

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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Representative Berfield offered the following:

**Amendment (with title amendment)**

Between line(s) 748 and 749, insert:

Section 20. Subsection (1) of section 624.155, Florida Statutes, is amended to read:

624.155 Civil remedy.--

(1) Any person may bring a civil action against an insurer when such person is damaged:

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

- 1. Section 626.9541(1)(i), (o), or (x);
- 2. Section 626.9551;
- 3. Section 626.9705;
- 4. Section 626.9706;
- 5. Section 626.9707; or
- 6. Section 627.7283.

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

30 1. Not attempting in good faith to settle claims when,  
31 under all the circumstances, it could and should have done so,  
32 had it acted fairly and honestly toward its insured and with due  
33 regard for her or his interests;

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

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

42 (c) In matters relating to professional liability  
43 insurance coverage for medical negligence, if, after delivery of  
44 the notice of intent to initiate litigation under s. 766.106,  
45 the claimant has made an offer to settle the claim at or within  
46 policy limits:

47 1. The determination under subparagraph (b)1. as to  
48 whether the insurer, under all the circumstances, could and  
49 should have settled a claim shall be based on the information  
50 available to the insurer as of the time of the first such offer  
51 to settle, consisting of information in the actual possession of  
52 the insurer as of the time of the offer and information that the  
53 insurer could have obtained as of the time of the offer through  
54 reasonable investigation of the allegations contained in the  
55 notice of intent to initiate litigation.

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56 2. The insurer shall be deemed to have attempted in good  
57 faith to settle the claim if it notified the claimant of its  
58 acceptance of the first such offer within 30 days after receipt.

59  
60 Notwithstanding the provisions of the above to the contrary, a  
61 person pursuing a remedy under this section need not prove that  
62 such act was committed or performed with such frequency as to  
63 indicate a general business practice.

64  
65 ===== T I T L E A M E N D M E N T =====

66 Remove line(s) 45, and insert:  
67 to conform; amending s. 624.155, F.S.; providing  
68 procedures for the determination of good faith by insurers  
69 in settling medical malpractice claims; amending s.  
70 627.062, F.S.; prohibiting the