

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 bring a
 4 civil action against Citizens Property Insurance
 5 Corporation when such person is damaged by the commission
 6 of specified acts or specified violations of state law;
 7 prohibiting the assessment of punitive damages against
 8 Citizens Property Insurance Corporation; providing an
 9 effective date.

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

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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
 17 insurer, including Citizens Property Insurance Corporation, when
 18 such 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,
 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.

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 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
 47 | this section unless the acts giving rise to the violation occur
 48 | with such frequency as to indicate a general business practice
 49 | and such ~~these~~ acts are:

- 50 | (a) Willful, wanton, and malicious;
- 51 | (b) In reckless disregard for the rights of any insured;
- 52 | or
- 53 | (c) In reckless disregard for the rights of a beneficiary
- 54 | under a life insurance contract.

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 56 | Any person who pursues a claim under this subsection shall post

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57 in advance the costs of discovery. Such costs shall be awarded
58 to the authorized insurer if no punitive damages are awarded to
59 the plaintiff. Notwithstanding any other provision of law,
60 punitive damages may not be assessed against Citizens Property
61 Insurance Corporation.

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