

By Senator Brandes

22-00742-15

20151088\_\_

1                   A bill to be entitled  
2           An act relating to civil remedies against insurers;  
3           amending s. 624.155, F.S.; requiring an insured, a  
4           claimant, or a person acting on behalf of an insured's  
5           or a claimant's behalf, to provide an insurer with  
6           written notice of loss as a condition precedent to  
7           bringing a statutory or common law action for a third-  
8           party bad faith action for failure to settle an  
9           insurance claim; providing that an insurer is not  
10          liable for such claim if certain conditions are met;  
11          reenacting s. 766.1185(3), F.S., relating to bad faith  
12          actions, to incorporate the amendment made to s.  
13          624.155, F.S., in a reference thereto; providing an  
14          effective date.

15  
16 Be It Enacted by the Legislature of the State of Florida:

17  
18           Section 1. Paragraph (a) of subsection (3) of section  
19           624.155, Florida Statutes, is amended, and subsection (10) is  
20           added to that section, to read:

21           624.155 Civil remedy.—

22           (3) (a) Except as provided in subsection (10), as a  
23           condition precedent to bringing an action under this section,  
24           the department and the authorized insurer must have been given  
25           60 days' written notice of the violation. If the department  
26           returns a notice for lack of specificity, the 60-day time period  
27           does ~~shall~~ not begin until a proper notice is filed.

28           (10) As a condition precedent to bringing a third-party  
29           statutory or common-law bad faith action for failure to settle a

22-00742-15

20151088\_\_

30 liability insurance claim, the insured, the claimant, or any  
31 person on behalf of the insured or the claimant must have  
32 provided the insurer with a written notice of loss. An insurer  
33 does not violate the duty to attempt in good faith to settle the  
34 claim and is not liable for a bad faith failure to settle under  
35 this section or common law if the insurer:

36 (a) Complies with a request for a disclosure statement as  
37 described in s. 627.4137.

38 (b) Offers, within 45 days after receipt of the written  
39 notice of loss, to pay the claimant the lesser of the amount  
40 that the claimant is willing to accept or the limits of  
41 liability coverage applicable to the claimant's insurance claim  
42 in exchange for a full release of the insured from any liability  
43 arising from the incident reported in the written notice of  
44 loss.

45 Section 2. For the purpose of incorporating the amendment  
46 made by this act to section 624.155, Florida Statutes, in a  
47 reference thereto, subsection (3) of section 766.1185, Florida  
48 Statutes, is reenacted to read:

49 766.1185 Bad faith actions.—In all actions for bad faith  
50 against a medical malpractice insurer relating to professional  
51 liability insurance coverage for medical negligence, and in  
52 determining whether the insurer could and should have settled  
53 the claim within the policy limits had it acted fairly and  
54 honestly towards its insured with due regard for her or his  
55 interest, whether under statute or common law:

56 (3) The provisions of s. 624.155 shall be applicable in all  
57 cases brought pursuant to that section unless specifically  
58 controlled by this section.

22-00742-15

20151088\_\_

59

Section 3. This act shall take effect July 1, 2015.