

Bill No. PCS (880356) for SB 1866

Barcode 533852

	CHAMBER ACTION	
<u>Senate</u>		<u>House</u>

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Comm: RS
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The Committee on Banking and Insurance (Atwater) recommended
the following amendment:

Senate Amendment (with title amendment)

On page 79, between lines 23 and 24,

insert:

Section 22. Section 627.70132, Florida Statutes, is
created to read:

627.70132 Timely payment of first-party property
insurance claims.--

(1) If an insurer does not pay a first-party property
insurance claim within 30 days after the insurer receives
acceptable proof of loss containing all information necessary
for claim adjudication, the insurer shall pay interest at the
rate set forth in s. 55.03 from the date the claim is received
by the insurer. The interest shall be calculated on the amount
the insurer is legally obligated to pay according to the terms
of the insurance contract under which the claim is submitted.

(2) For purposes of determining whether the claim has
been paid within 30 days, the date of payment shall be deemed

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1 to have been received by the addressee on the date shown by
 2 the postmark or other official mark of the United States
 3 Postal Service stamped on the payment envelope. If the
 4 recipient disputes the date where there is no mark or the mark
 5 is not legible, the sender may establish the mailing or
 6 transfer date by competent evidence.

7 (3) The payment of a claim is not overdue during any
 8 period during which the insurer is unable to pay the claim
 9 because the insurer is unable to determine who is entitled to
 10 receive the payment if the insurer promptly notifies the
 11 claimant in writing of such inability and offers in good faith
 12 to promptly pay the claim upon determining who is entitled to
 13 receive the payment.

14 (4) This section applies only to a claim payable by
 15 the insurer directly to the insured, to a beneficiary named in
 16 the contract, or to a person who has been assigned the right
 17 to receive benefits under the contract by the insured.

18 Section 23. Paragraph (i) of subsection (1) of section
 19 626.9541, Florida Statutes, is amended to read:

20 626.9541 Unfair methods of competition and unfair or
 21 deceptive acts or practices defined.--

22 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR
 23 DECEPTIVE ACTS.--The following are defined as unfair methods
 24 of competition and unfair or deceptive acts or practices:

25 (i) Unfair claim settlement practices.--

26 1. Attempting to settle claims on the basis of an
 27 application, when serving as a binder or intended to become a
 28 part of the policy, or any other material document which was
 29 altered without notice to, or knowledge or consent of, the
 30 insured;

31 2. A material misrepresentation made to an insured or

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1 any other person having an interest in the proceeds payable
 2 under such contract or policy, for the purpose and with the
 3 intent of effecting settlement of such claims, loss, or damage
 4 under such contract or policy on less favorable terms than
 5 those provided in, and contemplated by, such contract or
 6 policy; ~~or~~

7 3. Failing to pay an undisputed amount of partial or
 8 full benefits owed under a first-party property insurance
 9 policy within 30 days after determining the amount of partial
 10 or full benefits and agreeing to the coverage; or

11 ~~4.3-~~ Committing or performing with such frequency as
 12 to indicate a general business practice any of the following:

13 a. Failing to adopt and implement standards for the
 14 proper investigation of claims;

15 b. Misrepresenting pertinent facts or insurance policy
 16 provisions relating to coverages at issue;

17 c. Failing to acknowledge and act promptly upon
 18 communications with respect to claims;

19 d. Denying claims without conducting reasonable
 20 investigations based upon available information;

21 e. Failing to affirm or deny full or partial coverage
 22 of claims, and, as to partial coverage, the dollar amount or
 23 extent of coverage, or failing to provide a written statement
 24 that the claim is being investigated, upon the written request
 25 of the insured within 30 days after proof-of-loss statements
 26 have been completed;

27 f. Failing to promptly provide a reasonable
 28 explanation in writing to the insured of the basis in the
 29 insurance policy, in relation to the facts or applicable law,
 30 for denial of a claim or for the offer of a compromise
 31 settlement;

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1 g. Failing to promptly notify the insured of any
2 additional information necessary for the processing of a
3 claim; ~~or~~

4 h. Failing to clearly explain the nature of the
5 requested information and the reasons why such information is
6 necessary; ~~or~~

7 i. Failing to tender proof-of-loss forms within 15
8 days after a notice of loss;

9 j. Failing to promptly investigate coverage, evaluate
10 damages, request documentation from the insured, or conduct
11 examinations under oath after a notice of loss or within 30
12 days after submittal of the proof of loss; or

13 k. Failing to promptly provide the insured or
14 beneficiary with an estimate of damages and provide a good
15 faith explanation in writing of the insurer's evaluation of
16 benefits and the basis for that evaluation.

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18 (Redesignate subsequent sections.)

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

22 And the title is amended as follows:

23 On page 4, line 29, after the semicolon,
24
25 insert:

26 creating s. 627.70132, F.S.; requiring an
27 insurer to pay interest on the amount of a
28 claim if the insurer fails to pay the claim
29 within a specified period following receipt of
30 all information necessary for claim
31 adjudication; providing requirements for

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1 determining the date of payment by the insurer;
2 providing an exception if the insurer is unable
3 to determine who is entitled to receive
4 payment; providing for application; amending s.
5 626.9541, F.S.; providing that it is an unfair
6 method of competition and an unfair or
7 deceptive act to fail to timely pay an
8 undisputed first-party insurance claim;
9 specifying additional business practices
10 involving failure to promptly investigate
11 damages or provide estimates which constitute
12 an unfair method of competition and unfair or
13 deceptive act or practice;

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