

HOUSE BILL NO. 95

INTRODUCED BY RAMIREZ, SPAETH, MARKS

IN THE HOUSE

January 7, 1985	Introduced and referred to Committee on Judiciary.
January 14, 1985	On motion by Chief Sponsor, Representatives Spaeth and Marks added as sponsors.
February 23, 1985	Committee recommend bill do not pass as amended.
February 25, 1985	Objection to adverse committee report.  Bill printed and placed on members' desks.
February 27, 1985	Second reading, do pass as amended.  On motion, rules suspended and bill placed on third reading this day.  Third reading, passed.  Transmitted to Senate.

IN THE SENATE

March 5, 1985	Introduced and referred to Committee on Judiciary.
March 25, 1985	Committee recommend bill be concurred in as amended. Report adopted.
March 27, 1985	Second reading, concurred in.

March 29, 1985

Third reading, concurred in.  
Ayes, 46; Noes, 3.

Returned to House with  
amendments.

IN THE HOUSE

March 29, 1985

Received from Senate.

April 2, 1985

Second reading, amendments  
concurred in.

April 3, 1985

Third reading, amendments  
concurred in.

Sent to enrolling.

Reported correctly enrolled.

1                    HOUSE    BILL NO.    95  
2    INTRODUCED BY    RAMIREZ

3  
4    A BILL FOR AN ACT ENTITLED:    "AN ACT    LIMITING    THE  
5    COMMENCEMENT    OF    AN ACTION AGAINST AN INSURANCE COMPANY FOR  
6    LACK OF GOOD FAITH IN HANDLING OR SETTLEMENT OF A CLAIM  
7    UNTIL    LIABILITY    ON    THE    UNDERLYING    CLAIM HAS BEEN  
8    ADJUDICATED; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND  
9    AN APPLICABILITY DATE."

10  
11    BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12            Section 1. Civil action against an insurer for lack of  
13    good faith -- limitations. No person may commence an action  
14    against an insurer for lack of good faith in its handling or  
15    settlement of a claim until, in an action on the underlying  
16    claim, a court of law has established:

17            (1) an insured's right to recover from an insurer, in  
18    the case of an insured's action against its insurer for lack  
19    of good faith; or

20            (2) a third-party claimant's right to recover from an  
21    insured, in the case of a third-party claimant's action  
22    against an insurer for lack of good faith.

23            Section 2. Extension of authority. Any existing  
24    authority of the commissioner of insurance to make rules on  
25    the subject of the provisions of this act is extended to the

1    provisions of this act.

2            Section 3. Codification instruction. Section 1 is  
3    intended to be codified as an integral part of Title 33.

4            Section 4. Applicability. This act applies to actions  
5    filed on or after the effective date of this act against  
6    insurers for lack of good faith in handling or settlement of  
7    claims.

8            Section 5. Effective date. This act is effective on  
9    passage and approval.

-End-



HB 0095/02  
COMMITTEE ON JUDICIARY  
RECOMMEND DO NOT PASS  
AS AMENDED  
OBJECTION RAISED TO  
ADVERSE COMMITTEE REPORT

HOUSE BILL NO. 95

INTRODUCED BY RAMIREZ, SPAETH, MARKS

A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING THE COMMENCEMENT OF AN ACTION AGAINST AN INSURANCE COMPANY FOR LACK OF GOOD FAITH IN HANDLING OR SETTLEMENT OF A CLAIM UNTIL LIABILITY ON THE UNDERLYING CLAIM HAS BEEN ADJUDICATED SETTLED OR CONCLUDED; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Civil action against an insurer for lack of good faith -- limitations. No person may commence an action against an insurer for lack of good faith in its handling or settlement of a claim until ~~in an action on~~ the underlying claim ~~a court of law has established~~ HAS BEEN SETTLED OR OTHERWISE CONCLUDED. THE UNDERLYING CLAIM IS THE CLAIM INVOLVING:

(1) an insured's CONTRACTUAL right to recover from an insurer ~~in the case of an insured's action against its insurer for lack of good faith~~; or

(2) a third-party claimant's right to recover from an insured ~~in the case of a third-party claimant's action against an insurer for lack of good faith~~.

