

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

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Representatives Brown, Berfield, Clarke, Goodlette, and Ross offered the following:

Amendment (with directory and title amendments)

Remove line(s) 4827-4900, and insert:

440.525 Examination and investigation of carriers and claims-handling entities.--

(1) The department may examine, or investigate any each carrier, third-party administrator, servicing agent, or other claims-handling entity as often as is warranted to ensure that it is carriers are fulfilling its their obligations under this chapter the law. ~~The examination may cover any period of the carrier's operations since the last previous examination.~~

(2) An examination may cover any period of the carrier's, third-party administrator's, servicing agent's, or other claims-handling entity's operations since the last previous examination. An investigation based upon a reasonable belief by

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28 the department that a material violation of this chapter has
29 occurred may cover any time period, but may not predate the last
30 examination by more than 5 years. The department may by rule
31 establish procedures, standards, and protocols for examinations
32 and investigations. If the department finds any violation of
33 this chapter, it may impose administrative penalties pursuant to
34 this chapter. If the department finds any self-insurer in
35 violation of this chapter, it may take action pursuant s.
36 440.38(3). Examinations or investigations by the department may
37 address, but are not limited to addressing, patterns or
38 practices of unreasonable delay in claims handling; timeliness
39 and accuracy of payments and reports under ss. 440.13, 440.16,
40 and 440.185; or patterns or practices of harassment, coercion,
41 or intimidation of claimants. The department may also specify by
42 rule the documentation to be maintained for each claim file.

43 (3) As to any examination or investigation conducted under
44 this chapter, the department shall have the power to conduct
45 onsite inspections of claims records and documentation of a
46 carrier, third-party administrator, servicing agent, or other
47 claims-handling entity, and conduct interviews, both sworn and
48 unsworn, of claims-handling personnel. Carriers, third-party
49 administrators, servicing agents, and other claims-handling
50 entities shall make all claims records, documentation,
51 communication, and correspondence available to department
52 personnel during regular business hours. If any person fails to
53 comply with a request for production of records or documents or
54 fails to produce an employee for interview, the department may
55 compel production or attendance by subpoena. The results of an
56 examination or investigation shall be provided to the carrier,

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57 third-party administrator, servicing agent, or other claims-
58 handling entity in a written report setting forth the basis for
59 any violations that are asserted. Such report is agency action
60 for purposes of chapter 120, and the aggrieved party may request
61 a proceeding under s. 120.57 with regard to the findings and
62 conclusion of the report.

63 (4) If the department finds that violations of this
64 chapter have occurred, the department may impose an
65 administrative penalty upon the offending entity or entities.
66 For each offending entity, such penalties shall not exceed
67 \$2,500 for each pattern or practice constituting nonwillful
68 violation and shall not exceed an aggregate amount of \$10,000
69 for all nonwillful violations arising out of the same action. If
70 the department finds a pattern of practice that constitutes a
71 willful violation, the department may impose an administrative
72 penalty upon each offending entity not to exceed \$20,000 for
73 each willful pattern or practice. Such fines shall not exceed
74 \$100,000 for all willful violations arising out of the same
75 action. No penalty assessed under this section may be recouped
76 by any carrier in the rate base, the premium, or any rate
77 filing. Any administrative penalty imposed under this section
78 for a nonwillful violation shall not duplicate an administrative
79 penalty imposed under another provision of this chapter or the
80 Insurance Code. The department may adopt rules to implement this
81 section. The department shall adopt penalty guidelines by rule
82 to set penalties under this chapter.

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85 ===== T I T L E A M E N D M E N T =====

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86 Remove line(s) 86-89, and insert:
87 to conduct examinations and investigations of claims-handing
88 entities; providing penalties; providing for rules; amending s.
89 627.162,