

Updates:

PIP reform passed but battles remain

Updated: Wednesday, December 4th, 2013 | By [Amy Sherman](#)

During the 2010 campaign, Rick Scott, a former CEO, promised to enact tort reform -- that is, changes in the rules about how plaintiffs can sue. "We're going to do tort reform," he said, adding, in a swipe at his Democratic opponent, Alex Sink, "We're going to make sure that these lawyers that support my opponent just can't go about doing fishing expeditions against legitimate businesses."

After a year in office, we rated Scott's progress on this promise as In the Works based on enactment of measures to limit lawsuits, including a law passed during the 2011 legislative session on car-crash and defective-vehicle lawsuits. The "[crashworthiness](#)" law required jurors to consider a wider array of factors when determining fault in a crash, such as whether the driver was impaired.

Now, with three legislative sessions under his belt, we decided to check again on Scott's progress.

When we checked with Scott's office, they cited several pieces of legislation, including one about [expert testimony](#) and [medical malpractice](#). However, the tort reform-related bill that has drawn the most attention relates to the state's no-fault auto insurance law, known as Personal Injury Protection, or PIP, insurance.

In 2012, Scott signed a bill that was intended to reduce cases in which people stage car accidents and file bogus claims.

Under the new law, people injured in car accidents have two weeks to seek initial treatment; previously, there was no deadline. The law also caps payouts at \$2,500 in nonemergency benefits, rather than \$10,000.

The 2012 law rubbed some folks the wrong way, including massage therapists and acupuncturists who were cut off from treating patients. They filed a lawsuit. An appeals court upheld the law and overturned an injunction in October, and in November, the court denied a motion for a rehearing. So in the legal challenge, car insurers are prevailing. But it's not over -- the case could still wind up in the Florida Supreme Court.

Meanwhile, a bill to repeal the entire PIP law failed in 2013, though lawmakers are expected to revisit the law next year. Lawmakers have debated scrapping the law and switching to a system in which victims sue at-fault drivers.

As for the law's impact, it's too soon to fully evaluate whether the 2012 law has reduced fraud, said two experts on the law -- Frank Goldstein, an insurance defense attorney in Fort Lauderdale, and G. Donovan Brown, Counsel for State Government Relations with the Property and Casualty Insurers Association of America.

Goldstein pointed to provisions that he said should help curb fraud. The law permits insurance companies to take statements about claims under oath, something that had previously been prohibited, and insurance companies can now withhold or delay payments for up to 90 days so they can investigate claims if there's a reasonable suspicion of fraud.

"No one knows how well the new law will perform, because it's never been given a chance," Goldstein wrote in an email. "Many insurers are waiting for a complete resolution of the legal challenges before fully implementing them. We should allow the new legislation to play itself out for two to three years before reviewing its impact on fraud and premiums."

There is preliminary anecdotal evidence that the legal changes have had a deterrent effect, Brown said, "especially in the form of numerous and ongoing PIP fraud arrests by law enforcement authorities monitoring PIP clinics and accident fraud rings."

The number of [PIP referrals](#) to investigators declined by 5 percent between 2011-12 and 2012-13, according to data from the Department of Financial Services' Division of Insurance Fraud.

The short time since the law's passage and the legal questions surrounding the law mean that we haven't seen the full effects of PIP reform. And the law could be changed again next year. But Scott promised to "enact tort reform" and he did sign an important piece of legislation that aims to curb car insurance crash fraud. If future developments warrant, we will change our rating, but for now we rate this Promise Kept.

Sources:

Miami Herald op-ed by lawyer Frank Goldstein, "[S. Floridians pay exorbitant auto insurance premiums](#)," Aug. 12, 2013

Miami Herald/Tampa Bay Times, "[Insurers file for PIP rate increases](#)," Oct. 1, 2012

News Service of Florida, "[Move to ditch no-fault insurance coming to Senate](#)," Oct. 13, 2013

Palm Beach Post, "[Court denies car insurance rehearing](#)," Nov. 26, 2013

Florida Department of Financial Services Office of Insurance Regulation, [Annual report](#), Fiscal year 2012-13

Interview, Frank Goldstein, Founder and Managing Partner of Goldstein Law Group, Dec. 2, 2013

Interview, G. Donovan Brown, Counsel for State Government Relations with the Property and Casualty Insurers Association of America (PCI), Dec. 2, 2013