



Lisa Miller & Associates

Business Development, Government Consulting, Public Relations

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Personal Injury Protection (PIP) Repeal

The third of the big three insurance issues in the 2018 legislative session (joining AOB and Workers' Comp reforms) was allowed to die, following a directed drama that played out before a Senate committee on February 23, 2018. It included a well-orchestrated effort by some insurance industry groups to kill the Senate version of PIP reform, [CS/SB 150](#) by Senator Tom Lee (R-Brandon). The feeling is that the juice isn't worth the squeeze in repealing PIP right now, without including meaningful protections from bad faith lawsuits that would likely go with the territory of returning to a tort system.

Insurance Commissioner David Altmaier, who has been supportive of PIP repeal, focused on the glass being a tenth empty instead, in agreeing with a legislator in the meeting who asked if 7.6% of Broward County residents who have minimum insurance PIP-only policies, would see 71% rate increases if PIP were repealed. Altmaier responded that was a reasonable assessment. The Senate Appropriations Subcommittee on Health and Human Services killed the repeal bill by a 6-1 vote, with Senator Baxley the lone dissenter. There was a procedural move at the tail end of the committee by Chairman Flores to keep the bill alive for future consideration but that move may not be enough.

Both the failed Senate bill and already-passed 2018 House bill would eliminate the state requirement that motorists carry \$10,000 in PIP insurance and put responsibility for vehicle accidents on the party at fault. The Office of Insurance Regulation's often-referenced [September 2016 Pinnacle Actuarial Resources report](#) chronicles the rapidly growing PIP rates since the legislature's 2012 reforms and projects varying savings for most Florida drivers under different PIP repeal scenarios.

The [Palm Beach Post](#) had a field day with the hearing, pointing out (rightly) that failure to repeal PIP will leave Florida drives paying among the top six average premiums in the country. It quoted bill sponsor Senator Tom Lee as saying "These people don't care about the rate increases that they're lying through their teeth are going to happen. I think a lot of the information you're hearing today is not really honest."

The paper also noted (rightly) that "most Florida drivers have health insurance such as Medicare or employer plans that mean they do not need PIP to pay for their own injuries. Yet they are forced to pay for its rate increases each year, even if they never get in an accident."

So in 2018, only the House passed PIP reform with its January 12 passage of [HB 19](#). The House bill eliminates PIP and would require motorists instead to carry Bodily Injury liability insurance at a minimum \$25K/\$50K level. Rep. Erin Grall (R-Vero Beach) who is sponsoring this bill for second year in a row, has noted that despite various PIP reforms in the past, costs keep going up, driven partly by fraud. OIR's Pinnacle and committee staff analysis show auto rates would go down (5.6% overall) if the bill passes and should encourage those driving illegally without proper insurance (22% of Florida drivers she has said) to get coverage. The bill also revises the uninsured and underinsured coverage legal damage thresholds.

The Senate's reform goes beyond the House bill and replaces PIP with mandatory \$5,000 of Med Pay coverage (and loses the consumer savings as a result) plus varying amounts of Bodily Injury liability limits which appears to give consumers choices. Senator Lee revamped his original bill to focus Med Pay coverage solely on emergency hospital treatment and within two weeks after the accident. The bill was further amended along the way to allow less expensive treatment by other practitioners, including chiropractors. Some senators expressed concern in a past committee that the bill will effectively raise auto insurance rates for those motorists who have just PIP policies. But Senator Lee had refuted that, noting that mandatory BI will cost \$49 per \$1,000 of coverage versus the current \$121 per \$1,000 of PIP coverage. As an example, he said a scenario of PIP + minimum BI + Med Pay would cost just \$4 more, proof of a more efficient system without PIP.

SB 150's Bodily Injury liability coverage choices are:

- 20/40/10 minimum coverage from 1/1/19-12/31/20 or a Med Pay and motor vehicle liability policy with a combined property damage and bodily injury coverage of \$50,000 for one crash;
- 25/50/10 minimum coverage from 1/1/21-12/31/22 or a Med Pay and motor vehicle liability policy with a combined property damage and bodily injury coverage of \$60,000 for one crash; and
- 30/60/10 minimum coverage from 1/1/23 and thereafter or a Med Pay and motor vehicle liability policy with a combined property damage and bodily injury coverage of \$70,000 for one crash.

The Property Casualty Insurers Association of America, which opposed PIP repeal at the February 23 Senate hearing, released a report in early February it commissioned by the actuarial firm Milliman, which states that eliminating PIP under the House's already passed [HB 19](#) would increase, not decrease coverage costs based on likely motorist scenarios. The Milliman report says an increase of 5.3% or \$67 is likely under relevant variations in coverage and sample size, as more drivers will buy uninsured and underinsured coverage for protection against motorists who skip buying insurance altogether. The report says the increased costs result as well from the addition of non-economic damages under bodily injury and uninsured lines that don't exist today under no-fault PIP. Combining HB 19 with the Medical Pay provisions of the Senate's [CS/SB 150](#) would see average coverage costs rise 6.4% or \$80, said Milliman.

Senators, who were facing pressure by Incoming Senate President Bill Galvano to "get 'er done" on PIP this session before he takes over in the fall will have to deal with this during his Senate presidency.