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Senate Bill 514 (as introduced 6-22-11)

Sponsor: Senator Virgil Smith

Committee: Insurance

Date Completed: 3-13-12

CONTENT

The bill would add Chapter 32A (Low-Cost Automobile Insurance Pilot Program) to the Insurance Code to do the following:

- -- Require the Commissioner of the Office of Financial and Insurance Regulation (OFIR) to establish in Wayne County a low-cost automobile insurance pilot program for "qualified applicants".
- -- Establish criteria for a qualified applicant, including residence in a household with an annual income that did not exceed 300% of the Federal poverty level.
- -- Limit coverage to an automobile worth \$20,000 or less, and prohibit an insured under the pilot program from purchasing any coverage other than a low-cost policy for additional vehicles in his or her household.
- -- Require an insurer that participated in the pilot program to submit the **OFIR** to Commissioner annual loss and expense data from low-cost policies, as well as a proposed rate for the low-cost policy for the pilot program.
- Prescribe conditions under which a low-cost policy under the pilot program could be canceled, rescinded, or not renewed.

- -- Require the Commissioner to report to the Legislature annually on the status of the pilot program.
- -- Provide that Chapter 32A would not apply on and after August 1, 2017.

The bill also would amend Chapter 31 (Motor Vehicle and Personal Property Protection) of the Code to do the following:

- -- Provide that a member insurer of the Michigan Catastrophic Claims Association could not be charged a premium for a car insured under the proposed low-cost insurance pilot program.
- -- Require an insured covered under the pilot program to elect coverage for allowable expenses subject to a maximum of \$50,000 or \$100,000 for an injured person's care, recovery, and rehabilitation.
- Prohibit a person covered under the pilot program from recovering duplicate benefits of the same expense or loss incurred.
- -- Prohibit the limit of liability for two or more vehicles under one policy or for two or more policies from being combined to determine the limit of coverage available for each injured person.

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Proposed Chapter 32A

Establishment of Pilot Program. The OFIR Commissioner would have to establish a low-cost automobile insurance pilot program in one county in the State that has a city with a population of at least 600,000 (i.e., Wayne County). The pilot program would have to be operational by August 1, 2012.

All of the Code's provisions that apply to private passenger nonfleet automobile insurance would apply to Chapter 32A unless expressly provided otherwise or unless there were a conflict with a provision of Chapter 32A.

The Commissioner would have to promote and publicize the existence of the pilot program in the regions where it was offered.

The Commissioner could issue an order and promulgate rules to implement Chapter 32A.

("Automobile insurance" would mean that term as defined in Section 3303, i.e., insurance for automobiles that provides any of the following:

- -- Security required under Section 3101.
- Personal protection, property protection, and residual liability insurance in excess of the amounts required under Chapter 31.
- -- Insurance coverage customarily known as comprehensive and collision.
- Other insurance coverage for a private passenger nonfleet automobile as prescribed by rule promulgated by the Commissioner.

Under Section 3101, the owner or registrant of a motor vehicle must maintain security for payment of benefits under personal protection insurance, property protection insurance, and residual liability insurance, i.e., basic coverage under Michigan's no-fault insurance law).

<u>Policy Requirements.</u> A low-cost automobile insurance policy under the

pilot program would have to have all of the following attributes:

- -- Provide residual liability coverage as required under Section 3131.
- -- Have an initial term of six months and be renewable for subsequent sixmonth terms.
- -- Provide coverage for the operation of an automobile with a value that did not exceed \$20,000, as valued by the Secretary of State in assessing vehicle registration fees.
- -- Provide personal protection insurance coverage for allowable expenses as required under the bill.
- -- Provide personal protection insurance coverage for work loss as required under Section 3107(1)(b).

(Section 3131 requires residual liability insurance to cover bodily injury and property damage that occurs within the U.S., its territories and possessions, or Canada. This insurance must afford coverage equivalent to that required as evidence of automobile liability insurance under the financial responsibility laws of the place in which the injury or damage occurs.

Under Section 3107(1)(b), subject to specific exceptions, payable personal protection insurance benefits include work loss consisting of loss of income from work an injured person would have performed during the first three years after the date of the accident if he or she had not been injured.)

In addition, the policy would have to cover the individual named in it and any other individual using the covered automobile if the use were with the named insured's permission, express or implied, and within the scope of that permission. The policy, not provide liability however, could coverage when automobile was the operated by a member of the named insured's household who did not satisfy the bill's requirements for a qualified applicant.

A policy issued under the pilot program would have to satisfy all financial

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responsibility requirements imposed under the Code.

<u>Qualified Applicant</u>. "Qualified applicant" would mean an individual who meets all of the following requirements:

- -- Resides in a household with a gross annual household income that does not exceed 300% of the Federal poverty level.
- -- Is at least 21 years old and has been licensed continuously to drive an automobile for three years.

The three-year period would not have to immediately precede the application for a policy unless the applicant were not licensed for a period because the license was revoked.

In addition, a qualified applicant could not have had in the preceding three years more than one of the following:

- -- A property-damage-only accident in which he or she was substantially atfault.
- -- An insurance eligibility point for a moving violation.

A qualified applicant also could not have had any of the following:

- A substantially at-fault accident involving bodily injury or death in the preceding three years.
- -- A conviction for driving under the influence.
- -- A conviction for a moving violation in a work zone.
- A felony or misdemeanor conviction relating to the operation of a motor vehicle.

