

Legislative Analysis



ASSIGNED CLAIMS PLAN

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House Bill 4455 (Substitute H-1)
Sponsor: Rep. Deb Shaughnessy
Committee: Insurance

First Analysis (9-26-11)

BRIEF SUMMARY: Generally speaking, the bill would transfer the operations of the Assigned Claims Plan from the Secretary of State to the Michigan Automobile Insurance Placement Facility.

FISCAL IMPACT: House Bill 4455 would have an indeterminate fiscal impact on the Department of State. Currently, the Department of State receives funding for its administrative costs associated with the program from the Assigned Claims Fund. Annual administrative costs total approximately \$1.0 million. Under the provisions of the bill, the operations of the Assigned Claims Plan would be transferred to the Michigan Automobile Insurance Placement Facility. While a majority of the administrative costs would be borne by the Michigan Automobile Insurance Placement Facility (costs would still be paid from the Assigned Claims Fund to the Facility), the Secretary of State would still retain some costs associated with the suspension and reinstatement of licenses for those uninsured motorists who fail to make a required payment to the Assigned Claims Fund as required by a court judgment against them. The bill would not appear to have any significant impact on the Office of Insurance and Financial Regulation.

THE APPARENT PROBLEM:

The Assigned Claims Plan is a program that aims at providing financial assistance to individuals injured in an uninsured motor vehicle accident in Michigan who have no insurance coverage of their own. Typical examples include a pedestrian with no auto insurance coverage in the household who is hit by an uninsured driver or a hit-and-run driver. Claims are submitted to the Department of State and, after initial screening, are assigned to participating private auto insurance companies. Following an investigation, the insurance company pays the claim and is reimbursed by the Assigned Claims Plan, which is supported through assessments on all the companies writing auto insurance in the state, as well as the self-insured.

Legislation has been introduced to move the administration from the Department of State to the Michigan Automobile Insurance Placement Facility (MAIPF). The Department of State is in agreement with this transfer and has said that auto insurance-related functions are not part of its core mission. A department spokesman has said that the department does not have a "claims adjuster attitude," and that claims evaluation is not one of its special competencies.

Critics of the current system say that the cost of claims under the Assigned Claims Facility have risen much faster than personal injury protection (PIP) claims in the auto insurance market at large and that greater scrutiny of claims would reduce costs to the system and potentially reduce the accompanying assessments on auto insurance companies (and ultimately to the insurance customer). The Automobile Insurance Placement Facility is said to be better equipped to deal with the evaluation of the claims experience of the Assigned Claims Facility, and is well-suited to carry out Facility functions.

The MAIPF's current responsibilities are all specifically geared towards providing automobile insurance coverage. The Placement Facility is a "residual market" mechanism to provide auto insurance to drivers who do not qualify for coverage in the normal auto insurance market because of their driving records or other risk factors. (However, other drivers can purchase from the facility as well.) The Facility is a nongovernmental, nonprofit association whose membership is made up of all of the companies writing auto insurance in the state; it uses a limited number of private auto insurance companies as servicing carriers. (Currently these are the Auto Club, Auto-Owners, State Farm, and Citizens, according to the Facility website.) It is considered a joint underwriting association. It charges rates based on the weighted average of the base rates of the five largest auto insurers in the voluntary market. Customers are placed by insurance agents with one of the servicing carriers; customers can choose the company, although the rates would not vary. The organization is governed by a board made up of seven representatives from participating auto insurance companies, two insurance agent representatives, and two public representatives. The Commissioner of the Office of Financial and Insurance Regulation (OFIR) appoints the agent members and public representatives.

THE CONTENT OF THE BILL:

Under House Bill 4455, the current Assigned Claims Plan would be maintained by the Secretary of State only until the Automobile Insurance Placement Facility adopted and maintained its own assigned claims plan. By March 1, 2012, the Placement Facility board of governors would have to adopt an assigned claims plan by majority vote and submit it to the Commissioner of OFIR for approval. The plan would be considered approved if the commissioner failed to act within 30 days. If the board and the commissioner are unable to agree that the provisions of the plan meet the requirements of the Insurance Code, either party could submit the issue to the Ingham County Circuit Court.

The plan would have to include all of the following: (1) The date on and after which all claims for benefits would be filed with the MAIPF; (2) the date by which existing claims assigned under the plan would be transferred to the MAIPF; (3) a date by which all functions of the assigned claims plan maintained by the Secretary of State, with the exception of driver license and vehicle sanctions, will be transferred to the MAIPF; (4) requirements for the transfer of assigned claims records and the disposing of records by the SOS; and (5) reimbursement of the SOS by the MAIPF for the expenses of

developing the plan, the expenses of transferring operations of the Facility to the MAIPF, and the expenses incurred by the SOS after the transfer for operations performed by the SOS on behalf of the MAIPF.

Fraudulent Statements in Claims

The bill also contains a provision specifying that a person is committing a fraudulent insurance act (under Section 4503) if he or she presents or causes to be presented an oral or written statement, including computer-generated information, as part of or in support of a claim to the MAIPF for payment or another benefit knowing that the statement contains false information concerning a fact or thing material to the claim. Also, a claim that contains or is supported by a fraudulent insurance act would be ineligible for payment or benefits from the assigned claims plan.

ARGUMENTS:

For:

As noted earlier, proponents of the bill say that the Michigan Auto Insurance Placement Facility is better equipped to deal with the operations of the Assigned Claims Facility than is the Department of State. There appears to be general consensus that the transfer of the Facility from the Department of State to the MAIPF will improve the administration of the program and, in particular, will offer a better opportunity to get a handle on the Facility's claims expenditures, which appear to be growing faster than those found across the rest of the auto insurance sector.

POSITIONS:

The Office of Financial and Insurance Regulation (OFIR) supports the bill. (9-22-11)

The Department of State supports the bill. (9-22-11)

The Michigan Insurance Coalition supports the bill. (9-22-11)

The Property Casualty Insurance Association supports the bill. (9-22-11)

CPAN -- the Coalition Protecting Auto No-Fault -- supports the bill. (9-22-11)

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.