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LEGISLATIVE ACTION

Senate

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House

The Committee on Banking and Insurance (Brandes) recommended the following:

Senate Amendment (with title amendment)

Delete lines 30 - 38

and insert:

Section 2. Subsection (3) of section 624.155, Florida Statutes, is amended to read:

624.155 Civil remedy.—

(3) (a) As a condition precedent to bringing an action under this section, the department and the authorized insurer must have been given 60 days' written notice of the violation. ~~If the~~



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11 ~~department returns a notice for lack of specificity, the 60-day~~
12 ~~time period shall not begin until a proper notice is filed.~~

13 (b) The notice shall be on a form provided by the
14 department and shall state with specificity the following
15 information, and such other information as the department may
16 require:

17 1. The statutory provision, including the specific language
18 of the statute, which the authorized insurer allegedly violated.

19 2. The facts and circumstances giving rise to the
20 violation.

21 3. The name of any individual involved in the violation.

22 4. Reference to specific policy language that is relevant
23 to the violation, if any. If the person bringing the civil
24 action is a third party claimant, she or he shall not be
25 required to reference the specific policy language if the
26 authorized insurer has not provided a copy of the policy to the
27 third party claimant pursuant to written request.

28 5. A statement that the notice is given in order to perfect
29 the right to pursue the civil remedy authorized by this section.

30 ~~(c) Within 20 days of receipt of the notice, the department~~
31 ~~may return any notice that does not provide the specific~~
32 ~~information required by this section, and the department shall~~
33 ~~indicate the specific deficiencies contained in the notice. A~~
34 ~~determination by the department to return a notice for lack of~~
35 ~~specificity shall be exempt from the requirements of chapter~~
36 ~~120.~~

37 (c) ~~(d)~~ No action shall lie if, within 60 days after filing
38 notice, the damages are paid or the circumstances giving rise to
39 the violation are corrected.



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40 (d)~~(e)~~ The authorized insurer that is the recipient of a
41 notice filed pursuant to this section shall report to the
42 department on the disposition of the alleged violation.

43 (e)~~(f)~~ The applicable statute of limitations for an action
44 under this section shall be tolled for a period of 65 days by
45 the mailing of the notice required by this subsection or the
46 mailing of a subsequent notice required by this subsection.

47 (f) As to first-party residential property insurance
48 claims, an insured may not file the notice required under this
49 subsection earlier than 90 days after the insurer receives
50 notice of an initial, reopened, or supplemental first-party
51 residential property insurance claim from an insured. This
52 paragraph does not apply if the insurer denies coverage on the
53 entire claim.

54
55 ===== T I T L E A M E N D M E N T =====

56 And the title is amended as follows:

57 Delete lines 3 - 5

58 and insert:

59 Amending s. 624.155, F.S.; deleting a provision that
60 tolls, under certain circumstances, a period before a
61 civil action against an insurer may be brought;
62 deleting authority for the Department of Financial
63 Services to return a civil remedy notice for lack of
64 specificity; prohibiting insureds, in certain claims,
65 from filing a certain presuit notice before a certain
66 timeframe; providing applicability; amending s.
67 626.9541, F.S.;