

HOUSE RESEARCH

Bill Summary

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Subject: Remedies for the insurer's breach of a commercial or professional insurance policy
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Overview

This bill deals with the right of an insured to sue the insured's insurance company for failing to fulfill the company's duties under the policy. This bill applies only to a commercial or professional insurance policy.

Section

1 Breach of insurance policy; recovery of damages and attorney fees.

Subd. 1. Definitions. Defines "insurance policy" as a commercial or professional policy other than one that is a worker's compensation policy, a health policy, a life or disability income policy, or a (property insurance) policy issued by a township mutual or farmer's mutual insurance company.

Defines "insured" as any named insured, additional insured, or insured.

Defines "insurer" to mean any insurer doing business in this state, whether permitted to or not, except the joint underwriting association or a township or farmers mutual.

Subd. 2. Damages. Permits an insured who prevails in a lawsuit against the insured's insurance company, on the basis that the insurance company breached its policy, to get damages for the breach, plus interest at 12 percent per year from when the insured requested the insurer to pay what the policy promised to pay. Also permits the insured to recover reasonable attorney fees, other litigation costs, and court costs. Provides that the insured has no right under this section to punitive damages or damages for nonmonetary loss.

Subd. 3. Effect of arbitration under section 65B.525. Says that the insured cannot get compensated for attorney fees under this section on auto insurance first-party (no-fault) personal injury claims if the insurer admits liability, disputes only the amount of benefits, and either agrees to binding arbitration on that issue or is required

by law to use binding arbitration.

Subd. 4. Factors to consider in awarding attorney fees. States the factors a court may consider in determining the amount of attorney fees for which to require the insurance company to reimburse the insured. Those factors are amount of attorney time reasonably expended, reasonable hourly rates, the outcome obtained, and the nature and complexity of the case.

Subd. 5. Insurance producers; liability limited. Says that an insurance agent is not liable under this section for the insurance company's breach of the policy, unless the agent caused or contributed to the breach.

Subd. 6. Application. Makes this section apply to a court action or arbitration proceeding, including one seeking declaratory judgment. (An action seeking a declaratory judgment would usually involve an insurance company asking a court to rule that the insurance company is not obligated to pay the claim.

Effective date: Makes this section effective August 1, 2009, and apply to any cause of action that exists on or after that date.

- 2 Exemptions.** Exempts from section 1 property-casualty self-insurance pools operated by associations of political subdivisions, and the political subdivisions that belong to them.