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Senate Bills 248 and 249 (as introduced 3-26-15)
Sponsor: Senator Joe Hune
Committee: Insurance

Date Completed: 4-15-15

CONTENT

Senate Bill 248 would amend the Insurance Code to do the following:

- Provide for the creation of an incorporated association to accept indemnification for ultimate loss sustained under personal protection insurance coverages above \$500,000.
- Provide for the dissolution of the existing Catastrophic Claims Association (which would be called the Legacy Michigan Claims Association once the incorporated association was issued a certificate of authority) after all liabilities had been paid.
- Set limits on the amount that could be paid by personal protection insurance benefits for attendant care.
- Create the Michigan Automobile Insurance Fraud Authority within the Michigan Automobile Insurance Placement Facility, to provide financial support to law enforcement and prosecutorial agencies to combat auto insurance fraud.
- Authorize the board of the Facility, until December 31, 2020, annually to assess participating insurers and self-insurers up to \$21.0 million in the aggregate to cover costs of the proposed Authority and the Automobile Theft Prevention Authority.
- Terminate the proposed Authority on December 31, 2020, and require it to transfer its assets to the Department of State Police for the benefit of the Automobile Theft Prevention Authority.

Senate Bill 249 would amend the Support and Parenting Time Enforcement Act to revise the citation to a section of the Insurance Code.

The bills are tie-barred and, except as provided in Senate Bill 248, would take effect 90 days after being signed into law. Amendments to various sections of the Insurance Code, as well as the chapter concerning the Michigan Automobile Insurance Fraud Authority, would take effect on January 1, 2016.

Senate Bill 248

MCCA/Legacy Association; Incorporated Association

The Michigan Catastrophic Claims Association (MCCA) was created as an unincorporated, nonprofit association under the Insurance Code. The MCCA has a five-member board of directors appointed by the Director of the Department of Insurance and Financial Services (DIFS). All automobile insurers are required to be members of the MCCA and to pay premiums to the Association so that it may accept indemnification for ultimate loss sustained under

personal protection insurance coverages above certain amounts. Michigan requires all drivers to carry personal protection insurance that covers all reasonable charges incurred for reasonably necessary products, services, and accommodations for the care, recovery, or rehabilitation of a person injured in an auto accident. There is no upper limit on an insurer's liability for this coverage. For claims that exceed specified amounts, the MCCA assumes liability for the payment of claims.

The bill would provide for the creation of a new incorporated association that would be responsible for 100% of all liability for ultimate loss sustained within the scope of personal protection insurance coverages and claims expenses in excess of \$500,000 for policies issued after the first June 30 after the DIFS Director issued a certificate of authority to the new association. The legacy unincorporated association would not be liable for claims under policies issued (and would be prohibited from collecting premiums from member insurers) after that date. The legacy association would dissolve after all existing liabilities were paid. The MCCA would be called the Legacy Michigan Claims Association if an incorporated association were issued a certificate of authority.

The bill would allow two or more voting directors of the "unincorporated association" (the existing MCCA) to form an incorporated association by filing articles of incorporation with the DIFS Director. The new incorporated association would have a seven-member board appointed by the Governor with the advice and consent of the Senate. The new association would be subject to an annual audit by an independent public accountant, and would have to comply with the Freedom of Information Act and the Michigan Open Meetings Act. The bill specifies that the State would not be liable for obligations of the association, and any debt of the association would not be a debt of the State.

The new incorporated association would collect a catastrophic claims assessment from drivers, instead of collecting premiums from insurers as the MCCA does. The assessment would still be collected with the insureds' regular premium payment, but would not be part of an insurer's premium and would have to be listed separately on the invoice.

Attendant Care Limits

The bill would limit the amount that would be paid for attendant care by personal protection insurance benefits. For attendant care provided in the home by a family or household member payment would be limited to a total of 56 hours per week, regardless of the level of care provided. Also, payment would be limited to \$15 per hour, regardless of the level of care. Beginning three years after the bill's effective date, and every three years thereafter, the DIFS Director would have to adjust that amount by the aggregate percentage change in the United States Consumer Price Index, rounded to the nearest 10 cents.

For attendant care provided in the home by someone other than a family or household member, payment would be limited to a total of 24 hours per day for services performed by one or more individuals. Payment for the first 30 days of care would not be subject to a copayment. After 30 days it would be subject to a copayment of 20% up to a maximum of \$200 per month.

Payment for attendant care provided by a family or household member and someone other than a family or household member would be cumulatively limited to 24 hours per day.

Automobile Insurance Fraud Authority

The bill would create the Michigan Automobile Insurance Fraud Authority within the Michigan Automobile Insurance Placement Facility. Before March 1, 2016, the facility's board of governors would have to amend its plan of operation to establish procedures necessary to make assessments for and to carry out the administrative duties and functions of the Authority. Until December 31, 2020, the board of the Facility could annually assess

participating insurers and self-insurers up to \$21.0 million in the aggregate to cover costs of the proposed Authority and the Automobile Theft Prevention Authority.

The duties and powers of the Automobile Insurance Fraud Authority would have to be carried out by a 15-member board of directors, which would consist of members specified in the bill. Board members would have to serve without compensation but the board would have to reimburse a member for necessary travel and expenses. The board would be dissolved on January 1, 2021. The bill specifies that the Authority would not be a State agency, and a record of the Authority would not be subject to disclosure under the Freedom of Information Act.

Currently, automobile insurers are required to pay an annual assessment to the Automobile Theft Prevention Authority. Under the bill, this requirement would not apply between January 1, 2016, and December 31, 2020. Instead, an insurer or self-insurer writing automobile personal protection insurance would have to pay an annual assessment to the Facility for deposit into the account of the Automobile Insurance Fraud Authority. From the money received each year, the Authority board would have to pay at least \$6,250,000 to the Automobile Theft Prevention Fund.

The bill also would require automobile insurers to report automobile insurance fraud data to the Authority. In addition, the Department of State Police would have to provide available motor vehicle fraud and theft statistics to the Authority on request.

The Authority would be required to provide financial support to State or local law enforcement and prosecutorial agencies for programs designed to reduce the incidence of auto insurance fraud.

The Authority also would have to prepare and publish an annual financial report, as well as an annual report to the Legislature on the Authority's efforts to prevent auto insurance fraud and the cost savings that have resulted from those efforts. The reports would have to detail insurance fraud occurring in the State for the previous year, assess the impact of the fraud on rates charged for automobile insurance, summarize prevention programs, and outline allocations made by the Authority. The Authority also would have to evaluate the impact auto insurance fraud had on the residents of the State and the costs they incurred through insurance, police enforcement, prosecution, and incarceration due to that fraud.

The Authority would be dissolved on January 1, 2021. It would have to transfer all assets to the Department of State Police for the benefit of the Automobile Theft Prevention Authority before that date.

Senate Bill 249

The Support and Parenting Time Enforcement Act exempts payments made for benefits under personal property insurance from a lien against real and personal property for the purpose of collecting past due support. The bill would amend this provision to change the citation to a section of the Insurance Code that Senate Bill 248 would amend.

MCL 500.3101 et al. (S.B. 248)
552.625a (S.B. 249)

Legislative Analyst: Ryan M. Bergan

FISCAL IMPACT

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

Fiscal Analyst: Glenn Steffens

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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.