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State of Minnesota HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH SESSION

HOUSE FILE No. 1251

February 22, 2007

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The bill was read for the first time and referred to the Committee on Public Safety and Civil Justice

March 7, 2007

Committee Recommendation and Adoption of Report:

To Pass and re-referred to the Committee on Commerce and Labor

March 12, 2007

Committee Recommendation and Adoption of Report:

To Pass as Amended and re-referred to the Committee on Finance

February 25, 2008

By motion, recalled and re-referred to the Committee on Commerce and Labor

1.1 A bill for an act
1.2 relating to civil actions; authorizing direct actions and imposing direct liability on
1.3 certain insurers in certain actions; preserving certain claims; regulating actions
1.4 involving certain insurance practices; appropriating money; amending Minnesota
1.5 Statutes 2006, section 302A.781, by adding a subdivision; proposing coding for
1.6 new law in Minnesota Statutes, chapters 72A; 540; 604.

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

1.8 Section 1. [72A.329] DIRECT LIABILITY OF INSURER.

1.9 Any bond or policy of insurance covering liability to others for negligence makes
1.10 the insurer liable, up to the amounts stated in the bond or policy, to the persons entitled to
1.11 recover against the insured for the death of any person or for injury to persons or property,
1.12 irrespective of whether the liability is presently established or is contingent and to become
1.13 fixed or certain by final judgment against the insured.

1.14 Sec. 2. Minnesota Statutes 2006, section 302A.781, is amended by adding a
1.15 subdivision to read:

1.16 Subd. 5. Other claims preserved. In addition to the claims in subdivision 4, all
1.17 other statutory and common law rights of persons who may bring claims of injury to a
1.18 person, including death, are not affected by dissolution under this chapter.

1.19 Sec. 3. [540.19] NEGLIGENCE ACTIONS; INSURERS.

1.20 Subdivision 1. Direct action. In any action for damages caused by negligence,
1.21 any insurer which:

1.22 (1) has an interest in the outcome of the controversy adverse to the plaintiff or any
1.23 of the parties to the controversy;

2.1 (2) by its policy of insurance assumes or reserves the right to control the prosecution,
2.2 defense, or settlement of the claim or action; or

2.3 (3) by its policy agrees to prosecute or defend the action brought by plaintiff or any
2.4 of the parties to the action, or agrees to engage counsel to prosecute or defend the action
2.5 or agrees to pay the costs of the litigation,

2.6 is by this section made a proper party defendant in any action brought by plaintiff in this
2.7 state on account of any claim against the insured. If the policy of insurance was issued
2.8 or delivered outside this state, the insurer is by this subdivision made a proper party
2.9 defendant only if the accident, injury, or negligence occurred in this state.

2.10 Subd. 2. **Other parties; impleading.** If an insurer is made a party defendant
2.11 pursuant to this section and it appears at any time before or during the trial that there is or
2.12 may be a cross issue between the insurer and the insured or any issue between any other
2.13 person and the insurer involving the question of the insurer's liability if judgment should
2.14 be rendered against the insured, the court may, upon motion of any defendant in the action,
2.15 cause the person who may be liable upon such cross issue to be made a party defendant
2.16 to the action and all the issues involved in the controversy determined in the trial of the
2.17 action or any third party may be impleaded. Nothing in this subdivision prohibits the trial
2.18 court from directing and conducting separate trials on the issue of liability to the plaintiff
2.19 or other party seeking affirmative relief and on the issue of whether the insurance policy in
2.20 question affords coverage. Any party may move for separate trials. If the court orders
2.21 separate trials, the court shall specify in its order the sequence in which the trials are to
2.22 be conducted.

2.23 **Sec. 4. [604.18] GOOD FAITH INSURANCE PRACTICES.**

2.24 Subdivision 1. **Required conduct.** (a) An insurer shall act in good faith in
2.25 connection with any matter involving a claim under an insurance policy.

2.26 (b) An insurer does not act in good faith if the insurer delays or denies benefits
2.27 offered or paid without an objectively reasonable basis for its offer, delay, or denial. An
2.28 insurer also does not act in good faith if the insurer engages in any fraud, false pretense,
2.29 false promise, misrepresentation, misleading statement, or deceptive practice that others
2.30 rely on in connection with any matter involving a claim under an insurance policy.

2.31 (c) For purposes of this section:

2.32 (1) "insurance policy" means an insurance policy or contract issued, executed,
2.33 renewed, maintained, or delivered in this state, other than a workers' compensation
2.34 insurance policy or contract; and

3.1 (2) "insurer" means an insurance company: (i) incorporated or organized in this state;
3.2 or (ii) admitted to do business in this state but not incorporated or organized in this state.

3.3 Subd. 2. **Penalties and remedies.** A person violating subdivision 1 is acting against
3.4 the public interest and is liable to the injured party for costs, damages, and reasonable
3.5 attorney fees.

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

3.10 Subd. 4. **Report to commissioner.** An insurer shall promptly report to the
3.11 commissioner of commerce the date and disposition of every settlement and award against
3.12 the insurer for a violation of subdivision 1.

3.13 **Sec. 5. APPROPRIATION; REPORT.**

3.14 \$...... is appropriated from the general fund to the commissioner of commerce for
3.15 the purpose of allowing the commissioner to monitor compliance with the good faith
3.16 obligations of insurers imposed by section 4.

3.17 The commissioner shall prepare a compliance report and submit it to the house and
3.18 senate standing committees with jurisdiction over insurance matters on January 1 of
3.19 each year. The report must also include the information received by the commissioner
3.20 under section 604.18, subdivision 3.

3.21 **Sec. 6. EFFECTIVE DATE; APPLICATION.**

3.22 Section 1 is effective August 1, 2007, and applies to bonds or policies of insurance
3.23 issued, renewed, or in place on or after that date. Section 3 is effective August 1, 2007,
3.24 and applies to actions commenced on or after that date. Section 4 is effective August 1,
3.25 2007, and applies to causes of action commenced or pending on or after that date.