

By Senator Richter

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

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

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

20 624.155 Civil remedy.—

21 (3) (a) Except as provided in subsection (10), as a
22 condition precedent to bringing an action under this section,
23 the department and the authorized insurer must have been given
24 60 days' written notice of the violation. If the department
25 returns a notice for lack of specificity, the 60-day time period
26 does ~~shall~~ not begin until a proper notice is filed.

27 (10) As a condition precedent to bringing a third-party
28 statutory or common-law bad faith action for failure to settle a
29 liability insurance claim, the insured, the claimant, or any

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30 person acting on behalf of the insured or the claimant must have
31 provided the insurer with a written notice of loss. An insurer
32 does not violate the duty to attempt in good faith to settle the
33 claim and is not liable for a bad faith failure to settle under
34 this section or common law if the insurer:

35 (a) Complies with a request for a disclosure statement as
36 described in s. 627.4137.

37 (b) Offers, within 45 days after receipt of the written
38 notice of loss, to pay the claimant the lesser of the amount
39 that the claimant is willing to accept or the limits of
40 liability coverage applicable to the claimant's insurance claim
41 in exchange for a full release of the insured from any liability
42 arising from the incident reported in the written notice of
43 loss.

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

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

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

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