

HB 5

2016

1                   A bill to be entitled  
2           An act relating to civil remedies against insurers;  
3           amending s. 624.155, F.S.; requiring insureds,  
4           claimants, or persons acting on their behalf to  
5           provide an insurer with written notice of loss as a  
6           condition precedent to a statutory or common-law  
7           action for third-party bad-faith failure to settle an  
8           insurance claim; providing that an insurer is not  
9           liable for a claim of bad-faith failure to settle a  
10          claim if certain conditions are met; reenacting s.  
11          766.1185(3), F.S., relating to bad faith actions, to  
12          incorporate the amendment made by the act to s.  
13          624.155, F.S., in a reference thereto; providing an  
14          effective date.

15  
16 Be It Enacted by the Legislature of the State of Florida:

17  
18           Section 1. Paragraph (a) of subsection (3) of section  
19          624.155, Florida Statutes, is amended, and subsection (10) is  
20          added to that section, to read:

21           624.155 Civil remedy.—

22           (3) (a) Except as provided in subsection (10), as a  
23          condition precedent to bringing an action under this section,  
24          the department and the authorized insurer must have been given  
25          60 days' written notice of the violation. If the department  
26          returns a notice for lack of specificity, the 60-day time period

HB 5

2016

27 shall not begin until a proper notice is filed.

28 (10) As a condition precedent to a statutory or common-law  
29 action for third-party bad-faith failure to settle a liability  
30 insurance claim, the insured, claimant, or anyone on behalf of  
31 the insured or the claimant must provide the insurer with  
32 written notice of loss. If the insurer complies with a request  
33 for a disclosure statement described in s. 627.4137 and, within  
34 45 days after receipt of the written notice of loss, offers to  
35 pay the claimant the lesser of the amount that the claimant is  
36 willing to accept or the limits of liability coverage applicable  
37 to the claimant's insurance claim in exchange for a full release  
38 of the insured from any liability arising from the incident and  
39 the notice of insurance claim, the insurer is not in violation  
40 of the duty to attempt in good faith to settle the claim and is  
41 not liable for bad-faith failure to settle under this section or  
42 the common law.

43 Section 2. For the purpose of incorporating the amendment  
44 made by this act to section 624.155, Florida Statutes, in a  
45 reference thereto, subsection (3) of section 766.1185, Florida  
46 Statutes, is reenacted to read:

47 766.1185 Bad faith actions.—In all actions for bad faith  
48 against a medical malpractice insurer relating to professional  
49 liability insurance coverage for medical negligence, and in  
50 determining whether the insurer could and should have settled  
51 the claim within the policy limits had it acted fairly and  
52 honestly towards its insured with due regard for her or his

HB5

2016

53 | interest, whether under statute or common law:

54 |       (3) The provisions of s. 624.155 shall be applicable in  
55 | all cases brought pursuant to that section unless specifically  
56 | controlled by this section.

57 |       Section 3. This act shall take effect July 1, 2016.