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SFA BILL ANALYSIS

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Senate Bill 199 (as enrolled)
Sponsor: Senator Joanne G. Emmons
Committee: Financial Services

Date Completed: 2-21-01

RATIONALE

Because there is no limit on the amount of coverage for personal injuries under Michigan's no-fault automobile insurance system, the potential liability for this coverage is too large for many insurance companies to bear. In other types of insurance, when an insured risk represents a liability that is larger than an insurer can afford, the insurer shares the risk with other insurance companies through the purchase of reinsurance, in which the reinsurer agrees to share any losses with the reinsurer. The Michigan Catastrophic Claims Association (MCCA) was established in 1978 as an unincorporated, nonprofit association composed of companies writing auto insurance in the State. The MCCA acts as a reinsurer for these insurers by reimbursing an insurance company for the amount of personal injury protection (PIP) losses over $250,000, which is referred to as a retention level. All auto insurance companies in the State are covered by the MCCA and pay an annual assessment for this coverage. The insurance companies may pass the assessment on to policyholders, either as a part of the PIP portion of a premium or as a separate charge. The $250,000 retention level has not been adjusted since the MCCA was established in 1978. Some people believe that the level should be increased to reflect rising costs of medical and other covered services for catastrophic injuries.

CONTENT

The bill would amend Chapter 31 (Motor Vehicle Personal and Property Protection) of the Insurance Code to provide for increases in no-fault insurers' retention limit, beyond which the MCCA provides indemnification. Under the bill, the MCCA would have to provide and each member would have to accept indemnification for 100% of the amount of ultimate loss sustained under personal protection insurance coverages in the following amounts, for a motor vehicle accident policy issued or renewed during the following periods:

Amount	Period
$250,000	Before July 1, 2002
$300,000	July 1, 2002, to June 30, 2003
$325,000	July 1, 2003, to June 30, 2004
$350,000	July 1, 2004, to June 30, 2005
$375,000	July 1, 2005, to June 30, 2006
$400,000	July 1, 2006, to June 30, 2007
$420,000	July 1, 2007, to June 30, 2008
$440,000	July 1, 2008, to June 30, 2009
$460,000	July 1, 2009, to June 30, 2010
$480,000	July 1, 2010, to June 30, 2011
$500,000	July 1, 2011, to June 30, 2013

Beginning July 1, 2013, the $500,000 amount would have to be increased biennially on July 1 of the following odd-numbered year, by the lesser of 6% or the consumer price index, and rounded to the nearest $5,000. The MCCA would have to calculate the biennial adjustment by January 1 of the year of its July 1 effective date.

Currently, each no-fault insurer must be a member of the MCCA. The MCCA must provide and each member must accept indemnification for 100% of the amount of ultimate loss sustained under personal protection insurance coverages in excess of $250,000 in each occurrence. ("Ultimate loss" means the actual loss amounts that a member is obligated to pay and that are paid or payable by the member, and do not include claim expenses. An ultimate loss is incurred by the MCCA on the date that the loss occurs.)

The bill would take effect July 1, 2002.

MCL 500.3104

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

To reflect the increasing costs of medical services, the bill would gradually raise the level at which the MCCA assumes responsibility for a personal injury claim against an auto insurance company. Consequently, the amount an individual auto insurer is responsible for covering also would gradually increase. By phasing in an increase in the $250,000 retention level, the bill would enable insurance companies would be able to plan and budget for the increased risk on a long-term basis, which would allow them to be more stable financially. According to the Office of Financial and Insurance Services in the Department of Consumer and Industry Services, companies with large surpluses would be able to absorb larger amounts per loss than the present level of $250,000. Because they would not have to purchase reinsurance to cover the higher liability, this could reduce their overall operating costs. Some companies that have smaller surpluses often purchase reinsurance to cover a portion of the losses that fall below $250,000. For example, a company might cover $100,000 of the liability and purchase reinsurance to cover the remaining $150,000. Since the retention level would increase gradually, smaller insurance companies would be able to plan further in advance to purchase reinsurance coverage for losses that fell below the changing retention level.

Opposing Argument

All auto insurance companies in the State are covered by the MCCA and pay an annual assessment for this coverage, which they may pass on to policyholders. As the retention level increased, insurance companies could raise the PIP portion of a premium to reflect the higher level. This could result in higher insurance rates for consumers.

Response: It is not certain that rates would increase. A PIP premium could rise to reflect an increase in the amount of a claim that an individual auto insurer would be responsible for covering. The amount the MCCA assesses an auto insurer for coverage, however, could be lowered as the level at which the MCCA assumed responsibility for a catastrophic claim increased. Furthermore, the PIP portion of a premium is not a set assessment, so consumers could look for a policy from an insurance company that provided more competitive rates.

Opposing Argument

The frequency and cost of catastrophic injuries are difficult to predict. By gradually increasing the retention level, the bill would require insurance companies to accept a larger amount of risk for each catastrophic injury. This could place an insurer in financial jeopardy, if the insurer chose not to purchase reinsurance for this risk and several large catastrophic injuries occurred to its policyholders in a short period of time.

Legislative Analyst: L. Arasim

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: M. Tyszkiewicz

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