents; prohibits provider's statement of charges from including certain charges for services covered by personal injury protection benefits; specifies which party is prevailing party in arbitration of disputes re personal injury protection claims; specifies where independent medical examination of claimant may be conducted; specifies applicability of amendments, etc. Amends 627.7295,.736. EFFECTIVE DATE: 10/01/1998.

03/03/98 HOUSE Filed; Introduced -HJ 00064
03/13/98 HOUSE In Economic Impact Council, pending ranking -HJ 00238
03/24/98 HOUSE Placed on Economic Impact Council Calendar -HJ 00337
03/31/98 HOUSE Read second time -HJ 00366; Amendment(s) adopted -HJ 00366
04/01/98 HOUSE Read third time -HJ 00393; Passed as amended; YEAS 112 NAYS 1 -HJ 00393
04/07/98 SENATE In Messages
04/09/98 SENATE Received, referred to Banking and Insurance -SJ 00432
04/17/98 SENATE Withdrawn from Banking and Insurance -SJ 00523; Substituted for CS/SB 2052 -SJ 00523; Read second time -SJ 00523; Amendment(s) adopted -SJ 00523
04/22/98 SENATE Read third time -SJ 00765; Passed as amended; YEAS 30 NAYS 1 -SJ 00765; Immediately certified -SJ 00765
04/22/98 HOUSE In returning messages
04/29/98 HOUSE Concurred -HJ 01681; Passed as amended; YEAS 116 NAYS 0 -HJ 01682; Ordered engrossed, then enrolled -HJ 01683
05/12/98 Signed by Officers and presented to Governor
05/28/98 Became Law without Governor's Signature; Chapter No. 98-270

BILL TEXT: (Top)

hb3889(View As: HTML, As Printed)
hb3889e1(View As: HTML, As Printed)
hb3889e2(View As: HTML, As Printed)
hb3889er(View As: HTML, As Printed)

AMENDMENTS: (Top)

Amendment 501566: An Amendment to hb3889(View As: HTML,As Printed)

STAFF ANALYSIS/BILL RESEARCH: (Top)

H03889 by FS(View As: As Printed)

VOTE HISTORY: (Top)

04/01/98
HOUSE:
HB3889 Rollcall:0004

04/29/98
HOUSE:
HB3889 Rollcall:0057

04/22/98
SENATE:
HB3889 Rollcall:0017

STATUTE CITATIONS: (Top)

0627.7295
0627.736

CONSTITUTION CITATIONS:

NO CONSTITUTION CITATIONS FOUND FOR REQUESTED BILL.

Back to the Bill By Hundreds Page
Back to Online Sunshine

A bill to be entitled

An act relating to motor vehicle insurance; amending s. 627.727, F.S.; providing for offset of Florida Insurance Guaranty Association payments against uninsured and underinsured motorist insurance recoveries; amending s. 627.736, F.S.; providing that interest is payable on overdue personal injury protection payments only when the interest exceeds a specified amount; requiring notice of treatment as a condition precedent to payment of certain charges; specifying which party is the prevailing party in arbitration of disputes relating to personal injury protection claims; specifying where an independent medical examination of a claimant may be conducted; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (5) of section 627.727, Florida Statutes, is amended to read:

627.727 Motor vehicle insurance; uninsured and underinsured vehicle coverage; insolvent insurer protection.--

(5) Any person having a claim against an insolvent insurer as defined in s. 631.54(6) under the provisions of this section shall present such claim for payment to the Florida Insurance Guaranty Association only. In the event of a payment to any person in settlement of a claim arising under the provisions of this section, the association is not subrogated or entitled to any recovery against the claimant's

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

insurer. The association, however, has the rights of recovery as set forth in chapter 631 in the proceeds recoverable from the assets of the insolvent insurer. The recovery under this section from the insurer providing uninsured or underinsured motorist coverage shall be reduced by the amount of any payments received by the claimant from the Florida Insurance Guaranty Association under this subsection.

Section 2. Paragraph (c) of subsection (4), subsection (5), and paragraph (a) of subsection (7) of section 627.736, Florida Statutes, are amended to read:

627.736 Required personal injury protection benefits; exclusions; priority.--

(4) BENEFITS; WHEN DUE.--Benefits due from an insurer under ss. 627.730-627.7405 shall be primary, except that benefits received under any workers' compensation law shall be credited against the benefits provided by subsection (1) and shall be due and payable as loss accrues, upon receipt of reasonable proof of such loss and the amount of expenses and loss incurred which are covered by the policy issued under ss. 627.730-627.7405. When the Department of Health and Rehabilitative Services provides, pays, or becomes liable for medical assistance under the Medicaid program related to injury, sickness, disease, or death arising out of the ownership, maintenance, or use of a motor vehicle, benefits under ss. 627.730-627.7405 shall be subject to the provisions of the Medicaid program.

(c) All overdue payments shall bear simple interest at the rate of 10 percent per year; however, interest on an overdue payment shall not be payable unless the amount of such interest exceeds $5.

(5) CHARGES FOR TREATMENT OF INJURED PERSONS.--

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

(a) Any physician, hospital, clinic, or other person or institution lawfully rendering treatment to an injured person for a bodily injury covered by personal injury protection insurance may charge only a reasonable amount for the products, services, and accommodations rendered, and the insurer providing such coverage may pay for such charges directly to such person or institution lawfully rendering such treatment, if the insured receiving such treatment or his guardian has countersigned the invoice, bill, or claim form approved by the Department of Insurance upon which such charges are to be paid for as having actually been rendered, to the best knowledge of the insured or his guardian. In no event, however, may such a charge be in excess of the amount the person or institution customarily charges for like products, services, or accommodations in cases involving no insurance, provided that charges for cephalic thermograms and peripheral thermograms shall not exceed the maximum reimbursement allowance for such procedures as set forth in the applicable fee schedule established pursuant to s. 440.13.

(b) An insurer shall have no obligation to pay for such charges to the injured person or the person or institution rendering treatment or performing diagnostic testing services unless such person or institution furnishes to the insurer a notice of treatment and services on forms prescribed by the department. The form must be postmarked, delivered, or electronically transmitted to the insurer no later than 21 days after the date of the first treatment or diagnostic service. This provision does not apply to hospital emergency room services.

(c) Every insurer shall include a provision in its policy for personal injury protection benefits for binding

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arbitration of any claims dispute involving medical benefits arising between the insurer and any person providing medical services or supplies if that person has agreed to accept assignment of personal injury protection benefits. The provision shall specify that the provisions of chapter 682 relating to arbitration shall apply. The prevailing party shall be entitled to attorney's fees and costs. For purposes of the award of attorney's fees and costs, the prevailing party shall be determined as follows:

1. When the personal injury protection benefits determined by arbitration are at least the full amount of the claim asserted by the claimant or provider at arbitration, the claimant or Provider is the prevailing party.

2. When the personal injury protection benefits determined by arbitration are no more than the amount offered by the insurer at arbitration, the insurer is the prevailing party.

3. When the personal injury protection benefits determined by arbitration are more than the amount offered by the insurer at arbitration and less than the amount asserted by the claimant or provider at arbitration, there is no prevailing party.

(7) MENTAL AND PHYSICAL EXAMINATION OF INJURED PERSON; REPORTS.--

(a) Whenever the mental or physical condition of an injured person covered by personal injury protection is material to any claim that has been or may be made for past or future personal injury protection insurance benefits, such person shall, upon the request of an insurer, submit to mental or physical examination by a physician or physicians. The costs of any examinations requested by an insurer shall be

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borne entirely by the insurer. Such examination shall be conducted within ~~the municipality of residence of the insured or in~~ the municipality where the insured is receiving treatment or in a location reasonably accessible to the insured; for the purposes of this paragraph, "a location reasonably accessible to the insured" means any location within the municipality in which the insured resides or any location within 15 miles by road of the insured's residence. ~~If the examination is to be conducted within the municipality of residence of the insured and if there is no qualified physician to conduct the examination within such municipality, then such examination shall be conducted in an area of the closest proximity to the insured's residence.~~ Personal protection insurers are authorized to include reasonable provisions in personal injury protection insurance policies for mental and physical examination of those claiming personal injury protection insurance benefits. An insurer may not withdraw payment of a treating physician without the consent of the injured person covered by the personal injury protection, unless the insurer first obtains a report by a physician licensed under the same chapter as the treating physician whose treatment authorization is sought to be withdrawn, stating that treatment was not reasonable, related, or necessary.

Section 3. This act shall take effect October 1, 1998.

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

STORAGE NAME: pcb1.fs
DATE: December 11, 1997

HOUSE OF REPRESENTATIVES
COMMITTEE ON
FINANCIAL SERVICES
BILL RESEARCH & ECONOMIC IMPACT STATEMENT

BILL #: PCB FS 98-01

RELATING TO: Motor vehicle insurance

SPONSOR(S): Committee on Financial Services (proposed)

COMPANION BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:
(1) FINANCIAL SERVICES
(2)
(3)
(4)
(5)

I. SUMMARY:

In general, every owner or registrant of a four-wheeled motor vehicle is required to maintain personal injury protection (PIP) insurance, also known as no-fault insurance. Subject to copayments and other restrictions, PIP covers injuries sustained in motor vehicle accidents without regard to fault.

The proposed committee bill would revise the PIP law to:

Require that the insurer receive notice within 21 days after commencement of covered treatment, except for hospital emergency treatment.

Provide that an insurer's independent medical examination could be conducted within the municipality where the injured person is being treated, within the municipality where the injured person resides, or within 15 miles of the injured person's home.

Provide that when a dispute between an insurer and a medical provider is arbitrated, neither party is a "prevailing party" entitled to attorney's fees and costs when the arbitrator awards less than the medical provider claimed but more than the insurer offered.

Eliminate the requirement of interest on overdue PIP payments when the amount of interest is less than $5.

Uninsured and underinsured motorist (UM) coverage pays certain costs of a motor vehicle accident when the at-fault party has no liability insurance or does not have enough liability insurance. The bill would amend the UM law to reduce a UM payment by any amounts paid to the claimant by the Florida Insurance Guaranty Association after the liability insurer became insolvent.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Personal Injury Protection (PIP) insurance: background.

In general, every owner or registrant of a four-wheeled motor vehicle is required to maintain personal injury protection (PIP) insurance, also known as no-fault insurance. PIP covers the vehicle owner, relatives residing in the same household, passengers who do not have their own PIP coverage, and persons driving the vehicle with the owner's permission. With respect to injuries sustained in a motor vehicle accident, regardless of who is at fault, a vehicle owner's PIP coverage will generally pay 80 percent of medical costs and 60 percent of lost wages and similar costs, up to a limit of $10,000.

Premiums charged for PIP coverage vary by company, location, and driving record. According to premium comparisons provided by the Department of Insurance, a vehicle owner with a clean record and no youthful drivers in the household could expect to pay an annual PIP premium of $115 to $363 in Miami, $81 to $275 in Orlando, and $54 to $166 in Tallahassee. If the owner had one at-fault accident and two moving violations within the preceding 18 months, the owner could expect to pay PIP premiums of $195 to $430 in Miami, $142 to $348 in Orlando, and $99 to $180 in Tallahassee. Other motor vehicle insurance coverages, such as bodily injury liability and collision, are generally much more expensive than PIP coverage.

PIP: payment of claims, independent medical examinations.

An insurer must pay PIP benefits within 30 days after receiving notice of the claim and the amount of the loss; overdue payments bear interest at the rate of 10 percent a year simple interest In practice, the interest payment is often in the form of an additional check, rather than an addition to the check representing the benefits payment.

When a dispute arises between an insurer and a provider of medical services as to the appropriate charge, the dispute is subject to binding arbitration, with the prevailing party entitled to attorney's fees and costs. The statutory provision requiring an arbitration clause in all PIP policies does not specify what constitutes a "prevailing party;" when the result of arbitration is an award higher than the amount offered by the insurer but lower than the amount claimed by the provider, either party could be viewed as the "prevailing" party. Staff research located no reported cases construing the term "prevailing party" in the context of PIP arbitration

A PIP insurer may refuse to pay for treatment when the treatment is not reasonable, not related to the covered motor vehicle accident, or not necessary Such a determination is generally based on a medical examination conducted by a physician selected by the insurer, known as an independent medical examination (IME). In order for an insurer to exercise its right to require an IME, the insurer must be aware of the fact that treatment is being provided. The insurer has the authority to require that it be given written notice "as soon as practicable" after an accident, but there is no statutory authorization for a PIP policy to require notice of treatment. The lack of a notice requirement means that an insured could receive a lengthy series of treatments and be fully recovered before the insurer becomes aware of the treatment; in such a situation, the insurer would lose its

ability to determine whether the treatment was reasonable, related, or necessary, and would be required to pay the claim.

The IME must be conducted within the municipality in which the injured party resides or within the municipality in which the injured party is receiving treatment. When there is no qualified physician within the municipality of the injured party's residence, the IME must be conducted "in an area of the closest proximity" to the residence. With respect to an injured party who resides in a small municipality that has few practicing physicians, the requirement of an IME within the municipality may limit the independence of an IME by restricting the choice of physicians to conduct the IME; if there are no qualified physicians in the municipality, the ambiguous term "area of closest proximity" could be read either to give insurers broad discretion or to require insurers to select the one physician who is geographically closest to the injured party's home.

