



878070

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/29/2012	.	
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The Committee on Budget (Flores) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 1298 - 1338  
and insert:

(c) A notice is not deficient merely because there are calculation errors or payments not taken into account in the demand letter. In determining compliance with this subsection, the courts shall adhere to the standard of substantial compliance and consider the purpose of the notice, which is to provide notice of the overdue claim and to allow the insurer time to pay the overdue bills before litigation is initiated. If a demand is found to be deficient for any reason and suit has commenced, the insured or the insured's assignee may abate the



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14 action to allow for compliance with this section. If the insurer  
15 is asserting that the notice is deficient, the insurer must  
16 respond to the notice by specifying each deficiency that the  
17 insurer is claiming pursuant to the notice. If the insurer fails  
18 to so specify, the insurer waives any deficiencies found in the  
19 notice.

20 (d)~~(e)~~ Each notice required by this subsection must be  
21 delivered to the insurer by United States certified or  
22 registered mail, return receipt requested. Such postal costs  
23 shall be reimbursed by the insurer if ~~so~~ requested by the  
24 claimant in the notice, when the insurer pays the claim. Such  
25 notice must be sent to the person and address specified by the  
26 insurer for the purposes of receiving notices under this  
27 subsection. Each licensed insurer, whether domestic, foreign, or  
28 alien, shall file with the office designation of the name and  
29 address of the person to whom notices must ~~pursuant to this~~  
30 ~~subsection shall~~ be sent which the office shall make available  
31 on its Internet website. The name and address on file with the  
32 office pursuant to s. 624.422 are ~~shall be~~ deemed the authorized  
33 representative to accept notice pursuant to this subsection if  
34 ~~in the event~~ no other designation has been made.

35 (e)~~(d)~~ If, within 30 days after receipt of notice by the  
36 insurer, the overdue claim specified in the notice is paid by  
37 the insurer together with applicable interest and a penalty of  
38 10 percent of the overdue amount paid by the insurer, subject to  
39 a maximum penalty of \$250, no action may be brought against the  
40 insurer. If the demand involves an insurer's withdrawal of  
41 payment under paragraph (7) (a) for future treatment not yet  
42 rendered, no action may be brought against the insurer if,



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43 within 30 days after its receipt of the notice, the insurer  
44 mails to the person filing the notice a written statement of the  
45 insurer's agreement to pay for such treatment in accordance with  
46 the notice and to pay a penalty of 10 percent, subject to a  
47 maximum penalty of \$250, when it pays for such future treatment  
48 in accordance with the requirements of this section. To the  
49 extent the insurer determines not to pay any amount demanded,  
50 the penalty is ~~shall~~ not be payable in any subsequent action.  
51 For purposes of this subsection, payment or the insurer's  
52 agreement shall be treated as being made on the date a draft or  
53 other valid instrument that is equivalent to payment, or the  
54 insurer's written statement of agreement, is placed in the  
55 United States mail in a properly addressed, postpaid envelope,  
56 or if not so posted, on the date of delivery. The insurer is not  
57 obligated to pay any attorney ~~attorney's~~ fees if the insurer  
58 pays the claim or mails its agreement to pay for future  
59 treatment within the time prescribed by this subsection.

60 (f) ~~(e)~~ The applicable statute of limitation for an action

61  
62 ===== T I T L E A M E N D M E N T =====

63 And the title is amended as follows:

64 Delete line 76

65 and insert:

66 when policy limits are reached; providing criteria for  
67 determining when a demand letter is deficient;  
68 consolidating