SECTION 2. ACCRUAL OF CLAIM FOR BAD FAITH PERIOD. FOR

PURPOSES OF THE STATUTE OF LIMITATIONS, THE CLAIM FOR BAD FAITH DOES NOT ACCRUE UNTIL THE DATE THE UNDERLYING CLAIM IS SETTLED OR OTHERWISE CONCLUDED.

Section 3. Extension of authority. Any existing authority of the commissioner of insurance to make rules on the subject of the provisions of this act is extended to the provisions of this act.

Section 4. Codification instruction. Section 1 is intended to be codified as an integral part of Title 33.

Section 5. Applicability. This act applies to actions filed on or after the effective date of this act against insurers for lack of good faith in handling or settlement of claims.

Section 6. Effective date. This act is effective on passage and approval.

-End-

1 HOUSE BILL NO. 95  
 2 INTRODUCED BY RAMIREZ, SPAETH, MARKS  
 3  
 4 A BILL FOR AN ACT ENTITLED: "AN ACT ~~LIMITING~~ THE  
 5 ~~COMMENCEMENT~~ OF PROVIDING THAT AN ACTION AGAINST AN  
 6 ~~INSURANCE COMPANY~~ FOR LACK OF GOOD FAITH IN HANDLING OR  
 7 SETTLEMENT OF A CLAIM ~~UNTIL LIABILITY ON~~ MUST BE TRIED  
 8 SEPARATELY FROM A TRIAL OF THE UNDERLYING CLAIM HAS BEEN  
 9 ADJUDICATED SETTLED OR CONCLUDED; AND PROVIDING AN IMMEDIATE  
 10 EFFECTIVE DATE AND AN APPLICABILITY DATE."

11  
 12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
 13 Section 1. ~~Civil action against an insurer~~ SEPARATION  
 14 OF TRIAL OF CLAIM for lack of good faith ~~---limitations---~~ No  
 15 ~~person may commence an~~ FROM TRIAL OF UNDERLYING CLAIM. THE  
 16 TRIAL OF A CLAIM OR action against an insurer for lack of  
 17 good faith in its handling or settlement of a AN INSURANCE  
 18 claim until, in an action on MAY NOT BE CONSOLIDATED WITH A  
 19 TRIAL OF the underlying claim, ~~a court of law has~~  
 20 ~~established~~ HAS BEEN SETTLED OR OTHERWISE CONCLUDED. THE  
 21 UNDERLYING CLAIM IS THE CLAIM INVOLVING:

22 (1) ~~an insured's CONTRACTUAL~~ right to recover from an  
 23 insurer, in the case of an insured's action against its  
 24 insurer for lack of good faith; or

25 (2) ~~a third-party claimant's~~ right to recover from an

1 insured, in the case of a third-party claimant's action  
 2 against an insurer for lack of good faith;

3 SECTION 2. ACCRUAL OF CLAIM FOR BAD FAITH PERIOD. FOR  
 4 PURPOSES OF THE STATUTE OF LIMITATIONS, THE CLAIM FOR BAD  
 5 FAITH DOES NOT ACCRUE UNTIL THE DATE THE UNDERLYING CLAIM IS  
 6 SETTLED OR OTHERWISE CONCLUDED.

7 Section 3. Extension of authority. Any existing  
 8 authority of the commissioner of insurance to make rules on  
 9 the subject of the provisions of this act is extended to the  
 10 provisions of this act.

11 Section 3. Codification instruction. Section 1 is  
 12 intended to be codified as an integral part of Title 33.

13 Section 4. Applicability. This act applies to actions  
 14 filed on or after the effective date of this act against  
 15 insurers for lack of good faith in handling or settlement of  
 16 claims.