Uninsured and underinsured motorist (UM) coverage

In accidents where the at-fault party's liability insurance is nonexistent or is insufficient to cover the loss, uninsured and underinsured motorist coverage pays for medical expenses and lost wages suffered by the policyholder, the policyholder's passengers, or members of the policyholder's family who reside in the same household, beyond any amounts covered by the PIP policy.

When the at-fault party's liability insurer has become insolvent, it is possible that the same medical cost could be paid twice. A UM policyholder could make a claim under the UM policy and also file a claim with the Florida Insurance Guaranty Association (FIGA), a state-created entity that pays claims against insurers that have become insolvent. The UM law prohibits a UM insurer from going against FIGA to recover the portion of the loss that was paid by FIGA.

B. EFFECT OF PROPOSED CHANGES:

The proposed committee bill makes the following changes to the personal injury protection (PIP) and uninsured/underinsured motorist (UM) laws:

Notice of treatment. Except in the case of hospital emergency services, the bill would require the injured person or the person or institution rendering treatment or diagnostic services to provide notice of treatment and services, on forms prescribed by the Department of Insurance, to the PIP insurer within 21 days after the first treatment. The result of this requirement is that insurers would be aware of the commencement of treatment and would be in a better position to assure that treatment is reasonable, related to the motor vehicle accident, or necessary.

PIP arbitration: The bill would provide that when an arbitration award is less than the amount claimed by the medical services provider but more than the amount offered by the insurer, neither the provider nor the insurer would be considered a "prevailing party" entitled to attorney's fees and costs. The effect of this change is that when arbitrators split the difference between the claimant's demand and the insurer's offer, each party would have to cover its own attorney's fees and costs. If claimants are typically considered "prevailing" parties when arbitrators split the difference, this change could be

expected to reduce the number of situations in which insurers are required to pay the attorney's fees and costs of medical services providers.

Location of independent medical examination: The bill would provide that the IME must be conducted in the municipality in which the injured party is receiving treatment or in a location reasonably accessible to the injured party, defined as a location within the municipality in which the injured party resides or a location within 15 miles by road of the injured party's residence. This change would eliminate an ambiguity in the statute and broaden an insurance company's choice of physicians to conduct the IME in situations where the number of practicing physicians in a municipality is limited

Interest on overdue claims: The bill would provide that interest on overdue payments is not required unless the amount of the interest is more than $5. For example, if a $1,000 payment were 14 days overdue, the insurer would not be required to pay the $3.85 interest charge, but if the payment were 21 days overdue, the insurer would be required to pay the $5.77 interest charge

Uninsured/underinsured motorist (UM) coverage: The bill would provide that in cases where the UM insured has received payment from the Florida Insurance Guaranty Association (FIGA) because the at-fault party's liability insurer became insolvent, the amount received from FIGA would be deducted from any payment under the UM policy. The result of this change would be to prevent the same loss from being paid twice: once by FIGA and once by the UM insurer.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Yes. The bill requires medical services providers to notify insurers of the commencement of treatment covered by personal injury protection insurance and requires the Department of Insurance to prescribe the form for the notice

(3) any entitlement to a government service or benefit?

N/A

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

N/A

b Does the bill require or authorize an increase in any fees?

N/A

c Does the bill reduce total taxes, both rates and revenues?

N/A

d. Does the bill reduce total fees, both rates and revenues?

N/A

e. Does the bill authorize any fee or tax increase by any local government?

N/A

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

N/A

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

The bill broadens the authority of insurance companies to select physicians to conduct independent medical examinations in connection with personal injury protection claims.

b Does the bill prohibit, or create new government interference with, any presently lawful activity?

N/A

5. Family Empowerment.

a If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b. Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D STATUTE(S) AFFECTED:

Sections 627.727, 627 736, F.S.

E. SECTION-BY-SECTION RESEARCH:

Section 1 amends s. 627.727, F.S., to make the changes to the uninsured/underinsured motorist insurance law described in "Effect of Proposed Changes," above

Section 2 amends s 627 736, F.S., to make the changes to the personal injury protection insurance law described in "Effect of Proposed Changes," above.

Section 3 provides that the bill will take effect October 1, 1998

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

   N/A

3. Long Run Effects Other Than Normal Growth:

   N/A

4. Total Revenues and Expenditures:

   N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects.

   N/A

2 Recurring Effects:

   N/A

3. Long Run Effects Other Than Normal Growth

   N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

   The bill would eliminate the requirement that a personal injury protection (PIP) claimant receive interest on overdue payments when the amount of the interest is $5 or less.

   The bill would reduce payments to an uninsured/underinsured motonst (UM) claimant to offset amounts paid to the claimant by the Florida Insurance Guaranty Association.

   The bill would eliminate the award of attorney's fees and costs in arbitration of disputes between PIP insurers and medical services providers when the arbitrator's award is less than the amount the medical provider claimed but more than the amount the insurer offered.

2. Direct Private Sector Benefits:

   The bill would increase a PIP insurer's ability to prevent payment for treatment that was unreasonable, unrelated to a covered accident, or unnecessary, and would thereby lower the insurer's cost of providing PIP coverage The 21-day notice of treatment and the revision of geographic requirements for an independent medical examination (IME) of a claimant would make the IME a more effective cost-control

tool These cost savings could benefit consumers by reducing PIP premiums or counteracting upward pressures on PIP premiums.

The bill would reduce a PIP insurer's costs by eliminating the requirement that it pay small amounts of interest on overdue claims. The cost reduction would be reflected both in lower interest costs and in lower administrative costs

The bill would reduce the cost of providing UM coverage by eliminating "double-dipping" in situations involving insolvent liability insurers.

3. Effects on Competition, Private Enterprise and Employment Markets:

N/A

D. FISCAL COMMENTS:

N/A

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

A. APPLICABILITY OF THE MANDATES PROVISION:

N/A

B. REDUCTION OF REVENUE RAISING AUTHORITY:

N/A

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

N/A

V. COMMENTS:

N/A

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON FINANCIAL SERVICES:

Prepared by: Legislative Research Director:

Leonard Schulte Stephen Hogge

By the Committee on Financial Services and Representatives Safley, Bainter, Flanagan, Tamargo, Lawson, Dennis, Cosgrove and Lippman

A bill to be entitled

An act relating to motor vehicle insurance; amending s. 627.7295, F.S.; authorizing certain fees; amending s. 627.736, F.S.; providing alternate means of paying certain interest penalties on overdue personal injury protection benefits; prohibiting a provider's statement of charges from including certain charges; specifying which party is the prevailing party in arbitration of disputes relating to personal injury protection claims; specifying where an independent medical examination of a claimant may be conducted; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (5) of section 627.7295, Florida Statutes, is amended to read:

627.7295 Motor vehicle insurance contracts.--

(5)(a) A licensed general lines agent may charge a per-policy fee not to exceed $10 to cover the administrative costs of the agent associated with selling the motor vehicle insurance policy if the policy covers only personal injury protection coverage as provided by s. 627.736 and property damage liability coverage as provided by s. 627.7275 and if no other insurance is sold or issued in conjunction with or collateral to the policy. The per-policy fee must be a component of the insurer's rate filing and may not be charged by an agent unless the fee is included in the filing. The fee is not considered part of the premium except for purposes of

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the department's review of expense factors in a filing made pursuant to s. 627.062.

(b) To the extent a licensed general agent's cost of obtaining motor vehicle reports on applicants for motor vehicle insurance is not otherwise compensated, the agent may, in addition to any other fees authorized by law, charge an applicant for motor vehicle insurance a reasonable, nonrefundable fee as to each licensed driver when the motor vehicle report is obtained by the agent simultaneously with the preparation of the application for use in the calculation of premium or in the proper placement of the risk. The amount of the fee may not exceed the agent's actual costs that are not otherwise compensated.

Section 2. Paragraph (c) of subsection (4), subsection (5), and paragraph (a) of subsection (7) of section 627.736, Florida Statutes, are amended to read:

627.736 Required personal injury protection benefits; exclusions; priority.--

(4) BENEFITS; WHEN DUE.--Benefits due from an insurer under ss. 627.730-627.7405 shall be primary, except that benefits received under any workers' compensation law shall be credited against the benefits provided by subsection (1) and shall be due and payable as loss accrues, upon receipt of reasonable proof of such loss and the amount of expenses and loss incurred which are covered by the policy issued under ss. 627.730-627.7405. When the Department of Health and Rehabilitative Services provides, pays, or becomes liable for medical assistance under the Medicaid program related to injury, sickness, disease, or death arising out of the ownership, maintenance, or use of a motor vehicle, benefits

under ss. 627.730-627.7405 shall be subject to the provisions of the Medicaid program.

(c) All overdue payments shall bear simple interest at the rate of 10 percent per year. When the amount of interest on an overdue payment is $5 or less, the insurer may, in its discretion, use any of the following methods to fulfill its obligations under this paragraph:

1. The insurer may pay the interest in the same manner as it pays interest in excess of $5.

2. The insurer may provide the interest to the named insured as a credit upon renewal of the policy and, with respect to interest payments of less than $5 owing to insureds whose policies or nonrenewed or canceled, pay the interest to the named insured upon nonrenewal or cancellation of the policy.

3. The insurer may aggregate all interest payments of $5 or less and remit the total amount to the Insurance Commissioner's Regulatory Trust Fund on July 1 of each year.

4. The insurer may provide the interest to the named insured as a credit upon renewal of the policy and, with respect to interest payments of less than $5 owing to the insureds whose policies are nonrenewed or canceled, aggregate all such interest payments and remit the total amount to the Insurance Commissioner's Regulatory Trust Fund on July 1 of each year.

(5) CHARGES FOR TREATMENT OF INJURED PERSONS.--

(a) Any physician, hospital, clinic, or other person or institution lawfully rendering treatment to an injured person for a bodily injury covered by personal injury protection insurance may charge only a reasonable amount for the products, services, and accommodations rendered, and the

insurer providing such coverage may pay for such charges directly to such person or institution lawfully rendering such treatment, if the insured receiving such treatment or his or her guardian has countersigned the invoice, bill, or claim form approved by the Department of Insurance upon which such charges are to be paid for as having actually been rendered, to the best knowledge of the insured or his or her guardian. In no event, however, may such a charge be in excess of the amount the person or institution customarily charges for like products, services, or accommodations in cases involving no insurance, provided that charges for cephalic thermograms and peripheral thermograms shall not exceed the maximum reimbursement allowance for such procedures as set forth in the applicable fee schedule established pursuant to s. 440.13.

(b) With respect to any treatment or services, other than hospital services provided within the first 30 days after the accident, for which the injured party has assigned, authorized, or directed payment of personal injury protection benefits to a provider, the statement of charges furnished to the insurer by the provider may not include, and the insurer is not required to pay, charges for treatment or services provided more than 30 days before the postmark date of the statement, except for past due amounts. The injured party is not liable for, and the provider shall not bill the injured party for, charges that are unpaid because of the provider's failure to comply with this paragraph. Each notice of insured's rights under s. 627.7401 and each personal injury protection assignment-of-benefits form or the equivalent form must include the following statement in type no smaller than 12 points:

BILLING REQUIREMENTS WHEN BENEFITS ARE ASSIGNED, AUTHORIZED, OR DIRECTED TO A PROVIDER OF TREATMENT OR SERVICES.--Florida Statutes provide that with respect to any treatment or services, other than certain hospital services, for which the injured party has assigned, authorized, or directed payment of personal injury protection benefits to a provider, the statement of charges furnished to the insurer by the provider may not include, and the insurer is not required to pay, charges for treatment or services provided more than 30 days before the postmark date of the statement, except for past due amounts.

(c) Every insurer shall include a provision in its policy for personal injury protection benefits for binding arbitration of any claims dispute involving medical benefits arising between the insurer and any person providing medical services or supplies if that person has agreed to accept assignment of personal injury protection benefits. The provision shall specify that the provisions of chapter 682 relating to arbitration shall apply. The prevailing party shall be entitled to attorney's fees and costs. For purposes of the award of attorney's fees and costs, the prevailing party shall be determined as follows:

1. When the amount of personal injury protection benefits determined by arbitration exceeds the sum of the amount offered by the insurer at arbitration plus 50 percent of the difference between the amount of the claim asserted by the claimant at arbitration and the amount offered by the

insurer at arbitration, there is a rebuttable presumption that the claimant is the prevailing party.

2. When the amount of personal injury protection benefits determined by arbitration is less than the sum of the amount offered by the insurer at arbitration plus 50 percent of the difference between the amount of the claim asserted by the claimant at arbitration and the amount offered by the insurer at arbitration, there is a rebuttable presumption that the insurer is the prevailing party.

3. When neither subparagraph 1. nor subparagraph 2. applies, there is no presumption as to which party is the prevailing party.

