

# HOUSE RESEARCH

## Bill Summary

**FILE NUMBER:** H.F. 3115

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**Version:** As introduced

**Authors:** Atkins and others

**Subject:** Good faith in handling insurance claims

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### Overview

This bill creates a legal duty of good faith that an insurance company owes to its own insured in responding to a claim made by the insured under certain types of insurance policies. Permits the insured to sue the insurance company for violating that duty of good faith, after giving the insurance company 60 days in which to resolve the dispute.

#### Section

- 1 **Exemptions.** Exempts self-insured insurance pools of political subdivisions from compliance with section 2 of this bill. The pools referenced here provide property and liability coverage for the political subdivisions.
- 2 **First party good faith practices.**

##### **Subd. 1. Required conduct.**

(a) Requires an insurer covered by this section to act in good faith in dealing with a claim under an insurance policy covered by this section.

(b) Defines “good faith” by saying that an insurer is acting in good faith unless the insured can show that the insurer (1) did not have a reasonable basis for denying the claim; and (2) either knew that it lacked a reasonable basis or acted in reckless disregard of its lack of a reasonable basis.

## Section

(c) Defines “insurance policy” to include all insurance policies or contracts except workers’ compensation, health, and policies issued by township and farmers mutual insurance companies.

Defines “insurer” to mean any insurance company authorized to do business in this state, but not the joint underwriting association.

**Subd. 2. Remedies; limitations.** Provides that a company violating the good faith requirement in subdivision 1 is liable to the insured for costs, damages, and reasonable attorney fees. Requires that an award of attorney fees to an insured who successfully sues an insurer be reasonable in relation to the compensation received by the insured and lists other factors that must be taken into consideration in determining the amount of attorney fees. Provides that an insured cannot recover under this section for non-economic damages caused solely by an insurance company’s violation of the good faith requirement created in subdivision 1.

**Subd. 3. Insurance producers; liability limited.** Excludes insurance agents (now referred to in law as “insurance producers”) from liability under this section, unless the agent caused or contributed to the insurer’s violation of the good faith requirement.

**Subd. 4. Fire investigations.** Says that an insurer does not violate good faith by conducting or cooperating with a fire investigation.

**Subd. 5. Right to cure.** Says that a lawsuit cannot be started for violation of good faith, unless the insurer has first been given 60 days written notice of the (alleged) violation. Requires the notice to state, in detail, what the insured claims the insurer did that violates the good faith requirement. Says that there is no right to sue if the insurer pays the claim or otherwise eliminates the violation within that 60 day period.

**Subd. 6. Evidence limitations.** Provides that determinations made in the motor vehicle insurance arbitration process established in state law and the standards of conduct prescribed in the chapter of state law that includes the Fair Claims Settlement Practices Act cannot be used as evidence in a lawsuit based on this section.

**Effective date:** Makes this section effective August 1, 2008 , and apply to lawsuits started based on conduct occurring on or after that date.