

# 300 WORDS (more or less) about CIVIL REMEDY

**PROBLEM**—Current law allows “any person,” not just those who are a party to an insurance contract, to bring a “civil remedy” suit against an insurer who fails in good faith to settle within policy limits. Fear of being hit with awards far in excess of policy limits forces many insurers to settle claims that probably should not be settled.

**BACKGROUND**—Under the current provisions of §624.155, F.S., any person, not just the insured, can bring a civil action against an insurer for failure of that insurer to, in good faith, settle the claim within the policy limits. Plaintiffs’ attorneys often routinely demand policy limits in every case, even those where the liability of the insurer is doubtful, and the insurer usually has only 60 days in which to investigate the claim and make a decision on whether or not to pay. This threat of almost unlimited damages often forces insurers to pay policy limits even in cases where liability is truly in doubt, especially since insurers contend that the trend in case law is such that merely losing a court case in many instances is equated with “bad faith.” These “forced settlements” lead to increases in the overall costs of insurance.

**DISCUSSION**—SB 882 by Sen. Baker and HB 589 by Rep. Brown provides that the civil remedy claim can only be brought by the insured under the policy. It further provides that an insured and any person asserting any demand for settlement owes a duty to the insurer to fully cooperate with the

insurer, and it is a defense to any civil remedy action if the court finds that the insured or any other person demanding settlement:

- ◆ Failed to cooperate fully in facilitating the settlement;
- ◆ Imposed unreasonable time limits or other conditions on the settlement without, at the time, demonstrating to the insurer valid reasons for doing so; or,
- ◆ Lacked the authority to make the demand or to accept the amount demanded in full settlement of all claims, including liens, arising from the occurrence.

The bill also gives the insurer 90 days to evaluate the case before the civil remedy provision applies. The bill further provides that the civil remedy under this statute preempts all other remedies and causes of action for extra-contractual damages for failure to settle under an insurance contract. Finally, with certain exceptions, the bill provides that a judgment against an insured who has liability coverage shall not raise any presumption or inference that the violation would have been foreseen to result in actual damages.

**SOLUTION**—Support passage of SB 882 and HB 589.

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