(7) MENTAL AND PHYSICAL EXAMINATION OF INJURED PERSON; REPORTS.--

(a) Whenever the mental or physical condition of an injured person covered by personal injury protection is material to any claim that has been or may be made for past or future personal injury protection insurance benefits, such person shall, upon the request of an insurer, submit to mental or physical examination by a physician or physicians. The costs of any examinations requested by an insurer shall be borne entirely by the insurer. Such examination shall be conducted within ~~the municipality of residence of the insured or in~~ the municipality where the insured is receiving treatment, or in a location reasonably accessible to the insured which, for purposes of this paragraph, means any location within the municipality in which the insured resides, or any location within 10 miles by road of the insured's residence, provided such location is within the county in which the insured resides. If the examination is to be conducted in a location reasonably accessible to the insured,

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~~within the municipality of residence of the insured~~ and if there is no qualified physician to conduct the examination in a location reasonably accessible to the insured ~~within such municipality~~, then such examination shall be conducted in an area of the closest proximity to the insured's residence. Personal protection insurers are authorized to include reasonable provisions in personal injury protection insurance policies for mental and physical examination of those claiming personal injury protection insurance benefits. An insurer may not withdraw payment of a treating physician without the consent of the injured person covered by the personal injury protection, unless the insurer first obtains a report by a physician licensed under the same chapter as the treating physician whose treatment authorization is sought to be withdrawn, stating that treatment was not reasonable, related, or necessary.

Section 3. This act shall take effect October 1 of the year in which enacted.

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HOUSE SUMMARY

Provides for offset of Florida Insurance Guaranty Association payments against uninsured and underinsured motorist insurance recoveries. Provides that only interest in excess of $5 is payable on overdue personal injury protection payments. Requires notice of treatment as a condition precedent to payment of charges for products, services, and accommodations rendered to an injured person for a bodily injury covered by personal injury protection. Specifies which party is the prevailing party in arbitration of disputes relating to personal injury protection claims. Specifies independent medical examinations to be conducted in locations reasonably accessible to an insured. See bill for details.

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Motions Relating to Committee References

On motion by Rep Garcia, agreed to by two-thirds vote, HB 3589 was withdrawn from the Committee on General Government Appropriations and placed on the appropriate Calendar or Council list

On motion by Rep Garcia, agreed to by two-thirds vote, HBs 3513, 3543, 3659, and 3665 were withdrawn from the Committee on Finance & Taxation HBs 3513 and 3543 were placed on the appropriate Calendar or Council list HB 3659 remains referred to the Committee on Criminal Justice Appropriations HB 3665 remains referred to the Committee on General Government Appropriations

On motion by Rep Garcia, agreed to by two-thirds vote, CS/CS/HB 1093 was withdrawn from the Committee on Health & Human Services Appropriations and placed on the appropriate Calendar or Council list

Suspension of the Rules for Committee Meetings and Bills

On motion by Rep Casey, Chair, the rules were suspended and the Committee on Colleges & Universities was given permission to add HB 4371 to the agenda for its meeting Thursday, April 2, at 1 30 p m , in Morris Hall

Motion

Rep Kosmas moved to suspend the rules and add HB 4223 to the agenda of the Committee on Children & Family Empowerment for its meeting today at 1 30 p m , in Morris Hall, which was not agreed to

Motions Relating to Committee References

On motion by Rep Merchant, agreed to by two-thirds vote, HBs 121 and 221 were withdrawn from further consideration of the House

On motion by Rep Culp, agreed to by two-thirds vote, HB 3425 was withdrawn from further consideration of the House

On motion by Rep Argenziano, agreed to by two-thirds vote, HBs 641 and 3953 were withdrawn from further consideration of the House

On motion by Rep Morroni, agreed to by two-thirds vote, HB 4447 was withdrawn from further consideration of the House

On motion by Rep Ogles, agreed to by two-thirds vote, HB 3399 was withdrawn from further consideration of the House

On motion by Rep Thrasher, Co-Chair, the rules were suspended and HRs 9315, 9321, 9323, and 9325 were withdrawn from the Committee on Rules, Resolutions, & Ethics and placed on the Ceremonial Resolutions Calendar

On motion by Rep Thrasher, Co-Chair of the Committee on Rules, Resolutions, & Ethics, the rules were suspended and HR 9301 was placed on the Ceremonial Resolutions Calendar

On motion by Rep Thrasher, Co-Chair of the Committee on Rules, Resolutions & Ethics, the rules were suspended and HRs 9379, 9385, 9389, 9391, 9393, 9397 and 9399 were allowed for introduction and consideration and placed on the Ceremonial Resolutions Calendar

Daily Folder

Economic Impact Council Calendar

Bills and Joint Resolutions on Third Reading

CS/CS/HB 315—A bill to be entitled An act relating to tax on sales, use, and other transactions, amending s 212 08, F S , revising the exemption for food and drinks providing definitions, providing an exemption for certain foods, drinks, and other items provided to customers on a complimentary basis by a dealer who sells food products at retail providing an exemption for foods and beverages donated by such dealers to certain organizations, revising provisions relating to the technical assistance advisory committee established to provide advice in determining taxability of foods and medicines, providing membership requirements directing the Department of Revenue to develop guidelines for such determination and providing requirements with respect thereto providing for use of the guidelines by the committee, providing for determination of the taxability of specific products by the department, authorizing the department to develop a central database with respect thereto, providing an effective date

—was read the third time by title On passage, the vote was

Yeas—114

The Chair	Culp	Kosmas	Rojas
Albright	Dawson-White	Lacasa	Safley
Alexander	Dennis	Lawson	Sanderson
Andrews	Diaz de la Portilla	Lippman	Saunders
Argenziano	Dockery	Littlefield	Sembler
Arnall	Edwards	Livingston	Silver
Arnold	Effman	Lynn	Sindler
Bainter	Eggelletion	Mackenzie	Smith
Ball	Fasano	Mackey	Spratt
Barreiro	Feeney	Maygarden	Stabins
Betancourt	Flanagan	Meek	Stafford
Bitner	Frankel	Melvin	Starks
Boyd	Fuller	Merchant	Sublette
Bradley	Futch	Miller	Tamargo
Brennan	Garcia	Minton	Thrasher
Bronson	Gay	Morroni	Tobin
Brooks	Goode	Morse	Trovillion
Brown	Gottlieb	Murman	Turnbull
Bullard	Greene	Ogles	Valdes
Burroughs	Hafner	Peaden	Villalobos
Bush	Harrington	Posey	Wallace
Byrd	Healey	Prewitt, D	Warner
Carlton	Heyman	Pruitt, K	Wasserman Schultz
Casey	Hill	Putnam	Westbrook
Constantine	Horan	Reddick	Wiles
Cosgrove	Jacobs	Ritchie	Wise
Crady	Jones	Ritter	Ziebarth
Crist	Kelly	Roberts-Burke	
Crow	King	Rodriguez-Chomat	

Nays—None

Votes after roll call
Yeas—Bloom, Rayson

So the bill passed, as amended, and was certified to the Senate

Bills and Joint Resolutions on Second Reading

HB 3889—A bill to be entitled An act relating to motor vehicle insurance amending s 627 7295, F S , authorizing certain fees amending s 627 736, F S , providing alternate means of paying certain interest penalties on overdue personal injury protection benefits prohibiting a provider's statement of charges from including certain charges, specifying which party is the prevailing party in arbitration of disputes relating to personal injury protection claims, specifying where an independent medical examination of a claimant may be conducted, providing an effective date

—was read the second time by title

Representative(s) Bainter offered the following

Amendment 1—On page 2, lines 8-13
remove from the bill all of said lines

and insert in lieu thereof *nonrefundable fee to reimburse the agent the actual cost of obtaining the report for each licensed driver when the motor vehicle report is obtained by the agent simultaneously with the preparation of the application for use in the calculation of premium or in the proper placement of the risk The amount of the fee may not exceed the agent's actual cost in obtaining the report that is not otherwise compensated Actual cost is the cost of obtaining the report on an individual driver basis when so obtained or the pro rata cost per driver*

when the report is obtained on more than one driver, provided however, in no case shall actual cost include subscription or access fees associated with obtaining motor vehicle reports on-line through any electronic transmissions program

Rep Bainter moved the adoption of the amendment, which was adopted

Under Rule 127, the bill was referred to the Engrossing Clerk

HB 4113—A bill to be entitled An act relating to the Florida Public Service Commission, amending s 350 01, F S, deleting obsolete provisions, amending s 350 011, F.S, clarifying the jurisdiction, powers, and duties of the commission, providing an effective date

—was read the second time by title and, under Rule 127, referred to the Engrossing Clerk

HB 3689—A bill to be entitled An act relating to historical resources, amending s 267 021, F S, revising the definition of "historic property" or "historic resource", repealing s 267 16(4), F S, which requires the Division of Historical Resources of the Department of State to maintain the Florida Folklife Archives, repealing s 267 162, F S, which creates the Florida Folklife Grant Program within the Division of Historical Resources of the Department of State, providing an effective date

—was read the second time by title and, under Rule 127, referred to the Engrossing Clerk

On motion by Rep Morroni, **HB 3289** was temporarily postponed under Rule 147 and the second reading nullified

HB 4063—A bill to be entitled An act relating to public lodging establishments, amending s 509 32, F S, changing the date of submission of an annual report to the Governor by the Division of Hotels and Restaurants of the Department of Business Regulation, amending s 509 191, F S, reducing the period of time in which certain unclaimed property left in a public lodging or public food service establishment must be held by the establishment, amending s 509 201, F S, revising requirements for publishing advertisements relating to rates charged at specified public lodging establishments, providing an effective date

—was read the second time by title and, under Rule 127, referred to the Engrossing Clerk

HM 1443—A memorial to the Congress of the United States urging that unemployment insurance administration and financing responsibilities be turned over to the states

WHEREAS, unemployment insurance is currently financed and administered by an outmoded federal-state method in effect since the inception of the system in 1935, and over the years serious problems have developed with the bifurcated arrangement, and

WHEREAS, in 1996, only 58 percent of the $5 85 billion in federal unemployment tax collections was actually returned to the states in federal grants to administer state unemployment offices, meaning employers were overcharged by more than two-fifths, depriving the private sector of moneys for reinvestment, hiring more workers, or providing pay increases, and

WHEREAS, the bifurcated system results in duplicative and unnecessary paperwork, and unfair and arcane allocation formulae result in most states receiving less in federal grant revenues than their employers pay in unemployment insurance taxes, and

WHEREAS, unused federal unemployment insurance funds are being used to offset the federal deficit instead of being applied to the use for which they were dedicated, and

WHEREAS, unemployment insurance tax revenues collected from states become federal funds subject to federal rules, restrictions and requirements that hinder efficient delivery of services, NOW, THEREFORE,

Be It Resolved by the Legislature of the State of Florida

That the Congress of the United States is requested to take such action as may be necessary to turn unemployment insurance over to the states and provide the states with the flexibility to determine how best to insure their workers and provide employment services

BE IT FURTHER RESOLVED that copies of this memorial be dispatched to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress

—was read the second time by title On motion by Rep Bainter, the memorial was adopted and under the rule, immediately certified to the Senate

HB 4115—A bill to be entitled An act relating to telecommunications services, amending s 364 0251, F S, deleting obsolete provisions, requiring the Florida Public Service Commission to maintain a consumer information program to a certain extent, providing an effective date

—was read the second time by title and, under Rule 127, referred to the Engrossing Clerk

CS/HB 3393—A bill to be entitled An act relating to air carriers, directing the Department of Management Services to evaluate the state contract for air carrier service for state employees, undertake a pilot program, and adopt purchasing guidelines, directing the Office of Program Policy Analysis and Government Accountability to review the impact of the pilot program and report to the Legislature, directing Enterprise Florida, Inc, to complete a review of the impact of regional airports on economic development in the State of Florida, providing an effective date

—was read the second time by title

Representative(s) Turnbull offered the following

Amendment 1—On page 3, line 11, of the bill

insert after the period *A report, including the results of this review, shall be transmitted to the President of the Senate and Speaker of the House no later than February 1, 1999*

Rep Turnbull moved the adoption of the amendment, which was adopted

Under Rule 127, the bill was referred to the Engrossing Clerk

CS/CS/HB 1407—A bill to be entitled An act relating to the state lottery, amending s 24 115, F S, providing for reducing prize amounts to certain persons who receive public assistance under certain circumstances, providing for deducting overpayments from public assistance payment under certain circumstances, providing for agency responsibility for identifying certain recipients of public assistance, providing for disposition of remainders of lottery prizes under certain circumstances, providing immunity from liability to state agencies under certain circumstances defining "public assistance", amending s 414 28, F S, conforming provisions relating to public assistance payments, providing reporting requirements, providing an effective date

—was read the second time by title

On motion by Rep Roberts-Burke, under Rule 148(h), the following late-filed amendment was considered

Representative(s) Roberts-Burke, Lawson, and Ziebarth offered the following

Amendment 1—On page 2, line 8 and on page 4, line 13, remove from the bill *$1,500*

and insert in lieu thereof *a net amount of $100 000*

Rep Roberts-Burke moved the adoption of the amendment, which was adopted

Garcia, Hafner, Jones, King, Lacasa, Lawson, Littlefield, Livingston, Logan, Lynn, Mackey, Meek, Melvin Merchant, Minton, Morse, Posey, K. Pruitt, Reddick, Ritchie, Roberts-Burke, Sanderson, Smith, Sublette, Turnbull, Valdes, Villalobos, Warner, Wasserman Schultz, Wise

