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BILL ANALYSIS

Senate Fiscal Agency

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House Bill 4685 (Substitute H-3 as reported without amendment)

House Bill 4721 (as reported without amendment)

Sponsor: Representative Lloyd F. Weeks

House Committee: Insurance

Senate Committee: Commerce and Technology

Date Completed: 4-14-88

RATIONALE

The Insurance Code requires that the owner or registrant of a motor vehicle carry certain no-fault insurance coverage. Representatives of banks, credit unions, and other enterprises engaged in leasing vehicles complain that this makes them responsible for maintaining insurance on cars over which others have custody and control. Financial institutions now enter into leasing arrangements that are much like traditional auto loans. A customer can enter into a 48-month lease, for example, and the leasing agency—which remains the title-holder—will not see the car that it technically “owns” for four years. Reportedly, having to bear responsibility for no-fault coverage prevents some financial institutions from becoming involved in leasing at a time when they need that business to compete against the subsidized financing arrangements sponsored by auto companies. Some leasing agencies claim that it would make more sense for the person with custody and control of the vehicle to be responsible for carrying the required no-fault coverage.

CONTENT

House Bill 4685 (H-3) would amend the Insurance Code to provide a definition of “owner” that included a person renting or having the use of a motor vehicle for more than 30 days, and to specify that “registrant” would not include a lessor (which would have the effect of making the lessee responsible for providing no-fault coverage, which the Code requires a vehicle owner or registrant to maintain). House Bill 4721 proposes corresponding changes in the Michigan Vehicle Code, and specifies that a lessor would not be liable for damages resulting from the operation of a leased vehicle. The bills are tie-barred.

House Bill 4685 (H-3)

The bill would define “owner” as any of the following:

- A person renting a motor vehicle or having the use of a motor vehicle, under a lease or otherwise, for more than 30 days.
- A person who holds the legal title to a vehicle, other than a person engaged in the business of leasing motor vehicles who is the lessor of a motor vehicle under a lease providing for its use by the lessee for more than 30 days.
- A person who has the immediate right of possession of a motor vehicle under an installment sale contract.

The bill also specifies that “registrant” would not include a person engaged in the business of leasing motor vehicles

who is the lessor of a motor vehicle under a lease providing for its use by the lessee for more than 30 days.

MCL 500.3101

House Bill 4721

The bill specifies that a person engaged in the business of leasing motor vehicles who is the lessor of a vehicle pursuant to a lease providing for the use of the vehicle by the lessee for more than 30 days would not be liable at common law for damages for personal injury or property damage resulting from the operation of the leased vehicle. This would create an exception to the Code’s definition of “owner” that includes a person who holds the legal title of a vehicle, and such a lessor would be excluded from the definition of “owner”.

MCL 257.37 et al.

FISCAL IMPACT

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

ARGUMENTS**Supporting Argument**

The bills would reduce the liability to which auto leasing agencies are exposed when they enter into long-term leases, by making it clear in the Insurance Code that it is the responsibility of the operator to maintain the mandatory no-fault coverage, and by specifying in the Vehicle Code that leasing agencies are not liable at common law for personal injury or property damage resulting from the operation of a leased vehicle. This would remove an impediment to engaging in the leasing business currently faced by banks and credit unions. People now drive cars under 24- to 48- month lease arrangements that are very much like traditional auto loans. Since the drivers have complete custody of and control over the vehicles, it is only reasonable to expect them, rather than the leasing agencies, to be responsible for their driving behavior.

Response: The Department of Licensing and Regulation believes that the bills’ 30-day period should be extended to reflect more accurately the difference between renting a vehicle for temporary replacement or recreational purposes, and leasing an automobile for full-time use.

Opposing Argument

The bills are unnecessary because leasing agencies

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OVER

already require lessees to provide proof of insurance before they can take possession of a vehicle.

Therefore, the burden already is on the lessee.

Response: Lessors are ultimately liable under current law, and would still have to obtain two types of insurance: 1) contingency coverage in case a lessee's insurance lapsed, and 2) excess liability coverage to cover claims that exceeded the lessee's coverage.

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