

By Senator Gaetz

4-00959-09

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1 A bill to be entitled
 2 An act relating to civil remedies against insurers;
 3 amending s. 624.155, F.S.; authorizing a person to
 4 bring a civil action against Citizens Property
 5 Insurance Corporation when such person is damaged by
 6 the commission of specified acts or specified
 7 violations of state law; prohibiting the assessment of
 8 punitive damages against Citizens Property Insurance
 9 Corporation; providing an effective date.

10
 11 Be It Enacted by the Legislature of the State of Florida:

12
 13 Section 1. Subsections (1) and (5) of section 624.155,
 14 Florida Statutes, are amended to read:

15 624.155 Civil remedy.—

16 (1) Any person may bring a civil action against an insurer,
 17 including Citizens Property Insurance Corporation, when such
 18 person is damaged:

19 (a) By a violation of any of the following provisions by
 20 the insurer:

- 21 1. Section 626.9541(1) (i), (o), or (x);
- 22 2. Section 626.9551;
- 23 3. Section 626.9705;
- 24 4. Section 626.9706;
- 25 5. Section 626.9707; or
- 26 6. Section 627.7283.

27 (b) By the commission of any of the following acts by the
 28 insurer:

- 29 1. Not attempting in good faith to settle claims when,

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30 under all the circumstances, it could and should have done so,
31 had it acted fairly and honestly toward its insured and with due
32 regard for her or his interests;

33 2. Making claims payments to insureds or beneficiaries not
34 accompanied by a statement setting forth the coverage under
35 which payments are being made; or

36 3. Except as to liability coverages, failing to promptly
37 settle claims, when the obligation to settle a claim has become
38 reasonably clear, under one portion of the insurance policy
39 coverage in order to influence settlements under other portions
40 of the insurance policy coverage.

41
42 Notwithstanding the provisions of the above to the contrary, a
43 person pursuing a remedy under this section need not prove that
44 such act was committed or performed with such frequency as to
45 indicate a general business practice.

46 (5) ~~No~~ Punitive damages may not ~~shall~~ be awarded under this
47 section unless the acts giving rise to the violation occur with
48 such frequency as to indicate a general business practice and
49 such ~~these~~ acts are:

50 (a) Willful, wanton, and malicious;

51 (b) In reckless disregard for the rights of any insured; or

52 (c) In reckless disregard for the rights of a beneficiary
53 under a life insurance contract.

54
55 Any person who pursues a claim under this subsection shall post
56 in advance the costs of discovery. Such costs shall be awarded
57 to the authorized insurer if no punitive damages are awarded to
58 the plaintiff. Notwithstanding any provision to the contrary,

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59 punitive damages may not be assessed against Citizens Property
60 Insurance Corporation.

61 Section 2. This act shall take effect July 1, 2009.