Votes after roll call
Yeas—Chestnut, Eggelletion, Bullard, Diaz de la Portilla

So the bill passed, as amended, and was certified to the Senate

Motions Relating to Committee References

On motion by Rep Bitner, agreed to by two-thirds vote, CS/HJR 4003 was withdrawn from the Committee on Business Regulation & Consumer Affairs and remains referred to the Committee on Finance & Taxation

On motion by Rep Crady, Co-Chair of the Committee on Rules, Resolutions, & Ethics, the rules were suspended and all references of HBs 4301, 4339, and 4367 were removed and the bills were shown as filed but not referred

On motion by Rep Harrington, agreed to by two-thirds vote, HB 4329 was withdrawn from further consideration of the House

On motion by Rep Greene, agreed to by two-thirds vote, HB 3281 was withdrawn from further consideration of the House

On motion by Rep Fasano, agreed to by two-thirds vote, HB 4417 was withdrawn from further consideration of the House

On motion by Rep Silver, agreed to by two-thirds vote, HBs 3981 and 3985 were withdrawn from further consideration of the House

Daily Folder

Economic Impact Council Calendar

Bills and Joint Resolutions on Third Reading

HB 3889—A bill to be entitled An act relating to motor vehicle insurance, amending s 627 7295, F S, authorizing certain fees, amending s 627 736, F S, providing alternate means of paying certain interest penalties on overdue personal injury protection benefits, prohibiting a provider's statement of charges from including certain charges, specifying which party is the prevailing party in arbitration of disputes relating to personal injury protection claims, specifying where an independent medical examination of a claimant may be conducted, providing an effective date

—was read the third time by title On passage, the vote was

Yeas—112

The Chair	Bush	Fuller	Livingston
Albright	Byrd	Futch	Lynn
Alexander	Carlton	Garcia	Mackenzie
Andrews	Casey	Gay	Mackey
Argenziano	Chestnut	Goode	Maygarden
Arnall	Clemons	Gottlieb	Meek
Arnold	Cosgrove	Greene	Melvin
Bainter	Crady	Harrington	Merchant
Ball	Crist	Healey	Miller
Barreiro	Crow	Heyman	Minton
Betancourt	Culp	Hill	Morroni
Bitner	Dawson-White	Horan	Morse
Bloom	Dennis	Jacobs	Murman
Boyd	Dockery	Jones	Ogles
Bradley	Edwards	Kelly	Peaden
Brennan	Effman	King	Posey
Bronson	Fasano	Kosmas	Prewitt, D
Brooks	Feeney	Lacasa	Pruitt, K
Brown	Fischer	Lawson	Putnam
Bullard	Flanagan	Lippman	Rayson
Burroughs	Frankel	Littlefield	Reddick
Ritchie	Sembler	Tamargo	Wallace
Ritter	Sindler	Thrasher	Warner
Roberts-Burke	Smith	Tobin	Wasserman Schultz
Rodriguez-Chomat	Spratt	Trovillion	Westbrook
Safley	Stabins	Turnbull	Wiles
Sanderson	Stafford	Valdes	Wise
Saunders	Starks	Villalobos	Ziebarth

Nays—1

Silver

Excused from time to time for Conference Committee—Albright, Bainter, Barreiro, Boyd, Bradley, Bronson, Chestnut, Clemons, Constantine, Crady, Culp, Dennis, Eggelletion, Feeney, Flanagan, Garcia, Hafner, Jones, King, Lacasa, Lawson, Littlefield, Livingston, Logan, Lynn, Mackey, Meek, Melvin, Merchant, Minton, Morse, Posey, K Pruitt, Reddick, Ritchie, Roberts-Burke, Sanderson, Smith, Sublette, Turnbull, Valdes, Villalobos, Warner, Wasserman Schultz, Wise

Votes after roll call
Yeas—Diaz de la Portilla, Eggelletion

So the bill passed, as amended, and was certified to the Senate

HB 4113—A bill to be entitled An act relating to the Florida Public Service Commission, amending s 350 01, F S, deleting obsolete provisions, amending s 350 011, F S, clarifying the jurisdiction, powers, and duties of the commission, providing an effective date

—was read the third time by title On passage, the vote was

Yeas—114

The Chair	Crady	King	Roberts-Burke
Albright	Crist	Kosmas	Rodriguez-Chomat
Alexander	Crow	Lacasa	Safley
Andrews	Culp	Lawson	Sanderson
Argenziano	Dawson-White	Lippman	Saunders
Arnall	Dennis	Littlefield	Sembler
Arnold	Dockery	Livingston	Silver
Bainter	Edwards	Lynn	Sindler
Ball	Effman	Mackenzie	Smith
Barreiro	Fasano	Mackey	Spratt
Betancourt	Feeney	Maygarden	Stabins
Bitner	Fischer	Meek	Stafford
Bloom	Flanagan	Melvin	Starks
Boyd	Frankel	Merchant	Tamargo
Bradley	Fuller	Miller	Thrasher
Brennan	Futch	Minton	Tobin
Bronson	Garcia	Morroni	Trovillion
Brooks	Gay	Morse	Turnbull
Brown	Goode	Murman	Valdes
Bullard	Gottlieb	Ogles	Villalobos
Burroughs	Greene	Peaden	Wallace
Bush	Harrington	Posey	Warner
Byrd	Healey	Prewitt, D	Wasserman Schultz
Carlton	Heyman	Pruitt, K	Westbrook
Casey	Hill	Putnam	Wiles
Chestnut	Horan	Rayson	Wise
Clemons	Jacobs	Reddick	Ziebarth
Constantine	Jones	Ritchie	
Cosgrove	Kelly	Ritter	

Nays—None

Excused from time to time for Conference Committee—Albright, Bainter, Barreiro Boyd, Bradley, Bronson, Chestnut, Clemons, Constantine, Crady, Culp, Dennis Eggelletion, Feeney, Flanagan, Garcia, Hafner, Jones, King, Lacasa Lawson, Littlefield, Livingston, Logan, Lynn, Mackey, Meek, Melvin, Merchant, Minton, Morse, Posey, K Pruitt, Reddick Ritchie Roberts-Burke, Sanderson, Smith, Sublette, Turnbull, Valdes, Villalobos, Warner, Wasserman Schultz, Wise

A bill to be entitled

An act relating to motor vehicle insurance; amending s. 627.7295, F.S.; authorizing certain fees; amending s. 627.736, F.S.; providing alternate means of paying certain interest penalties on overdue personal injury protection benefits; prohibiting a provider's statement of charges from including certain charges; specifying which party is the prevailing party in arbitration of disputes relating to personal injury protection claims; specifying where an independent medical examination of a claimant may be conducted; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (5) of section 627.7295, Florida Statutes, is amended to read:

627.7295 Motor vehicle insurance contracts.--

(5)(a) A licensed general lines agent may charge a per-policy fee not to exceed $10 to cover the administrative costs of the agent associated with selling the motor vehicle insurance policy if the policy covers only personal injury protection coverage as provided by s. 627.736 and property damage liability coverage as provided by s. 627.7275 and if no other insurance is sold or issued in conjunction with or collateral to the policy. The per-policy fee must be a component of the insurer's rate filing and may not be charged by an agent unless the fee is included in the filing. The fee is not considered part of the premium except for purposes of

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

the department's review of expense factors in a filing made pursuant to s. 627.062.

(b) To the extent a licensed general agent's cost of obtaining motor vehicle reports on applicants for motor vehicle insurance is not otherwise compensated, the agent may, in addition to any other fees authorized by law, charge an applicant for motor vehicle insurance a reasonable, nonrefundable fee to reimburse the agent the actual cost of obtaining the report for each licensed driver when the motor vehicle report is obtained by the agent simultaneously with the preparation of the application for use in the calculation of premium or in the proper placement of the risk. The amount of the fee may not exceed the agent's actual cost in obtaining the report that is not otherwise compensated. Actual cost is the cost of obtaining the report on an individual driver basis when so obtained or the pro rata cost per driver when the report is obtained on more than one driver; provided, however, in no case shall actual cost include subscription or access fees associated with obtaining motor vehicle reports on-line through any electronic transmissions program.

Section 2. Paragraph (c) of subsection (4), subsection (5), and paragraph (a) of subsection (7) of section 627.736, Florida Statutes, are amended to read:

627.736 Required personal injury protection benefits; exclusions; priority.--

(4) BENEFITS; WHEN DUE.--Benefits due from an insurer under ss. 627.730-627.7405 shall be primary, except that benefits received under any workers' compensation law shall be credited against the benefits provided by subsection (1) and shall be due and payable as loss accrues, upon receipt of reasonable proof of such loss and the amount of expenses and

loss incurred which are covered by the policy issued under ss. 627.730-627.7405. When the Department of Health and Rehabilitative Services provides, pays, or becomes liable for medical assistance under the Medicaid program related to injury, sickness, disease, or death arising out of the ownership, maintenance, or use of a motor vehicle, benefits under ss. 627.730-627.7405 shall be subject to the provisions of the Medicaid program.

(c) All overdue payments shall bear simple interest at the rate of 10 percent per year. When the amount of interest on an overdue payment is $5 or less, the insurer may, in its discretion, use any of the following methods to fulfill its obligations under this paragraph:

1. The insurer may pay the interest in the same manner as it pays interest in excess of $5.

2. The insurer may provide the interest to the named insured as a credit upon renewal of the policy and, with respect to interest payments of less than $5 owing to insureds whose policies or nonrenewed or canceled, pay the interest to the named insured upon nonrenewal or cancellation of the policy.

3. The insurer may aggregate all interest payments of $5 or less and remit the total amount to the Insurance Commissioner's Regulatory Trust Fund on July 1 of each year.

4. The insurer may provide the interest to the named insured as a credit upon renewal of the policy and, with respect to interest payments of less than $5 owing to the insureds whose policies are nonrenewed or canceled, aggregate all such interest payments and remit the total amount to the Insurance Commissioner's Regulatory Trust Fund on July 1 of each year.

(5) CHARGES FOR TREATMENT OF INJURED PERSONS.--

(a) Any physician, hospital, clinic, or other person or institution lawfully rendering treatment to an injured person for a bodily injury covered by personal injury protection insurance may charge only a reasonable amount for the products, services, and accommodations rendered, and the insurer providing such coverage may pay for such charges directly to such person or institution lawfully rendering such treatment, if the insured receiving such treatment or his or her guardian has countersigned the invoice, bill, or claim form approved by the Department of Insurance upon which such charges are to be paid for as having actually been rendered, to the best knowledge of the insured or his or her guardian. In no event, however, may such a charge be in excess of the amount the person or institution customarily charges for like products, services, or accommodations in cases involving no insurance, provided that charges for cephalic thermograms and peripheral thermograms shall not exceed the maximum reimbursement allowance for such procedures as set forth in the applicable fee schedule established pursuant to s. 440.13.

(b) With respect to any treatment or services, other than hospital services provided within the first 30 days after the accident, for which the injured party has assigned, authorized, or directed payment of personal injury protection benefits to a provider, the statement of charges furnished to the insurer by the provider may not include, and the insurer is not required to pay, charges for treatment or services provided more than 30 days before the postmark date of the statement, except for past due amounts. The injured party is not liable for, and the provider shall not bill the injured party for, charges that are unpaid because of the provider's

failure to comply with this paragraph. Each notice of insured's rights under s. 627.7401 and each personal injury protection assignment-of-benefits form or the equivalent form must include the following statement in type no smaller than 12 points:

BILLING REQUIREMENTS WHEN BENEFITS ARE ASSIGNED, AUTHORIZED, OR DIRECTED TO A PROVIDER OF TREATMENT OR SERVICES.--Florida Statutes provide that with respect to any treatment or services, other than certain hospital services, for which the injured party has assigned, authorized, or directed payment of personal injury protection benefits to a provider, the statement of charges furnished to the insurer by the provider may not include, and the insurer is not required to pay, charges for treatment or services provided more than 30 days before the postmark date of the statement, except for past due amounts.

(c) Every insurer shall include a provision in its policy for personal injury protection benefits for binding arbitration of any claims dispute involving medical benefits arising between the insurer and any person providing medical services or supplies if that person has agreed to accept assignment of personal injury protection benefits. The provision shall specify that the provisions of chapter 682 relating to arbitration shall apply. The prevailing party shall be entitled to attorney's fees and costs. For purposes of the award of attorney's fees and costs, the prevailing party shall be determined as follows:

1. When the amount of personal injury protection benefits determined by arbitration exceeds the sum of the amount offered by the insurer at arbitration plus 50 percent of the difference between the amount of the claim asserted by the claimant at arbitration and the amount offered by the insurer at arbitration, there is a rebuttable presumption that the claimant is the prevailing party.

2. When the amount of personal injury protection benefits determined by arbitration is less than the sum of the amount offered by the insurer at arbitration plus 50 percent of the difference between the amount of the claim asserted by the claimant at arbitration and the amount offered by the insurer at arbitration, there is a rebuttable presumption that the insurer is the prevailing party.