17 Section 5. Effective date. This act is effective on  
 18 passage and approval.

-End-

SENATE

STANDING COMMITTEE REPORT

March 23 19 85

MR. PRESIDENT

We, your committee on JUDICIARY

having had under consideration HOUSE BILL No. 95

third reading copy ( blue ) color

(Senator Mazurek)

LIMITING TIME WHEN BAD FAITH ACTION AGAINST INSURER CAN BE COMMENCED

Respectfully report as follows: That HOUSE BILL No. 95

be amended as follows:

1. Title, lines 9 and 10.
Following: "PROVIDING" on line 9
Strike: remainder of line 9 through "AND" on line 10

2. Page 1, line 16.
Following: "insurer"
Insert: "against an insurer"

3. Page 1, line 19.
Following: "claim"
Insert: "if:

(1) the lack of good faith claim is against a party different from the party against whom the underlying claim is made; and

(2) the parties have not stipulated to consolidation of the trial of the lack of good faith claim and the underlying claim."

4. Page 2, lines 3 through 6.
Strike: section 2 in its entirety
Renumber: subsequent sections

5. Page 2, lines 17 and 18.
Strike: section 5 in its entirety

~~XXXXXXXX~~

AND AS AMENDED

~~XXXXXXXX~~

BE CONCURRED IN

Handwritten signature of Senator Joe Mazurek

Senator Joe Mazurek

Chairman.

Handwritten initials

HOUSE BILL NO. 95

INTRODUCED BY RAMIREZ, SPAETH, MARKS

A BILL FOR AN ACT ENTITLED: "AN ACT LIMITING THE COMMENCEMENT OF PROVIDING THAT AN ACTION AGAINST AN INSURANCE COMPANY FOR LACK OF GOOD FAITH IN HANDLING OR SETTLEMENT OF A CLAIM UNTIL LIABILITY ON MUST BE TRIED SEPARATELY FROM A TRIAL OF THE UNDERLYING CLAIM HAS BEEN ADJUDICATED SETTLED OR CONCLUDED; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Civil action against an insurer SEPARATION OF TRIAL OF CLAIM for lack of good faith -- limitations. -- No person may commence an FROM TRIAL OF UNDERLYING CLAIM. THE TRIAL OF A CLAIM OR action against an insurer AGAINST AN INSURER for lack of good faith in its handling or settlement of a AN INSURANCE claim until, in an action on MAY NOT BE CONSOLIDATED WITH A TRIAL OF the underlying claim, a court of law has established HAS BEEN SETTLED OR OTHERWISE CONCLUDED IF:

(1) THE LACK OF GOOD FAITH CLAIM IS AGAINST A PARTY DIFFERENT FROM THE PARTY AGAINST WHOM THE UNDERLYING CLAIM IS MADE; AND

(2) THE PARTIES HAVE NOT STIPULATED TO CONSOLIDATION

OF THE TRIAL OF THE LACK OF GOOD FAITH CLAIM AND THE UNDERLYING CLAIM. THE UNDERLYING CLAIM IS THE CLAIM INVOLVING:

(1) an insured's CONTRACTUAL right to recover from an insurer, in the case of an insured's action against its insurer for lack of good faith; or

(2) a third-party claimant's right to recover from an insured, in the case of a third-party claimant's action against an insurer for lack of good faith.

SECTION 2. ACCRUAL OF CLAIM FOR BAD FAITH PERIOD FOR PURPOSES OF THE STATUTE OF LIMITATIONS, THE CLAIM FOR BAD FAITH DOES NOT ACCRUE UNTIL THE DATE THE UNDERLYING CLAIM IS SETTLED OR OTHERWISE CONCLUDED;

Section 3. Extension of authority. Any existing authority of the commissioner of insurance to make rules on the subject of the provisions of this act is extended to the provisions of this act.

Section 2. Codification instruction. Section 1 is intended to be codified as an integral part of Title 33.

Section 3. Applicability. This act applies to actions filed on or after the effective date of this act against insurers for lack of good faith in handling or settlement of claims.

Section 5. Effective date. This act is effective on passage and approval.

-End-  
-2-

