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BILL



ANALYSIS

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House Bill 4455 (Substitute H-1 as passed by the House)
Sponsor: Representative Deb Shaughnessy
House Committee: Insurance
Senate Committee: Insurance

Date Completed: 6-11-12

CONTENT

The bill would amend the Insurance Code to transfer the functions of the Secretary of State (SOS) pertaining to the Assigned Claims Plan and Assigned Claims Facility (ACF) to the Michigan Automobile Insurance Placement Facility (MAIPF). Specifically, the bill would do the following:

- **Require the MAIPF to adopt and maintain an assigned claims plan in which all auto insurers and self-insurers in Michigan would have to participate.**
- **Require the MAIPF board of governors to submit the plan to the Commissioner of the Office of Financial and Insurance Regulation for approval by August 1, 2012.**
- **Provide that the new plan would take effect upon the Commissioner's approval.**
- **Require the Commissioner to report to the Legislature within one year after all functions were transferred to the MAIPF.**
- **Provide that knowingly providing false information in support of a claim to the MAIPF would be a fraudulent insurance act.**
- **Provide for the suspension or revocation of the registration and license of a debtor who defaulted on his or her payments to the MAIPF.**

The Code requires the SOS to organize and maintain the ACF and an Assigned Claims Plan to provide no-fault medical benefits to a person who is injured in an accident involving an uninsured motor vehicle and who has no insurance of his or her own. A self-insurer and an insurer writing insurance as provided in Chapter 31 (Motor Vehicle Personal and Property Protection) must participate in the Plan. An injured individual may apply to the ACF for benefits. The ACF must determine whether the person is eligible, and, if so, assign the claim to a participating insurer for payment. The insurer is then reimbursed by the ACF from a fund raised through assessments on all auto insurers, including self-insurers, in Michigan. The owner of the uninsured vehicle involved in the accident must reimburse the Plan for all costs caused by his or her failure to purchase auto insurance. If the person does not follow a payment schedule, his or her license may be suspended.

Under the bill, the SOS would have to organize and maintain the ACF and Plan until an assigned claims plan was approved as described below. After the plan was approved, the SOS would have to continue to maintain the ACF and current Plan as required by the new plan.

The bill would require the Michigan Automobile Insurance Placement Facility to adopt and maintain an assigned claims plan. A self-insurer or insurer in Michigan would have to participate in the plan. (As required under the existing Plan, costs incurred in the operation of the facility and the plan would have to be allocated fairly among insurers and self-insurers.) On approval, the MAIPF would have to implement the plan.

By August 1, 2012, the MAIPF board of governors would have to adopt an assigned claims plan by majority vote and submit it to the Commissioner for his or her approval. The Commissioner would have to review the plan within 30 days and respond in writing. If he or she found that the plan met the requirements of Chapter 31, he or she would have to approve it. If he or she found that the plan failed to meet the prescribed requirements, the Commissioner would have to state the respects in which the plan was deficient and give the board 10 days to correct the deficiency. If the Commissioner and the board failed to agree that a submitted plan, with any corrections, met the requirements, either party could submit the issue to the Ingham County Circuit Court for a determination. If the Commissioner failed to render a decision on the plan within 30 days after receiving it, the plan would be considered approved. The MAIPF would have to forward an approved plan to the SOS. The plan would take effect upon the Commissioner's approval.

The plan adopted under the bill would have to include all of the following:

- The date on and after which all claims for benefits through the current Plan would have to be filed with the MAIPF.
- The date by which existing claims that had been assigned under the current Plan maintained by the SOS would be transferred to the MAIPF to be included in and administered under the adopted plan.
- A date by which all functions of the Plan maintained by the SOS, with the exception of driver license and vehicle sanctions, would be transferred to the MAIPF.
- Requirements for the transfer of records relating to assigned claims from the SOS to the MAIPF and the disposition by the SOS of records relating to assigned claims.

Additionally, the adopted plan would have to include reimbursement of the SOS by the MAIPF for all of the following:

- Expenses of developing the plan.
- Expenses of transferring operations from the ACF to the MAIPF.
- Expenses incurred by the SOS after the transfer for operations performed by the SOS on behalf of the MAIPF.

The SOS and the MAIPF would have to cooperate and mutually develop the required aspects of the plan to be adopted. The SOS would have to provide the MAIPF with all information necessary for the operation of the assigned claims fund.

The bill would include administration of the assigned claims plan among the MAIPF's responsibilities with respect to private passenger nonfleet automobiles. The bill would grant the MAIPF board of governors the power to assess self-insurers and insurers consistent with Chapter 31 and the plan approved by the Commissioner.

One year after all functions were transferred to the MAIPF, the Commissioner would have to report to the Senate and House of Representatives standing committees on insurance issues on the cost of the transfer of the current Plan and the effectiveness of operations under the new plan.

A person who presented or caused 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 contained false information

concerning a fact or thing material to the claim would be committing a fraudulent insurance act subject to the penalties under Section 4511. A claim that contained or was supported by a fraudulent insurance act would be ineligible for payment or benefits under the plan.

(Under Section 4511, a person who commits a fraudulent insurance act is guilty of a felony punishable by imprisonment for up to four years and/or a maximum fine of \$50,000, and must be ordered to pay restitution as provided in the Code of Criminal Procedure and the Crime Victim's Rights Act.

A person who enters into an agreement or conspiracy to commit a fraudulent insurance act is guilty of a felony punishable by imprisonment for up to 10 years and/or a maximum fine of \$50,000, and must be ordered to pay restitution.)

The Code requires an assigned insurer to preserve and enforce rights to indemnity or reimbursement against third parties, and requires the insurer to assign the rights to the ACF upon reimbursement by the Facility. Through the ACF, the SOS may enter into a written agreement with the debtor permitting the payment of the judgment or acknowledgment of debt in installments payable to the ACF. The bill would refer to the MAIPF, rather than the ACF or the SOS, in these provisions. A default in payment of installments under a judgment as agreed would subject the debtor to suspension or revocation of his or her motor vehicle license or registration in the same manner as for the failure by an uninsured motorist to pay a judgment by installments under Section 3177.

(Under that section, an insurer obligated to pay personal protection insurance benefits for accidental bodily injury to a person arising out of the ownership, maintenance, or use of an uninsured motor vehicle may recover the benefits paid and appropriate loss adjustment costs incurred from the owner or registrant of the uninsured vehicle or from his or her estate. The person's failure to make payment within 30 days is a ground for suspension or revocation of his or her motor vehicle registration and license.

The registration and license may not be suspended or revoked and must be restored if the debtor enters into a written agreement with the SOS permitting the payment of the judgment in installments, if the payment of any installments is not in default.)

MCL 500.3171 et al.

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on the Department of State. Although the bill would move a majority of the functions to the Michigan Automobile Insurance Placement Facility, the SOS would still incur some costs associated with the suspension and reinstatement of licenses. The amount of those costs is indeterminate and would depend on the number of licensed drivers affected.

Fiscal Analyst: Joe Carrasco
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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.