3. When neither subparagraph 1. nor subparagraph 2. applies, there is no presumption as to which party is the prevailing party.

(7) MENTAL AND PHYSICAL EXAMINATION OF INJURED PERSON; REPORTS.--

(a) Whenever the mental or physical condition of an injured person covered by personal injury protection is material to any claim that has been or may be made for past or future personal injury protection insurance benefits, such person shall, upon the request of an insurer, submit to mental or physical examination by a physician or physicians. The costs of any examinations requested by an insurer shall be borne entirely by the insurer. Such examination shall be conducted within ~~the municipality of residence of the insured or in~~ the municipality where the insured is receiving treatment, or in a location reasonably accessible to the insured which, for purposes of this paragraph, means any

location within the municipality in which the insured resides, or any location within 10 miles by road of the insured's residence, provided such location is within the county in which the insured resides. If the examination is to be conducted in a location reasonably accessible to the insured, ~~within the municipality of residence of the insured~~ and if there is no qualified physician to conduct the examination in a location reasonably accessible to the insured ~~within such municipality~~, then such examination shall be conducted in an area of the closest proximity to the insured's residence. Personal protection insurers are authorized to include reasonable provisions in personal injury protection insurance policies for mental and physical examination of those claiming personal injury protection insurance benefits. An insurer may not withdraw payment of a treating physician without the consent of the injured person covered by the personal injury protection, unless the insurer first obtains a report by a physician licensed under the same chapter as the treating physician whose treatment authorization is sought to be withdrawn, stating that treatment was not reasonable, related, or necessary.

Section 3. This act shall take effect October 1 of the year in which enacted.

STORAGE NAME: h3889 fs
DATE March 4, 1998

HOUSE OF REPRESENTATIVES
COMMITTEE ON
FINANCIAL SERVICES
BILL RESEARCH & ECONOMIC IMPACT STATEMENT

BILL #: HB 3889 (PCB FS 98-01)

RELATING TO: Motor vehicle insurance

SPONSOR(S): Committee on Financial Services, Rep. Safley, and others

COMPANION BILL(S):

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

(1) FINANCIAL SERVICES YEAS 10 NAYS 0
(2)
(3)
(4)
(5)

I SUMMARY:

In general, every owner or registrant of a four-wheeled motor vehicle is required to maintain personal injury protection (PIP) insurance, also known as no-fault insurance Subject to copayments and other restrictions, PIP covers injuries sustained in motor vehicle accidents without regard to fault.

This bill would revise the PIP law to

Provide that when a treatment provider bills the insurer, the bill may not include, and the insurer is not required to pay, charges for services provided more than 30 days before the date of the bill, except for past due amounts and except for hospital services provided within the first 30 days after the accident.

Provide that an insurer's independent medical examination could be conducted within the municipality where the injured person is being treated, within the municipality where the injured person resides, or within 10 miles of the injured person's home, provided the location is within the insured's county of residence.

Provide presumptions as to who is the "prevailing party" entitled to attorney's fees and costs when a dispute between an insurer and a medical provider is arbitrated

Provide alternative methods for meeting the insurer's obligation to pay interest on overdue PIP payments when the amount of interest is less than $5.

The bill also allows an insurance agent to charge an applicant a fee to cover the agent's costs of obtaining motor vehicle records, to the extent that those costs are not otherwise compensated.

II SUBSTANTIVE RESEARCH

A. PRESENT SITUATION:

Personal Injury Protection (PIP) insurance background.

In general, every owner or registrant of a four-wheeled motor vehicle is required to maintain personal injury protection (PIP) insurance, also known as no-fault insurance. PIP covers the vehicle owner, relatives residing in the same household, passengers who do not have their own PIP coverage, and persons driving the vehicle with the owner's permission With respect to injuries sustained in a motor vehicle accident, regardless of who is at fault, a vehicle owner's PIP coverage will generally pay 80 percent of medical costs and 60 percent of lost wages and similar costs, up to a limit of $10,000

Premiums charged for PIP coverage vary by company, location, and driving record According to premium comparisons provided by the Department of Insurance, a vehicle owner with a clean record and no youthful drivers in the household could expect to pay an annual PIP premium of $115 to $363 in Miami, $81 to $275 in Orlando, and $54 to $166 in Tallahassee. If the owner had one at-fault accident and two moving violations within the preceding 18 months, the owner could expect to pay PIP premiums of $195 to $430 in Miami, $142 to $348 in Orlando, and $99 to $180 in Tallahassee Other motor vehicle insurance coverages, such as bodily injury liability and collision, are generally much more expensive than PIP coverage

PIP: payment of claims, interest on overdue payments, independent medical examinations.

An insurer must pay PIP benefits within 30 days after receiving notice of the claim and the amount of the loss, overdue payments bear interest at the rate of 10 percent a year simple interest. In practice, the interest payment is often in the form of an additional check, rather than an addition to the check representing the benefits payment

When a dispute arises between an insurer and a provider of medical services as to the appropriate charge, the dispute is subject to binding arbitration, with the prevailing party (as determined by the arbitrator, or, if challenged, by a court) being entitled to attorney's fees and costs. The statutory provision requiring an arbitration clause in all PIP policies does not specify what constitutes a "prevailing party;" when the result of arbitration is an award higher than the amount offered by the insurer but lower than the amount claimed by the provider, either party could be viewed as the "prevailing" party. Staff research located no reported cases construing the term "prevailing party" in the context of PIP arbitration.

A PIP insurer may refuse to pay for treatment when the treatment is not reasonable, not related to the covered motor vehicle accident, or not necessary Such a determination is generally based on a medical examination conducted by a physician selected by the insurer, known as an independent medical examination (IME). In order for an insurer to exercise its right to require an IME, the insurer must be aware of the fact that treatment is being provided. The insurer has the authority to require that it be given written notice "as soon as practicable" after an accident, but there is no statutory authorization for a PIP policy to require notice of treatment and PIP policies generally do not include such a requirement The lack of a notice requirement means that an insured could receive a

lengthy series of treatments and be fully recovered before the insurer becomes aware of the treatment; in such a situation, the insurer would lose its ability to determine whether the treatment was reasonable, related, or necessary, and would be required to pay the claim

The IME must be conducted within the municipality in which the injured party resides or within the municipality in which the injured party is receiving treatment When there is no qualified physician within the municipality of the injured party's residence, the IME must be conducted "in an area of the closest proximity" to the residence With respect to an injured party who resides in a small municipality that has few practicing physicians, the requirement of an IME within the municipality may limit the independence of an IME by restricting the choice of physicians to conduct the IME; if there are no qualified physicians in the municipality, the ambiguous term "area of closest proximity" could be read either to give insurers broad discretion or to require insurers to select the one physician who is geographically closest to the injured party's home

Agent fees. In general, the unfair insurance trade practices law, s 626 9541, F S., prohibits insurance agents from collecting charges for insurance in excess of the approved premium. Subsection 627 7295(5), F S., provides an exception to the general prohibition. with respect to a policy providing only PIP and property damage liability coverage (the minimum automobile coverage allowed by law), the agent may charge a per-policy fee of up to $10 to cover administrative costs associated with selling the policy if the fee is included in the insurer's rate filing

Motor vehicle records are used by some agents in determining the appropriate insurer for a particular applicant for insurance and in calculating the appropriate premium The cost of obtaining a motor vehicle report from the Department of Highway Safety and Motor Vehicles is between $3 10 and $3.60, depending on the method used to access the data; commercial services also provide motor vehicle reports to agents An insurance agent who obtains a motor vehicle report will absorb the cost of the motor vehicle report in certain circumstances, such as when the insurer does not compensate the agent for the report or when the transaction does not result in the sale of a policy.

B EFFECT OF PROPOSED CHANGES

The bill makes the following changes to laws governing personal injury protection (PIP) and agent fees:

Billing requirements Except in the case of hospital services provided within the first 30 days after the motor vehicle accident, when the insured assigns or otherwise directs payment of PIP benefits to a treatment provider, the statement of charges presented to the insurer could not cover--and the insurer would not be required to pay--charges for treatment or services provided more than 30 days before the postmark date of the statement The injured party would not be liable for any charges that were unpaid as a result of the failure to comply with the 30-day billing requirement A specified notice of the 30-day billing requirement would be required on the notice of insured's rights which the insurer is required to provide after notice of an accident and on any assignment-of-benefits form or equivalent form The result of the 30-day billing requirement is that insurers would be aware of the commencement of treatment and would be in a better

position to assure that treatment is reasonable, related to the motor vehicle accident, or necessary.

PIP arbitration. The bill would create presumptions as to which party is the "prevailing party" and therefore entitled to an award of attorney's fees and costs. When the award to the claimant (provider) consists of the amount offered by the insurer at arbitration plus more than 50% of the difference between the offer and the amount claimed at arbitration, the claimant would be rebuttably presumed to be the prevailing party; when the award consists of the amount offered by the insurer at arbitration plus less than 50% of the difference between the offer and the amount claimed at arbitration, the insurer would be rebuttably presumed to be the prevailing party; and when the award consists of the amount offered by the insurer at arbitration plus 50% of the difference between the offer and the amount claimed at arbitration, there would be no presumption as to who is the prevailing party. To the extent that a claimant may currently be considered the "prevailing" party in any case in which the arbitration award exceeds the amount offered by the insurer, this change could be expected to reduce the number of situations in which insurers are required to pay the attorney's fees and costs of medical services providers.

Location of independent medical examination: An IME could be conducted in the municipality in which the injured party is receiving treatment or in a location reasonably accessible to the injured party, defined as a location within the municipality in which the injured party resides or a location within 10 miles by road of the injured party's residence, as long as the location is within the county in which the injured party resides. When there is no qualified physician within a "location reasonably accessible," the IME could, as under current law, be conducted in "an area of the closest proximity to the insured's residence." These changes would broaden an insurance company's choice of physicians to conduct the IME in situations where the number of practicing physicians in a municipality is limited.

Interest on overdue claims: Rather than being required to make an immediate payment of interest on an overdue PIP claims payment, an insurer would have several options for meeting its obligation to pay interest when the amount of interest is $5 or less. An insurer could:

Pay the interest in the same manner as it pays interest amounts greater than $5;

Provide the interest to the policyholder as a credit on renewal of the policy, and, for policies that are canceled or nonrenewed, pay the interest upon cancellation or nonrenewal,

Aggregate all interest amounts of $5 or less and annually remit the total to the Insurance Commissioner's Regulatory Trust Fund, or

Provide the interest to the policyholder as a credit on renewal of the policy, and, for policies that are canceled or nonrenewed, aggregate all interest amounts under $5 and annually remit them to the Insurance Commissioner's Regulatory Trust Fund.

Agent fees. When an agent's cost of obtaining motor vehicle reports on applicants for motor vehicle insurance is not otherwise compensated, the agent could charge the applicant a nonrefundable fee, in addition to any other authorized fees. The amount of

the fee could not exceed the agent's actual costs that are not otherwise compensated; that is, if the agent's out-of-pocket cost of obtaining the motor vehicle reports was not included in the insurer's rate filing or otherwise included in the commission paid to the agent, the agent could recoup the actual cost from the applicant

C APPLICATION OF PRINCIPLES.

1 Less Government:

a Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

Yes The bill establishes requirements for a medical services provider's bill for treatment covered by personal injury protection insurance, with exceptions for hospital services within 30 days after an accident and for situations where the insurer pays the injured party directly

(3) any entitlement to a government service or benefit?

N/A

b. If an agency or program is eliminated or reduced

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

(2) what is the cost of such responsibility at the new level/agency?

N/A

(3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

   a. Does the bill increase anyone's taxes?

      No

   b Does the bill require or authorize an increase in any fees?

      Yes. The bill authorizes insurance agents to charge a fee to cover their uncompensated costs of obtaining motor vehicle reports on applicants for insurance.

   c. Does the bill reduce total taxes, both rates and revenues?

      No

   d. Does the bill reduce total fees, both rates and revenues?

      No.

   e Does the bill authorize any fee or tax increase by any local government?

      No

3 Personal Responsibility.

   a Does the bill reduce or eliminate an entitlement to government services or subsidy?

      N/A

   b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

      N/A

4. Individual Freedom

   a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

      The bill broadens the authority of insurance companies to select physicians to conduct independent medical examinations in connection with personal injury protection claims.

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

N/A

5. Family Empowerment:

a. If the bill purports to provide services to families or children

(1) Who evaluates the family's needs?

N/A

(2) Who makes the decisions?

N/A

(3) Are private alternatives permitted?

N/A

(4) Are families required to participate in a program?

N/A

(5) Are families penalized for not participating in a program?

N/A

b Does the bill directly affect the legal rights and obligations between family members?

N/A

c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

N/A

(2) service providers?

N/A

(3) government employees/agencies?

N/A

D STATUTE(S) AFFECTED:

Sections 627 7295, 627 736, F S

E. SECTION-BY-SECTION RESEARCH:

Section 1 amends s. 627.7295, F.S., to authorize agents to charge additional fees as described in "Effect of Proposed Changes," above.

