

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	_____	(Y/N)
ADOPTED AS AMENDED	_____	(Y/N)
ADOPTED W/O OBJECTION	_____	(Y/N)
FAILED TO ADOPT	_____	(Y/N)
WITHDRAWN	_____	(Y/N)
OTHER		

1 Committee/Subcommittee hearing bill: Commerce Committee
 2 Representative Sabatini offered the following:

Amendment (with title amendment)

Between lines 1506 and 1507, insert:

Section 33. Section 624.155, Florida Statutes is amended to read:

624.155 Civil remedy.—

(10) Notwithstanding subsections (1)-(9), in an action for third party bad faith under this chapter or at common law:

(a) An insured or claimant has the burden to prove that the insurer acted in bad faith. Negligent conduct of the insurer is not enough to establish bad faith, an insured or claimant must prove that the insurer acted in reckless disregard for the rights of any insured and that such reckless disregard caused damage to the insured or claimant.

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17 (b) The actions or inactions of the insured or claimant are
18 relevant in an action for bad faith. It is an affirmative
19 defense to a claim for bad faith that the insured's or
20 claimant's own conduct, in whole or in part, caused an excess
21 judgment.

22 (c) An insurer must advise the insured of settlement
23 opportunities, advise the insured as to the probable outcome of
24 the litigation, warn the insured of the possibility of an excess
25 judgment, advise the insured of steps to avoid an excess
26 judgment, and defend its insured against a legal action when the
27 complaint alleges facts that fairly and potentially bring the
28 suit within policy coverage. If the insurer fulfills these
29 obligations, and if the trier of fact finds that the insurer
30 stood ready and willing to settle for policy limits, then the
31 insurer is not liable.

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34 **T I T L E A M E N D M E N T**

35 Remove line 1 and insert:

36 An act relating to insurance; repealing

37 Remove line 89 and insert:

38 professions; amending s. 624.155, F.S.; establishing the burden
39 of proof in a common law or statutory claim for third party bad
40 faith; providing that negligent conduct alone is not proof of
41 bad faith by an insurer; creating affirmative defenses to an

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42 | action for third party bad faith; establishing duties of an
43 | insurer relevant to a third party action; providing that an
44 | insurer who fulfills such duties has no liability for third
45 | party bad faith; amending s. 626.9541, F.S.; conforming a