House
Legislative
Analysis
Section

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RAISE MCCA THRESHOLD

Senate Bill 1432 as passed by the Senate
First Analysis (12-5-00)

Sponsor: Sen. Joanne G. Emmons
House Committee: Insurance and Financial
  Services
Senate Committee: Financial Services

THE APPARENT PROBLEM:

Michigan's compulsory no-fault auto insurance system provides unlimited lifetime medical and rehabilitation benefits. An auto insurance company is responsible for the first $250,000 of a personal injury protection (PIP) claim, and amounts above that (for "catastrophic" injuries) are the financial responsibility of the Michigan Catastrophic Claims Association. (However, the original insurer continues to handle the claim with association scrutiny.) The MCCA is a statutorily mandated unincorporated nonprofit association composed of the companies writing automobile insurance in the state. The member companies are charged a premium to cover the expected losses and expenses of the association, with the premium based, generally speaking, on the amount of a company's business. Typically, an assessment to support the MCCA is placed on each auto insured under a no-fault policy. (Motorcycles are also assessed.) Essentially, the MCCA is a statutorily created reinsurer for the auto insurance industry. It protects insurance companies against very large claims. This is said to be particularly of value to smaller auto insurers.

The $250,000 retention level or attachment point has not been adjusted since the MCCA began operations in 1978. Obviously, over that time the costs associated with treating victims of traffic accidents have increased dramatically so that far more cases fall into the category of catastrophic losses than when the association began. Legislation has been introduced that would raise the threshold level over time.

THE CONTENT OF THE BILL:

The bill would amend Chapter 31 of the Insurance Code to raise the retention limit for no-fault automobile insurers in several stages from $250,000 to $500,000 by July 1, 2011; that is, to raise the amount at which a personal injury protection claim becomes the responsibility of the Michigan Catastrophic Claims Association (MCCA).

The retention limit would be increased in stages as follows:

• Before July 1, 2002: $250,000

• From July 1, 2002 to June 30, 2003: $300,000

• From July 1, 2003 to June 30, 2004: $325,000

• From July 1, 2004 to June 30, 2005: $350,000

• From July 1, 2005 to June 30, 2006: $375,000

• From July 1, 2006 to June 30, 2007: $400,000

• From July 1, 2007 to June 30, 2008: $420,000

• From July 1, 2008 to June 30, 2009: $440,000

• From July 1, 2009 to June 30, 2010: $460,000

• From July 1, 2010 to June 30, 2011: $480,000

• From July 1, 2011 to June 30, 2013: $500,000

Beginning July 1, 2013, the amount would be increased every two years, on July 1 of the odd-numbered year, by six percent or the rate of increase in the consumer price index, whichever was less, and rounded to the nearest $5,000.

MCL 500.3104

FISCAL IMPLICATIONS:

The Senate Fiscal Agency says the bill would have no fiscal impact on state or local government. (Floor analysis dated 11-2 8-00)

ARGUMENTS:

For:

The bill would gradually increase the level at which the Michigan Catastrophic Claims Association (MCCA) assumes responsibility for a personal injury claim against an auto insurer. This means it would gradually increase the amount an individual auto insurer is responsible for covering. The current level of $250,000 has been in effect since 1978. The bill would raise the retention level to $500,000 as of July 1, 2011 and, beginning two years after that, increase the amount biennially by six percent or by the rate of inflation, whichever was less. (If the amount had been adjusted for inflation from the beginning, it would already have surpassed $500,000.) This gradual increase will allow insurance companies for whom the increased retention level is a burden to plan for their increased exposure. There has been division over the years within the insurance industry over raising this retention level, but there is said to be agreement over this compromise approach.

Response:

The Michigan Trial Lawyers Association argues that the mandatory minimum liability coverage should be raised at the same time as the MCCA retention level. This coverage protects the policyholder if he or she is sued, and the mandatory minimums of $20,000 per person per accident and $40,000 overall per accident have been in place reportedly since 1971, even before the current no-fault system was enacted. This figure is far too low, particularly since under the no-fault system only the most seriously injured can bring lawsuits. The MTLA has recommended increasing residual liability coverage to $75,000/$150,000, and then indexing that amount to inflation. There is precedent for this; work loss payments are indexed for inflation and have increased nearly fourfold since 1973. This would protect the rights of those who are most seriously injured in auto accidents, including victims of drunk and reckless drivers.

POSITIONS:

The Office of Financial and Insurance Services supports the bill. (12-5-00)

The Michigan Insurance Federation has indicated support for the bill. (12-5-00)

AAA Michigan has indicated support for the bill. (12-5-00)

A representative of a number of small insurers (including Hastings Mutual, Wolverine, Pioneer, Southern Michigan, Fremont Mutual, American Fellowship, and Michigan Millers Mutual) has indicated their support for the bill. (12-5-00)

Farm Bureau Insurance has indicated support for the bill. (12-5-00)

Allstate has indicated support for the bill. (12-5-00)

The Michigan Chamber of Commerce has indicated support for the bill. (12-5-00)

The Michigan Health and Hospital Association is not opposed to raising the attachment point (or retention level) but would opposed any efforts to reduce personal injury protection benefits. (12-5-00)

Analyst: C. Couch

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