Section 2 amends s. 627 736, F S , to make the changes to the personal injury protection insurance law described in "Effect of Proposed Changes," above.

Section 3 provides that the bill will take effect October 1, 1998.

III FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

N/A

2. Recurring Effects:

N/A

3. Long Run Effects Other Than Normal Growth:

N/A

4. Total Revenues and Expenditures:

See "Fiscal Comments," below

B FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

   N/A

2. Recurring Effects:

   N/A

3. Long Run Effects Other Than Normal Growth

   N/A

C DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1 Direct Private Sector Costs:

To the extent that insurers choose to pay interest penalties of $5 or less on overdue PIP claims to the state rather than to insureds, insureds will not receive those interest payments.

The bill's presumptions as to who is the prevailing party (and therefore entitled to award of attorney's fees and costs) in arbitration of disputes between PIP insurers and medical services providers could reduce the number of instances in which fees and costs are awarded to the provider

To the extent that the revision of geographic requirements for an independent medical examination (IME) increases the likelihood that an IME would be conducted by a physician preferred by the insurer, there may be an increase in denied claims; however, to the extent that this change reduces the likelihood that an IME would be conducted by a physician not preferred by the insurer, there may be a decrease in PIP claims payments for treatments that are unreasonable, unrelated to the motor vehicle accident, or unnecessary

Insurance agents could charge consumers fees to cover the cost of obtaining motor vehicle reports.

2. Direct Private Sector Benefits:

The bill would increase a PIP insurer's ability to prevent payment for treatment that was unreasonable, unrelated to a covered accident, or unnecessary, and could thereby lower the insurer's cost of providing PIP coverage The 30-day billing requirement and the revision of geographic requirements for an independent medical examination (IME) of a claimant could make the IME a more effective cost-control tool These cost savings could benefit consumers by reducing the costs upon which insurers base PIP premiums and counteracting upward pressures on PIP premiums

The bill would reduce a PIP insurer's costs by allowing the insurer to pay certain interest penalties to the state in a lump sum rather than making individual payments of interest amounts of $5 or less. One major insurer has estimated that its cost of issuing a check is about $25

The bill would allow agents to recover their otherwise uncompensated costs of obtaining motor vehicle reports on applicants for insurance.

3. Effects on Competition, Private Enterprise and Employment Markets:

N/A

D. FISCAL COMMENTS

The bill provides several options under which an insurer may meet its obligation to pay interest on overdue personal injury protection (PIP) claims payments when the amount of interest is $5 or less. Two of these options involve remitting the aggregate amount of such interest payments to the Insurance Commissioner's Regulatory Trust Fund It is not possible to estimate the number of insurers that would choose to pay the interest to the state rather than to insureds. There is no industry-wide information available as to the total dollar value of all $5-or-lower interest penalties on overdue PIP payments

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

A APPLICABILITY OF THE MANDATES PROVISION:

N/A

B REDUCTION OF REVENUE RAISING AUTHORITY.

N/A

C REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES.

N/A

V COMMENTS

N/A

VI AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES.

N/A

VII. SIGNATURES:

COMMITTEE ON FINANCIAL SERVICES:

Prepared by: Legislative Research Director

Leonard Schulte

Stephen Hogge

On motion by Senator Kurth—

CS for SB 1878—A bill to be entitled An act relating to the Child Care Executive Partnership, amending s 409 178, F.S., conforming title of the partnership program, revising membership of the partnership, authorizing administration of child care purchasing pool funds by the state resource and referral agency, providing for development of procedures for disbursement of funds through the child care purchasing pools, deleting references to pilot child care purchasing pools, revising parent fee requirements, providing an effective date.

—was read the second time by title

Pursuant to Rule 4 19, **CS for SB 1878** was placed on the calendar of Bills on Third Reading

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On motion by Senator Burt—

CS for SB 1244—A bill to be entitled An act relating to legal process; amending s 48 031, F.S., relating to service upon a sole proprietorship, providing that substitute service may be made upon person in charge of the business at the time of service, under specified circumstances, amending s 48 183, F S., providing for service of process in an action for possession of residential premises amending s 48 27, F.S , providing for application and fee for inclusion on list of certified process servers, authorizing certain service when a civil action has been filed in a circuit or county court in the state, amending s 55 03, F S , relating to docketing and indexing of civil process generally, revising provisions relating to rate of interest, providing an exception from certain docketing and indexing or collection requirements when rate of interest is not on the face of the process, writ, judgment, or decree, amending s 56 27, F.S , relating to payment to execution creditor of money collected, providing for payment to a junior writ of certain surplus moneys collected, amending s 56 28, F S , requiring written demand by plaintiff as a condition for officer's liability to pay over within 10 days certain moneys collected; providing an effective date

—was read the second time by title

An amendment was considered and failed to conform **CS for SB 1244** to **CS for HB 935**

Pending further consideration of **CS for SB 1244**, on motion by Senator Burt, by two-thirds vote **CS for HB 935** was withdrawn from the Committees on Judiciary, and Commerce and Economic Opportunities

On motion by Senator Burt—

CS for HB 935—A bill to be entitled An act relating to legal process, amending s 48 031, F S , relating to service upon a sole proprietorship, providing that substitute service may be made upon person in charge of the business at the time of service, under specified circumstances; amending s 48 183, F S , providing for service of process in an action for possession of residential premises, amending s 48 27, F S., providing for application and fee for inclusion on list of certified process servers; authorizing certain service when a civil action has been filed in a circuit or county court in the state, amending s 55 03, F.S., relating to docketing and indexing of civil process generally, revising provisions relating to rate of interest, providing an exception from certain docketing and indexing or collection requirements when rate of interest is not on the face of the process, writ, judgment, or decree, amending s. 56.27, F.S., relating to payment to execution creditor of money collected, providing for payment to a junior writ of certain surplus moneys collected; amending s 56 28, F S., requiring written demand by plaintiff as a condition for officer's liability to pay over within 10 days certain moneys collected, providing an effective date

—a companion measure, was substituted for **CS for SB 1244** and read the second time by title

Senator Burt moved the following amendments which were adopted·

Amendment 1—On page 2, line 10, delete "one" and insert *two* one

Amendment 2—On page 4, lines 16-20, delete those lines and insert· Nothing contained herein shall affect a rate of interest established by written contract or obligation

Pursuant to Rule 4 19, **CS for HB 935** as amended was placed on the calendar of Bills on Third Reading

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On motion by Senator Meadows—

SB 864—A bill to be entitled An act relating to ad valorem tax exemption, amending s 196 011, F S , authorizing the granting of exemption under certain circumstances to property entitled to a charitable exemption for the 1994 tax year for which application was not timely filed; providing for canceling outstanding tax certificates on, and taxes assessed against, such property and for refunding any such taxes that have been paid, providing for expiration, providing an effective date

—was read the second time by title

Pursuant to Rule 4 19, **SB 864** was placed on the calendar of Bills on Third Reading

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On motion by Senator Diaz-Balart—

CS for SB 2052—A bill to be entitled An act relating to insurance; amending s 627 7295, F.S ; authorizing certain fees to be collected by general lines agents, amending s 627.736, F.S., prohibiting a provider's statement of charges from including certain charges for services covered by personal injury protection benefits, specifying which party is the prevailing party in arbitration of disputes relating to personal injury protection claims, specifying requirements for arbitration, prescribing forms for submission of medical services, specifying payment time limitations, specifying where an independent medical examination of a claimant may be conducted, providing an effective date.

—was read the second time by title

Amendments were considered and adopted to conform **CS for SB 2052** to **HB 3889**

Pending further consideration of **CS for SB 2052** as amended, on motion by Senator Diaz-Balart, by two-thirds vote **HB 3889** was withdrawn from the Committee on Banking and Insurance.

On motion by Senator Diaz-Balart—

HB 3889—A bill to be entitled An act relating to motor vehicle insurance, amending s 627 7295, F S , authorizing certain fees, amending s 627 736, F S., providing alternate means of paying certain interest penalties on overdue personal injury protection benefits, prohibiting a provider's statement of charges from including certain charges, specifying which party is the prevailing party in arbitration of disputes relating to personal injury protection claims, specifying where an independent medical examination of a claimant may be conducted, providing an effective date.

—a companion measure, was substituted for **CS for SB 2052** as amended and read the second time by title

Senator Diaz-Balart moved the following amendment which was adopted·

Amendment 1 (with title amendment)—Delete everything after the enacting clause and insert

Section 1 Subsection (5) of section 627 7295, Florida Statutes, is amended to read

627 7295 Motor vehicle insurance contracts.—

(5)*(a)* A licensed general lines agent may charge a per-policy fee not to exceed $10 to cover the administrative costs of the agent associated with selling the motor vehicle insurance policy if the policy covers only personal injury protection coverage as provided by s 627 736 and property damage liability coverage as provided by s 627.7275 and if no other insurance is sold or issued in conjunction with or collateral to the policy. The per-policy fee must be a component of the insurer's rate filing and may not be charged by an agent unless the fee is included in the filing The fee is not considered part of the premium except for purposes of the department's review of expense factors in a filing made pursuant to s. 627.062

(b) To the extent that a licensed general agent's cost of obtaining motor vehicle reports on applicants for motor vehicle insurance is not otherwise compensated, the agent may, in addition to any other fees authorized by law, charge an applicant for motor vehicle insurance a reasonable, nonrefundable fee to reimburse the agent the actual cost of obtaining the report for each licensed driver when the motor vehicle report is obtained by the agent simultaneously with the preparation of the application for use in the calculation of premium or in the proper placement of the risk The amount of the fee may not exceed the agent's actual cost in obtaining the report which is not otherwise compensated Actual cost is the cost of obtaining the report on an individual driver basis when so obtained or the pro rata cost per driver when the report is obtained on more than one driver, however, in no case may actual cost include subscription or access fees associated with obtaining motor vehicle reports on-line though any electronic transmissions program

Section 2 Subsection (5), paragraph (b) of subsection (6), and paragraph (a) of subsection (7) of section 627 736, Florida Statutes, are amended to read

627 736 Required personal injury protection benefits, exclusions; priority —

(5) CHARGES FOR TREATMENT OF INJURED PERSONS —

(a) Any physician, hospital, clinic, or other person or institution lawfully rendering treatment to an injured person for a bodily injury covered by personal injury protection insurance may charge only a reasonable amount for the products, services, and accommodations rendered, and the insurer providing such coverage may pay for such charges directly to such person or institution lawfully rendering such treatment, if the insured receiving such treatment or his or her guardian has countersigned the invoice, bill, or claim form approved by the Department of Insurance upon which such charges are to be paid for as having actually been rendered, to the best knowledge of the insured or his or her guardian In no event, however, may such a charge be in excess of the amount the person or institution customarily charges for like products, services, or accommodations in cases involving no insurance, provided that charges for cephalic thermograms and peripheral thermograms shall not exceed the maximum reimbursement allowance for such procedures as set forth in the applicable fee schedule established pursuant to s 440 13

(b) With respect to any treatment or service, other than medical services billed by a hospital for services rendered at a hospital-owned facility, the statement of charges must be furnished to the insurer by the provider and may not include, and the insurer is not required to pay, charges for treatment or services rendered more than 30 days before the postmark date of the statement, except for past due amounts previously billed on a timely basis under this paragraph, and except that, if the provider submits to the insurer a notice of initiation of treatment within 21 days after its first examination or treatment of the claimant, the statement may include charges for treatment or services rendered up to, but not more than, 60 days before the postmark date of the statement The injured party is not liable for, and the provider shall not bill the injured party for, charges that are unpaid because of the provider's failure to comply with this paragraph Any agreement requiring the injured person or insured to pay for such charges is unenforceable For emergency services and care as defined in s 395 002 rendered in a hospital emergency department or for transport and treatment rendered by an ambulance provider licensed pursuant to part III of chapter 401, the provider is not required to furnish the statement of charges within the time periods established by this paragraph, and the insurer shall not be considered to have been furnished with notice of the amount of covered loss for purposes of paragraph (4)(b) until it receives a statement complying with paragraph (5)(d), or copy thereof, which specifically identifies the place of service to be a hospital emergency department or an ambulance in accordance with billing standards recognized by the Health Care Finance Administration Each notice of insured's rights under s 627 7401 must include the following statement in type no smaller than 12 points

BILLING REQUIREMENTS —Florida Statutes provide that with respect to any treatment or services, other than certain hospital and emergency services, the statement of charges furnished to the insurer by the provider may not include, and the insurer and the injured party are not required to pay, charges for treatment or services rendered more than 30 days before the postmark date of the statement, except for past due amounts previously billed on a timely basis, and except that, if the provider submits to the insurer a notice of initiation of treatment within 21 days after its first examination or treatment of the claimant, the statement may include charges for treatment or services rendered up to, but not more than, 60 days before the postmark date of the statement

(c) Every insurer shall include a provision in its policy for personal injury protection benefits for binding arbitration of any claims dispute involving medical benefits arising between the insurer and any person providing medical services or supplies if that person has agreed to accept assignment of personal injury protection benefits The provision shall specify that the provisions of chapter 682 relating to arbitration shall apply The prevailing party shall be entitled to attorney's fees and costs *For purposes of the award of attorney's fees and costs, the prevailing party shall be determined as follows.*

1 When the amount of personal injury protection benefits determined by arbitration exceeds the sum of the amount offered by the insurer at arbitration plus 50 percent of the difference between the amount of the claim asserted by the claimant at arbitration and the amount offered by the insurer at arbitration, the claimant is the prevailing party

2 When the amount of personal injury protection benefits determined by arbitration is less than the sum of the amount offered by the insurer at arbitration plus 50 percent of the difference between the amount of the claim asserted by the claimant at arbitration and the amount offered by the insurer at arbitration, the insurer is the prevailing party

3 When neither subparagraph 1 nor subparagraph 2 applies, there is no prevailing party For purposes of this paragraph, the amount of the offer or claim at arbitration is the amount of the last written offer or claim made at least 30 days prior to the arbitration

4 In the demand for arbitration, the party requesting arbitration must include a statement specifically identifying the issues for arbitration for each examination or treatment in dispute The other party must subsequently issue a statement specifying any other examinations or treatment and any other issues that it intends to raise in the arbitration. The parties may amend their statements up to 30 days prior to arbitration, provided that arbitration shall be limited to those identified issues and neither party may add additional issues during arbitration

(d) All statements and bills for medical services rendered by any physician, hospital, clinic, or other person or institution shall be submitted to the insurer on an Health Care Finance Administration 1500 form, UB 92 forms, or any other standard form approved by the department for purposes of this paragraph. All billings for such services shall, to the extent applicable, follow the Physicians' Current Procedural Terminology (CPT) in the year in which services are rendered No statement of medical services may include charges for medical services of a person or entity that performed such services without possessing the valid licenses required to perform such services For purposes of paragraph (4)(b), an insurer shall not be considered to have been furnished with notice of the amount of covered loss or medical bills due unless the statements or bills comply with this paragraph.