A qualified applicant could not be a college student claimed as a dependent of another person for Federal or State income tax purposes.

A qualified applicant would have to certify that representations made in the application and documents submitted to demonstrate eligibility were true and correct and contained no material misrepresentations or omissions of fact to the applicant's best knowledge and belief.

<u>Installment Option</u>. An insured under a policy under the pilot program could be offered a premium installment option under which he or she could pay a specified portion or portions of the premium on a periodic basis. A premium could not be financed in any other manner.

Coverage Notice. An automobile insurer would have to give a qualified applicant a notice relating to coverage under the policy. The notice would have to be provided in a separate document at the time of the application and include the following statement in 14-point boldfaced type or font:

"Warning

Insurance coverage provided in the policy you are buying contains medical personal protection coverages with reduced maximums.

The maximums apply to any one occurrence regardless of how many people may be injured."

The warning also would have to indicate that all liability coverage would be void, and the owners of the vehicle and others legally responsible for the acts of the driver would remain personally liable, if the insured auto were operated by any other person in the household who did not meet the criteria for a qualified applicant, as described above.

The signature of the applicant and insured on the disclosure from would create a conclusive presumption that the insurer had complied with the bill's disclosure requirements.

<u>Purchase & Termination of Policy</u>. A low-cost policy issued under the pilot program could be canceled only for nonpayment of premium. A policy could be rescinded only for fraud or material misrepresentation affecting the policy or the insured.

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A low-cost policy would be subject to nonrenewal only if the hazard that was insured against substantially increased, or if the insured were no longer a qualified applicant.

An insurer that issued a low-cost policy under the pilot program could offer the insured any other additional type of automobile insurance coverage, such as uninsured motorists coverage or collision coverage, that was not available under the low-cost policy.

An insured under a low-cost policy could not purchase or maintain any automobile personal protection insurance coverage other than under a low-cost policy for any additional vehicles in the insured's household.

Loss & Expense Data. Annually on April 1, the automobile insurers who participated in the pilot program would have to submit the loss and expense data from low-cost policies and a proposed rate for the policy for the pilot program to the OFIR Commissioner.

Annual Report. Beginning August 1, 2014, the OFIR Commissioner annually would have to report to the Legislature on the status of the pilot program.

Chapter 31

Catastrophic Claims Association. The Code provides for an unincorporated, nonprofit association known as Michigan Catastrophic Claims Association (MCCA). Each insurer engaged in writing insurance coverage that provides the required security with regard to motor vehicles and motorcycles must be a member of the MCCA. On behalf of the members, the MCCA assumes 100% of all liability for the amount of ultimate loss sustained under personal protection insurance coverage in excess of amounts prescribed in the Code. For a motor vehicle accident policy issued or renewed between July 1, 2011, and June 30, 2013, the prescribed amount is \$500,000.

The MCCA must calculate and charge to members a total premium sufficient to

cover the expected losses and expenses that the Association will likely incur.

Under the bill, a member could not be charged a premium for a car insured with a member under the low-cost auto insurance pilot program.

Low-Cost Policy: Allowable Expenses. Currently, personal protection insurance benefits are payable for allowable expenses consisting of *all* reasonable charges incurred for reasonably necessary products, services, and accommodations for an injured person's care, recovery, or rehabilitation.

Under the bill, an insured covered under a low-cost auto insurance policy under the pilot program would have to elect allowable coverage for expenses consisting of all reasonable charges incurred up to a maximum of \$50,000 or \$100,000 as selected by the insured for reasonably necessary products, services, and accommodations for an injured person's care, recovery, or rehabilitation. Coverage limits would be provided on a per loss occurrence basis. Coverage would apply to benefits payable as follows:

- -- To the insured named in the policy, the insured's spouse, and any relative of either domiciled in the same household.
- -- Another person who was an occupant of the automobile.

The bill provides that Section 3114(4) would apply to coverage under the pilot program. (Under that section, a person suffering accidental bodily injury arising from a motor vehicle accident while an occupant of a motor vehicle must claim personal protection insurance benefits from insurers in the following order of priority:

- -- The insurer of the occupied vehicle's owner or registrant.
- -- The insurer of the occupied vehicle's operator.)

In addition, regardless of the number of motor vehicles insured or insurers

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providing security, or the provisions of any other law providing for direct benefits without regard to fault for motor or any other vehicle accidents, a person could not recover duplicate benefits of the same expense or loss incurred.

Limit of Liability. Under the bill, with regard to accidental bodily injury suffered by either a motor vehicle occupant or someone who was not an occupant, the limit of liability for two or more motor vehicles under one policy or for two or more policies could not be added together, combined, or stacked to determine the limit of insurance coverage available for each injured person covered under the policy.

MCL 500.3104 et al.

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bill would have an indeterminate effect on the State's finances. would result in some new administrative costs for the Office of Financial and Insurance Regulation as a result of the establishment, promotion, and regulation of the low-cost automobile insurance pilot The actual amount of these costs is unknown at this time, but to the extent that the program would be successful in attracting currently uninsured drivers, new revenue from insurance regulatory fees could offset some of these costs. This potential new revenue could be reduced, however, if drivers with more expensive insurance policies switched to the low-cost program, as the regulatory fees are based on the dollar amount of premiums collected by insurers.

Fiscal Analyst: Josh Sefton

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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.