

1.1 A bill for an act

1.2 relating to insurance; regulating first party good faith insurance practices;
1.3 providing remedies; amending Minnesota Statutes 2006, section 471.982,
1.4 subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 604.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2006, section 471.982, subdivision 3, is amended to read:

1.7 Subd. 3. **Exemptions.** Self-insurance pools established and open for enrollment
1.8 on a statewide basis by the Minnesota League of Cities Insurance Trust, the Minnesota
1.9 School Boards Association Insurance Trust, the Minnesota Association of Townships
1.10 Insurance and Bond Trust, or the Minnesota Association of Counties Insurance Trust and
1.11 the political subdivisions that belong to them are exempt from the requirements of this
1.12 section and ~~section~~ sections 65B.48, subdivision 3, and 604.18. In addition, the Minnesota
1.13 Association of Townships Insurance and Bond Trust and the townships that belong to it
1.14 are exempt from the requirement to hold the certificate of surety authorization issued by
1.15 the commissioner of commerce as provided in section 574.15.

1.16 **EFFECTIVE DATE.** This section is effective August 1, 2008.

1.17 Sec. 2. **[604.18] FIRST PARTY GOOD FAITH INSURANCE PRACTICES.**

1.18 Subdivision 1. **Required conduct.** (a) An insurer shall act in good faith in
1.19 connection with an insured's claim under an insurance policy.

1.20 (b) An insurer is acting in good faith unless the insured can show the absence of
1.21 a reasonable basis for denying the benefits of the insurance policy, and that the insurer
1.22 knew of the lack of a reasonable basis for denying the benefits of the insurance policy or

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2.1 the insurer's reckless disregard of the lack of a reasonable basis for denying the benefits
2.2 of the insurance policy.

2.3 (c) For purposes of this section:

2.4 (1) "insurance policy" means an insurance policy or contract other than: (i) a
2.5 workers' compensation insurance policy or contract; (ii) a health policy, contract, or
2.6 certificate issued, executed, renewed, maintained, or delivered in this state by a health
2.7 carrier as defined in section 62A.011, subdivision 2; or (iii) a policy issued by a township
2.8 mutual fire insurance company or a farmers mutual fire insurance company under the
2.9 authority in chapter 67A; and

2.10 (2) "insurer" means an insurance company: (i) incorporated or organized in this
2.11 state; or (ii) admitted to do business in this state but not incorporated or organized in
2.12 this state. The term does not include the joint underwriting association operating under
2.13 chapter 62F or 62I.

2.14 Subd. 2. Remedies; limitations. (a) A person violating subdivision 1 is liable to the
2.15 insured for costs, damages, and reasonable attorney fees.

2.16 (b) An award of attorney fees must bear a reasonable relationship and be proportional
2.17 to the compensation awarded and take into consideration the following factors: the
2.18 amount of time reasonably expended, a reasonable hourly rate, the outcome obtained, and
2.19 the nature and complexity of the matter.

2.20 (c) Noneconomic damages caused solely by the violation of the good faith obligation
2.21 of subdivision 1, paragraph (b), are not recoverable under this section.

2.22 Subd. 3. Insurance producers; liability limited. A licensed insurance producer
2.23 is not liable under this section for errors, acts, or omissions attributed to the insurer that
2.24 appointed the producer to transact business on its behalf, except to the extent the producer
2.25 has caused or contributed to the error, act, or omission.

2.26 Subd. 4. Fire investigations. An insurer does not violate this section by conducting
2.27 or cooperating with a fire investigation to its completion.

2.28 Subd. 5. Right to cure. (a) As a condition precedent to bringing an action for
2.29 violation of this section, the insurer must have been given 60 days' written notice of
2.30 the violation.

2.31 (b) The notice shall state with specificity the facts and circumstances giving rise to
2.32 the violation.

2.33 (c) No action shall lie if, within 60 days after notice is given under paragraph (a),
2.34 the benefits are paid or circumstances giving rise to the violation contained in the notice
2.35 are corrected.

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3.1 Subd. 6. **Evidence limitations.** Determinations made in an arbitration pursuant
3.2 to section 65B.525 and standards of conduct set forth under chapter 72A must not be
3.3 considered as evidence in any action commenced under this section.

3.4 **EFFECTIVE DATE.** This section is effective August 1, 2008, and applies to causes
3.5 of action commenced for conduct occurring on or after that date.