(6) DISCOVERY OF FACTS ABOUT AN INJURED PERSON; DISPUTES —

(b) Every physician, hospital, clinic, or other medical institution providing, before or after bodily injury upon which a claim for personal injury protection insurance benefits is based, any products, services, or accommodations in relation to that or any other injury, or in relation to a condition claimed to be connected with that or any other injury, shall, if requested to do so by the insurer against whom the claim has been made, furnish forthwith a written report of the history, condition, treatment, dates, and costs of such treatment of the injured person, together with a sworn statement that the treatment or services rendered were reasonable and necessary with respect to the bodily injury sustained and identifying which portion of the expenses for such treatment or services was incurred as a result of such bodily injury, and produce forthwith, and permit the inspection and copying of, his or her or its records regarding such history, condition, treatment, dates, and costs of treatment. Such sworn statement shall read as follows: "Under penalty of perjury, I declare that I have read the foregoing, and the facts alleged are true, to the best of my knowledge and belief." No cause of action for violation of the physician-patient privilege or invasion of the right of privacy shall be permitted against any physician, hospital, clinic, or other medical institution complying with the provisions of this section The person requesting such records and such sworn statement shall pay all reasonable costs connected therewith. *If an insurer makes a written request for*

documentation under this paragraph within 20 days after having received notice of the amount of a covered loss under s 627 736(4)(a), the insurer shall pay the amount or partial amount of covered loss to which such documentation relates in accordance with s 627 736(4)(b) or within 10 days after the insurer's receipt of the requested documentation, whichever occurs later. For purposes of this paragraph, the term "receipt" includes, but is not limited to, inspection and copying pursuant to this paragraph.

(7) MENTAL AND PHYSICAL EXAMINATION OF INJURED PERSON, REPORTS —

(a) Whenever the mental or physical condition of an injured person covered by personal injury protection is material to any claim that has been or may be made for past or future personal injury protection insurance benefits, such person shall, upon the request of an insurer, submit to mental or physical examination by a physician or physicians The costs of any examinations requested by an insurer shall be borne entirely by the insurer. Such examination shall be conducted within ~~the municipality of residence of the insured or in~~ the municipality where the insured is receiving treatment, *or in a location reasonably accessible to the insured, which, for purposes of this paragraph, means any location within the municipality in which the insured resides, or any location within 10 miles by road of the insured's residence, provided such location is within the county in which the insured resides* If the examination is to be conducted *in a location reasonably accessible to the insured,* ~~within the municipality of residence of the insured~~ and if there is no qualified physician to conduct the examination *in a location reasonably accessible to the insured* ~~within such municipality~~, then such examination shall be conducted in an area of the closest proximity to the insured's residence. Personal protection insurers are authorized to include reasonable provisions in personal injury protection insurance policies for mental and physical examination of those claiming personal injury protection insurance benefits. An insurer may not withdraw payment of a treating physician without the consent of the injured person covered by the personal injury protection, unless the insurer first obtains a report by a physician licensed under the same chapter as the treating physician whose treatment authorization is sought to be withdrawn, stating that treatment was not reasonable, related, or necessary.

Section 3 *(1) Paragraph (5)(c) of s 627 736, Florida Statutes, as amended by section 2 of this act, shall apply to arbitrations commenced on or after the effective date of this act.*

(2) Paragraph (7)(a) of s 627 736, Florida Statutes, as amended by section 2 of this act, shall apply to new and renewal policies with an effective date on or after the effective date of this act

(3) All other provisions of section 2 of this act shall apply to accidents occurring on or after the effective date of this act

Section 4. This act shall take effect October 1, 1998

And the title is amended as follows.

On page 1, lines 2-13, delete those lines and insert. amending s. 627 7295, F.S.; authorizing certain fees to be collected by general lines agents, amending s 627 736, F S , prohibiting a provider's statement of charges from including certain charges for services covered by personal injury protection benefits, specifying which party is the prevailing party in arbitration of disputes relating to personal injury protection claims; specifying requirements for arbitration, prescribing forms for submission of medical services, specifying payment time limitations, specifying where an independent medical examination of a claimant may be conducted, specifying applicability of amendments made by this act, providing an effective date

Pursuant to Rule 4 19, **HB 3889** as amended was placed on the calendar of Bills on Third Reading

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On motion by Senator Kirkpatrick, by two-thirds vote **HB 3205** was withdrawn from the Committees on Governmental Reform and Oversight, and Ways and Means

On motion by Senator Kirkpatrick, by two-thirds vote—

HB 3205—A bill to be entitled An act relating to the National Guard, amending s 250.10, F.S , revising language with respect to payments under the educational tuition assistance program administered by the Department of Military Affairs, providing an effective date

—a companion measure, was substituted for **SB 534** and by two-thirds vote read the second time by title

Pursuant to Rule 4.19, **HB 3205** was placed on the calendar of Bills on Third Reading

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On motion by Senator Latvala, by two-thirds vote **CS for HB 4065** was withdrawn from the Committee on Regulated Industries.

On motion by Senator Latvala, by two-thirds vote—

CS for HB 4065—A bill to be entitled An act relating to public accountancy; amending s 473 302, F S , providing definitions, amending s. 473 303, F.S ; revising provisions relating to membership on probable cause panels of the Board of Accountancy, amending s 473 306, F S , providing conditions under which the board may adopt an alternative licensure examination for persons licensed to practice public accountancy or its equivalent in a foreign country, providing for appointment of an Educational Advisory Committee for purposes of maintaining proper educational qualifications for licensure of certified public accountants; amending s 473 308, F S , revising licensure requirements relating to public accountancy experience outside this state; amending s. 473.309, F.S , providing additional requirements for a partnership, corporation, or limited liability company to practice public accountancy in this state, amending s 473 3101, F S , providing requirements for the licensure of sole proprietors and other legal entities; amending s 473 312, F.S , providing for appointment of a Continuing Professional Education Advisory Committee for purposes of maintaining proper continuing education requirements for renewal of licensure of certified public accountants, amending s 473 313, F S , providing continuing education requirements for the reactivation of certain licenses, amending s. 473 315, F S ; providing an exemption for attorneys, amending ss. 473.319, 473 3205, F.S ; revising provisions relating to contingency fees, commissions, and referral fees, amending s 473 322, F S., providing certain requirements for persons offering certain public accounting services, providing an effective date.

—a companion measure, was substituted for **CS for SB 1508** and by two-thirds vote read the second time by title

Pursuant to Rule 4 19, **CS for HB 4065** was placed on the calendar of Bills on Third Reading

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CS for SB 340—A bill to be entitled An act relating to real estate; amending s. 475.15, F.S., providing registration and licensing requirements for additional business entities, eliminating a conflicting provision relating to automatic cancellation of the registration of a real estate broker partnership, amending s 475 17, F S.; providing additional requirements for licensure as a real estate broker; amending s. 475 183, F.S ; revising the period after which involuntarily inactive licenses expire; revising the time for the required notice to the licensee, amending s. 475 25, F S ; revising a ground for disciplinary action to exempt licensees from the reporting of certain violators, providing that violations of certain standards of the Appraisal Foundation are grounds for the Florida Real Estate Commission to deny, revoke, or suspend the license of, or to fine, real estate brokers or salespersons, reenacting ss 475 180(2)(b), 475 181(2), 475.22(2), 475.422(2), 475 482(1), F S , relating to nonresident licenses, licensure, refusal of a broker to comply with certain requests or notices, furnishing of copies of termite and roof inspection reports, and recovery from the Real Estate Recovery Fund, to incorporate the amendment to s 475 25, F S , in references thereto; amending s 475.272, F S , deleting a provision that restricts a real estate licensee to operating as a single agent or as a transaction broker, amending s. 475 278, F S., revising provisions relating to disclosure of authorized brokerage relationships and the corresponding duties of real estate licensees, creating s 475 279, F.S , authorizing signatures transmitted by electronic means or facsimile, amending s 475 451, F S., revising provisions relating to the permitting of instructors for proprietary real estate schools or state institutions, providing permit renewal requirements; revising references relating to examinations, amending s 475 452, F S ; providing requirements applicable to advance expenses, commissions, or fees for brokers auctioning real property; amending s

Consideration of CS for HB 935 was deferred.

SB 864—A bill to be entitled An act relating to ad valorem tax exemption; amending s 196 011, F S , authorizing the granting of exemption under certain circumstances to property entitled to a charitable exemption for the 1994 tax year for which application was not timely filed; providing for canceling outstanding tax certificates on, and taxes assessed against, such property and for refunding any such taxes that have been paid; providing for expiration, providing an effective date.

—was read the third time by title.

On motions by Senator Meadows, SB 864 was passed and certified to the House The vote on passage was

Yeas—32

Madam President	Crist	Holzendorf	Meadows
Bronson	Diaz-Balart	Horne	Myers
Brown-Waite	Forman	Jones	Ostalkiewicz
Campbell	Geller	Kirkpatrick	Scott
Casas	Grant	Klein	Silver
Childers	Gutman	Kurth	Sullivan
Clary	Hargrett	Laurent	Turner
Cowin	Harris	Lee	Williams

Nays—None

HB 3889—A bill to be entitled An act relating to motor vehicle insurance; amending s 627.7295, F.S , authorizing certain fees; amending s. 627.736, F.S., providing alternate means of paying certain interest penalties on overdue personal injury protection benefits; prohibiting a provider's statement of charges from including certain charges, specifying which party is the prevailing party in arbitration of disputes relating to personal injury protection claims, specifying where an independent medical examination of a claimant may be conducted, providing an effective date.

—as amended April 17 was read the third time by title

On motions by Senator Diaz-Balart, HB 3889 as amended was passed and by two-thirds vote immediately certified to the House. The vote on passage was:

Yeas—30

Madam President	Diaz-Balart	Horne	Ostalkiewicz
Bronson	Forman	Jones	Scott
Brown-Waite	Geller	Kirkpatrick	Silver
Campbell	Grant	Klein	Thomas
Casas	Gutman	Kurth	Turner
Childers	Hargrett	Laurent	Williams
Clary	Harris	Meadows	
Cowin	Holzendorf	Myers	

Nays—1

Crist

HB 3205—A bill to be entitled An act relating to the National Guard, amending s. 250.10, F.S , revising language with respect to payments under the educational tuition assistance program administered by the Department of Military Affairs, providing an effective date.

—was read the third time by title

On motions by Senator Kirkpatrick, HB 3205 was passed and by two-thirds vote immediately certified to the House The vote on passage was.

