

Florida Legislature Rejects Bill Restricting Bad Faith Suits Against Insurers

February 07, 2012

The Civil Justice Subcommittee of the Florida House of Representatives voted down a bill that would have imposed limitations on third-party bad faith lawsuits against insurers whose policyholders have suffered a judgment in excess of their policy liability limits. The proposed legislation would have restricted use of a technique known as the “time limited settlement demand.” This technique allows a claimant alleging injury caused by a policyholder to demand that the insurer settle the claim by paying policy limits within a relatively short window of time. If the insurer does not make the payment within the time limit, the claimant typically withdraws the demand, goes to trial against the policyholder and, thereafter, sues the insurer for the amount of any judgment obtained by the claimant in excess of the policy limits. The rejected bill would have required plaintiffs to provide a sixty-day written notice to the Florida Department of Financial Services and the insurer as a condition precedent to bringing an action for third-party statutory or common law bad faith. If the insurer “cured” the alleged bad faith within the sixty-day period by paying the claimant's demand or the policy limits, the claimant would have been required to release the policyholder, thus, removing the threat of a bad faith action for an excess judgment. In the absence of a legislative or judicial change to Florida's third party bad faith law practices, insurers must remain vigilant regarding time limited settlement demands. Every time limited demand is potentially a precursor to a bad faith action that requires extra attention and prompt action. Early claim evaluation is critical. Claims with large damages, clear liability, low limits or short time limits are especially sensitive.

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