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LEGISLATIVE ACTION

Senate

House

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Floor: WD

03/06/2012 05:06 PM

Senator Diaz de la Portilla moved the following:

1 **Senate Amendment to Amendment (435312) (with title**
2 **amendment)**

3
4 Delete lines 772 - 776

5 and insert:

6 ~~ATTORNEY'S FEES.~~

7 (a) With respect to any dispute under the provisions of ss.
8 627.730-627.7405 between the insured and the insurer, or between
9 an assignee of an insured's rights and the insurer, the
10 provisions of ss. ~~s.~~ 627.428 and 768.79 shall apply, except as
11 provided in subsections (10) and (15), and except that any
12 attorney fees recovered must:

- 13 1. Comply with prevailing professional standards;



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14 2. Ensure that the attorney fees are for work performed by
15 an attorney which does not duplicate work performed by a
16 paralegal or legal assistant; and

17 3. Not overstate or inflate the number of hours reasonably
18 necessary for a case of comparable complexity which requires
19 comparable skill.

20 (b) Notwithstanding s. 627.428 and this subsection, any
21 attorney fees awarded under ss. 627.730-627.7405 shall be
22 presumed to be calculated without regard to a contingency risk
23 multiplier. This presumption may be overcome only if the court
24 makes findings of fact based upon competent evidence in the
25 record which establishes that:

26 1. The party requesting the multiplier would have faced
27 substantial difficulties finding competent counsel to pursue the
28 case in the relevant market but for the consideration of a fee
29 multiplier;

30 2. Consideration of a fee multiplier was a necessary
31 incentive to obtain competent counsel to pursue the case;

32 3. The claim would not be economically feasible to hire an
33 attorney on a noncontingent, fixed-fee basis;

34 4. The attorney was unable to mitigate the risk of
35 nonpayment of attorney fees in any other way; and

36 5. The use of a multiplier is justified based on factors
37 such as the amount of risk undertaken by the attorney at the
38 outset of the case, the results obtained, and the type of fee
39 arrangement between the attorney and the client.

40 (c) Paragraph (b) does not apply to a case where class
41 action status has been sought or granted, and a contingency risk
42 multiplier may be applied in such cases, notwithstanding



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43 paragraph (b).

44 (d) Upon request by either party, a judge shall make
45 written findings, substantiated by evidence presented at trial
46 or any hearing associated with the trial, that an award of
47 attorney fees complies with this subsection.

48

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

50 And the title is amended as follows:

51 Delete line 946

52 and insert:

53 are reached; providing criteria for the award of
54 attorney fees; providing that attorney fees are
55 presumed to be calculated without regard to a
56 contingency risk multiplier; providing exceptions;
57 requiring that a judge make written findings that an
58 award of attorney complies with the law, under certain
59 conditions; consolidating provisions relating to