Yeas—32

Madam President	Casas	Crist	Grant
Bronson	Childers	Diaz-Balart	Gutman
Brown-Waite	Clary	Forman	Hargrett
Campbell	Cowin	Geller	Harris
Holzendorf	Klein	Meadows	Silver
Horne	Kurth	Myers	Thomas
Jones	Laurent	Ostalkiewicz	Turner
Kirkpatrick	Lee	Scott	Williams

Nays—None

CS for HB 4065—A bill to be entitled An act relating to public accountancy, amending s 473 302, F S ; providing definitions, amending s 473 303, F.S., revising provisions relating to membership on probable cause panels of the Board of Accountancy, amending s 473.306, F.S., providing conditions under which the board may adopt an alternative licensure examination for persons licensed to practice public accountancy or its equivalent in a foreign country; providing for appointment of an Educational Advisory Committee for purposes of maintaining proper educational qualifications for licensure of certified public accountants; amending s 473.308, F S , revising licensure requirements relating to public accountancy experience outside this state, amending s. 473 309, F S ; providing additional requirements for a partnership, corporation, or limited liability company to practice public accountancy in this state; amending s 473 3101, F S , providing requirements for the licensure of sole proprietors and other legal entities; amending s 473 312, F.S ; providing for appointment of a Continuing Professional Education Advisory Committee for purposes of maintaining proper continuing education requirements for renewal of licensure of certified public accountants, amending s 473.313, F.S , providing continuing education requirements for the reactivation of certain licenses, amending s 473 315, F.S , providing an exemption for attorneys, amending ss 473 319, 473 3205, F S , revising provisions relating to contingency fees, commissions, and referral fees, amending s 473 322, F.S , providing certain requirements for persons offering certain public accounting services, providing an effective date

—was read the third time by title

On motions by Senator Horne, CS for HB 4065 was passed and by two-thirds vote immediately certified to the House The vote on passage was.

Yeas—31

Madam President	Crist	Horne	Myers
Bronson	Diaz-Balart	Jones	Ostalkiewicz
Brown-Waite	Forman	Kirkpatrick	Silver
Campbell	Geller	Klein	Sullivan
Casas	Gutman	Kurth	Thomas
Childers	Hargrett	Laurent	Turner
Clary	Harris	Lee	Williams
Cowin	Holzendorf	Meadows	

Nays—None

STATEMENT OF INTENT FOR CS FOR HB 4065

First, this bill is intended to ensure that unlicensed accounting firms, such as American Express Tax and Business Services, Inc , can prepare certain types of financial statements

Second, this bill is not intended to preclude certified public accountants from preparing certain types of financial statements on behalf of unlicensed public accounting firms such as American Express Tax and Business Services, Inc In other words, this bill requires the Board of Accountancy to make the necessary changes to the current regulatory scheme to ensure compliance with these provisions of the bill and prevents the Board of Accountancy from adopting a regulatory approach that prevents CPAs working for unlicensed firms from preparing certain types of financial statements

Third, any regulation of CPAs working for unlicensed accounting firms under this bill shall not exceed restrictions placed on CPAs working for licensed audit firms

Fourth, the bill does not alter what unlicensed accountants, bookkeepers or others can or cannot do. The lawful services that they perform are unchanged and undisturbed

ENROLLED
1998 Legislature HB 3889, Second Engrossed

An act relating to motor vehicle insurance; amending s. 627.7295, F.S.; authorizing certain fees to be collected by general lines agents; amending s. 627.736, F.S.; prohibiting a provider's statement of charges from including certain charges for services covered by personal injury protection benefits; specifying which party is the prevailing party in arbitration of disputes relating to personal injury protection claims; specifying requirements for arbitration; prescribing forms for submission of medical services; specifying payment time limitations; specifying where an independent medical examination of a claimant may be conducted; specifying applicability of amendments made by this act; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (5) of section 627.7295, Florida Statutes, is amended to read:

627.7295 Motor vehicle insurance contracts.--

(5)(a) A licensed general lines agent may charge a per-policy fee not to exceed $10 to cover the administrative costs of the agent associated with selling the motor vehicle insurance policy if the policy covers only personal injury protection coverage as provided by s. 627.736 and property damage liability coverage as provided by s. 627.7275 and if no other insurance is sold or issued in conjunction with or

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collateral to the policy. The per-policy fee must be a component of the insurer's rate filing and may not be charged by an agent unless the fee is included in the filing. The fee is not considered part of the premium except for purposes of the department's review of expense factors in a filing made pursuant to s. 627.062.

(b) To the extent that a licensed general agent's cost of obtaining motor vehicle reports on applicants for motor vehicle insurance is not otherwise compensated, the agent may, in addition to any other fees authorized by law, charge an applicant for motor vehicle insurance a reasonable, nonrefundable fee to reimburse the agent the actual cost of obtaining the report for each licensed driver when the motor vehicle report is obtained by the agent simultaneously with the preparation of the application for use in the calculation of premium or in the proper placement of the risk. The amount of the fee may not exceed the agent's actual cost in obtaining the report which is not otherwise compensated. Actual cost is the cost of obtaining the report on an individual driver basis when so obtained or the pro rata cost per driver when the report is obtained on more than one driver; however, in no case may actual cost include subscription or access fees associated with obtaining motor vehicle reports on-line though any electronic transmissions program.

Section 2. Subsection (5), paragraph (b) of subsection (6), and paragraph (a) of subsection (7) of section 627.736, Florida Statutes, are amended to read:

627.736 Required personal injury protection benefits; exclusions; priority.--

(5) CHARGES FOR TREATMENT OF INJURED PERSONS.--

(a) Any physician, hospital, clinic, or other person or institution lawfully rendering treatment to an injured person for a bodily injury covered by personal injury protection insurance may charge only a reasonable amount for the products, services, and accommodations rendered, and the insurer providing such coverage may pay for such charges directly to such person or institution lawfully rendering such treatment, if the insured receiving such treatment or his or her guardian has countersigned the invoice, bill, or claim form approved by the Department of Insurance upon which such charges are to be paid for as having actually been rendered, to the best knowledge of the insured or his or her guardian. In no event, however, may such a charge be in excess of the amount the person or institution customarily charges for like products, services, or accommodations in cases involving no insurance, provided that charges for cephalic thermograms and peripheral thermograms shall not exceed the maximum reimbursement allowance for such procedures as set forth in the applicable fee schedule established pursuant to s. 440.13.

(b) With respect to any treatment or service, other than medical services billed by a hospital for services rendered at a hospital-owned facility, the statement of charges must be furnished to the insurer by the provider and may not include, and the insurer is not required to pay, charges for treatment or services rendered more than 30 days before the postmark date of the statement, except for past due amounts previously billed on a timely basis under this paragraph, and except that, if the provider submits to the insurer a notice of initiation of treatment within 21 days after its first examination or treatment of the claimant, the statement may include charges for treatment or services

rendered up to, but not more than, 60 days before the postmark date of the statement. The injured party is not liable for, and the provider shall not bill the injured party for, charges that are unpaid because of the provider's failure to comply with this paragraph. Any agreement requiring the injured person or insured to pay for such charges is unenforceable. For emergency services and care as defined in s. 395.002 rendered in a hospital emergency department or for transport and treatment rendered by an ambulance provider licensed pursuant to part III of chapter 401, the provider is not required to furnish the statement of charges within the time periods established by this paragraph; and the insurer shall not be considered to have been furnished with notice of the amount of covered loss for purposes of paragraph (4)(b) until it receives a statement complying with paragraph (5)(d), or copy thereof, which specifically identifies the place of service to be a hospital emergency department or an ambulance in accordance with billing standards recognized by the Health Care Finance Administration. Each notice of insured's rights under s. 627.7401 must include the following statement in type no smaller than 12 points:

BILLING REQUIREMENTS.--Florida Statutes provide that with respect to any treatment or services, other than certain hospital and emergency services, the statement of charges furnished to the insurer by the provider may not include, and the insurer and the injured party are not required to pay, charges for treatment or services rendered more than 30 days before the postmark date of the statement, except for past due amounts previously billed on a timely

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basis, and except that, if the provider submits to the insurer a notice of initiation of treatment within 21 days after its first examination or treatment of the claimant, the statement may include charges for treatment or services rendered up to, but not more than, 60 days before the postmark date of the statement.

(c) Every insurer shall include a provision in its policy for personal injury protection benefits for binding arbitration of any claims dispute involving medical benefits arising between the insurer and any person providing medical services or supplies if that person has agreed to accept assignment of personal injury protection benefits. The provision shall specify that the provisions of chapter 682 relating to arbitration shall apply. The prevailing party shall be entitled to attorney's fees and costs. For purposes of the award of attorney's fees and costs, the prevailing party shall be determined as follows:

1. When the amount of personal injury protection benefits determined by arbitration exceeds the sum of the amount offered by the insurer at arbitration plus 50 percent of the difference between the amount of the claim asserted by the claimant at arbitration and the amount offered by the insurer at arbitration, the claimant is the prevailing party.

2. When the amount of personal injury protection benefits determined by arbitration is less than the sum of the amount offered by the insurer at arbitration plus 50 percent of the difference between the amount of the claim asserted by the claimant at arbitration and the amount offered by the insurer at arbitration, the insurer is the prevailing party.

3. When neither subparagraph 1. nor subparagraph 2. applies, there is no prevailing party. For purposes of this paragraph, the amount of the offer or claim at arbitration is the amount of the last written offer or claim made at least 30 days prior to the arbitration.

4. In the demand for arbitration, the party requesting arbitration must include a statement specifically identifying the issues for arbitration for each examination or treatment in dispute. The other party must subsequently issue a statement specifying any other examinations or treatment and any other issues that it intends to raise in the arbitration. The parties may amend their statements up to 30 days prior to arbitration, provided that arbitration shall be limited to those identified issues and neither party may add additional issues during arbitration.

(d) All statements and bills for medical services rendered by any physician, hospital, clinic, or other person or institution shall be submitted to the insurer on an Health Care Finance Administration 1500 form, UB 92 forms, or any other standard form approved by the department for purposes of this paragraph. All billings for such services shall, to the extent applicable, follow the Physicians' Current Procedural Terminology (CPT) in the year in which services are rendered. No statement of medical services may include charges for medical services of a person or entity that performed such services without possessing the valid licenses required to perform such services. For purposes of paragraph (4)(b), an insurer shall not be considered to have been furnished with notice of the amount of covered loss or medical bills due unless the statements or bills comply with this paragraph.

(6) DISCOVERY OF FACTS ABOUT AN INJURED PERSON; DISPUTES.--

(b) Every physician, hospital, clinic, or other medical institution providing, before or after bodily injury upon which a claim for personal injury protection insurance benefits is based, any products, services, or accommodations in relation to that or any other injury, or in relation to a condition claimed to be connected with that or any other injury, shall, if requested to do so by the insurer against whom the claim has been made, furnish forthwith a written report of the history, condition, treatment, dates, and costs of such treatment of the injured person, together with a sworn statement that the treatment or services rendered were reasonable and necessary with respect to the bodily injury sustained and identifying which portion of the expenses for such treatment or services was incurred as a result of such bodily injury, and produce forthwith, and permit the inspection and copying of, his or her or its records regarding such history, condition, treatment, dates, and costs of treatment. Such sworn statement shall read as follows: "Under penalty of perjury, I declare that I have read the foregoing, and the facts alleged are true, to the best of my knowledge and belief." No cause of action for violation of the physician-patient privilege or invasion of the right of privacy shall be permitted against any physician, hospital, clinic, or other medical institution complying with the provisions of this section. The person requesting such records and such sworn statement shall pay all reasonable costs connected therewith. If an insurer makes a written request for documentation under this paragraph within 20 days after having received notice of the amount of a covered loss under s.

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627.736(4)(a), the insurer shall pay the amount or partial amount of covered loss to which such documentation relates in accordance with s. 627.736(4)(b) or within 10 days after the insurer's receipt of the requested documentation, whichever occurs later. For purposes of this paragraph, the term "receipt" includes, but is not limited to, inspection and copying pursuant to this paragraph.

(7) MENTAL AND PHYSICAL EXAMINATION OF INJURED PERSON; REPORTS.--

(a) Whenever the mental or physical condition of an injured person covered by personal injury protection is material to any claim that has been or may be made for past or future personal injury protection insurance benefits, such person shall, upon the request of an insurer, submit to mental or physical examination by a physician or physicians. The costs of any examinations requested by an insurer shall be borne entirely by the insurer. Such examination shall be conducted within ~~the municipality of residence of the insured or in~~ the municipality where the insured is receiving treatment, or in a location reasonably accessible to the insured, which, for purposes of this paragraph, means any location within the municipality in which the insured resides, or any location within 10 miles by road of the insured's residence, provided such location is within the county in which the insured resides. If the examination is to be conducted in a location reasonably accessible to the insured, ~~within the municipality of residence of the insured~~ and if there is no qualified physician to conduct the examination in a location reasonably accessible to the insured ~~within such municipality~~, then such examination shall be conducted in an area of the closest proximity to the insured's residence.

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Personal protection insurers are authorized to include reasonable provisions in personal injury protection insurance policies for mental and physical examination of those claiming personal injury protection insurance benefits. An insurer may not withdraw payment of a treating physician without the consent of the injured person covered by the personal injury protection, unless the insurer first obtains a report by a physician licensed under the same chapter as the treating physician whose treatment authorization is sought to be withdrawn, stating that treatment was not reasonable, related, or necessary.

Section 3. (1) Paragraph (5)(c) of s. 627.736, Florida Statutes, as amended by section 2 of this act, shall apply to arbitrations commenced on or after the effective date of this act.

(2) Paragraph (7)(a) of s. 627.736, Florida Statutes, as amended by section 2 of this act, shall apply to new and renewal policies with an effective date on or after the effective date of this act.

(3) All other provisions of section 2 of this act shall apply to accidents occurring on or after the effective date of this act.

Section 4. This act shall take effect October 1, 1998.