State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 930

02/25/2013 Authored by Nelson and Hoppe
The bill was read for the first time and referred to the Committee on Commerce and Consumer Protection Finance and Policy

A bill for an act

relating to commerce; regulating homeowner's insurance coverages and residential contracting claims; regulating claims practices; amending Minnesota Statutes 2012, sections 65A.27, subdivision 1; 72A.201, subdivision 4; 325E.66, subdivision 2, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 65A.

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

Section 1. Minnesota Statutes 2012, section 65A.27, subdivision 1, is amended to read:

Subdivision 1. **Scope.** For purposes of sections 65A.27 to ~~65A.302~~ 65A.304, the following terms have the meanings given.

Sec. 2. **[65A.303] ANNUAL SUMMARY STATEMENTS.**

Subdivision 1. **Summary statement of coverages and exclusions.** (a) An insurer shall provide a policyholder with an annual statement that summarizes the coverages and exclusions under the policy issued by the insurer.

(b) The insurer's statement shall be clear and specific.

(c) The insurer's statement shall state whether the coverages under the policy provide for replacement cost, actual cash value, or other method of loss payment for covered structures and contents.

(d) The insurer's statement shall include a disclosure that states:

(1) the policyholder should read the policy for complete information on coverages and exclusions;

(2) the policyholder should refer to the declarations page for a listing of coverages purchased;

(3) the policyholder should communicate with the insurance producer or the insurer for any additional information regarding the scope of coverages in the policy;

(4) the statement does not include additional optional coverage purchased by the policyholder, if any;

(5) the statement is not part of the policy or contract of insurance and does not create a private right of action;

(6) all rights, duties, and obligations are controlled by the policy and contract of insurance; and

(7) the standard homeowner's insurance policy does not cover losses from flood.

Subd. 2. **Status of statement.** The statement under subdivision 1:

(1) is not part of the policy or contract of insurance; and

(2) does not create a private right of action.

Subd. 3. **Rules.** The commissioner may adopt rules to implement the provisions of this section.

Sec. 3. **[65A.304] STATEMENT OF OPTIONAL COVERAGE AVAILABLE.**

Subdivision 1. **Generally.** (a) An insurer that sells or negotiates homeowner's insurance in the state shall provide an applicant, at the time of application for homeowner's insurance, with a written statement that lists all additional optional coverage available from the insurer to the applicant.

(b) If an application is made by telephone, the insurer is deemed to be in compliance with this section if, within seven calendar days after the date of application, the insurer sends by certificate of mailing the statement to the applicant or insured.

(c) If an application is made using the Internet, the insurer is deemed to be in compliance with this section if the insurer provides the statement to the applicant prior to submission of the application.

Subd. 2. **Contents.** The statement must:

(1) be on a separate form;

(2) be titled, in at least 12-point type, "Additional Optional Coverage Not Included in the Standard Homeowner's Insurance Policy";

(3) contain the following disclosure in at least ten-point type:

"Your standard homeowner's insurance policy does not cover all risks. You may need to obtain additional insurance to cover loss or damage to your home, property, and the contents of your home or to cover risks related to business or personal activities on your property.

This statement provides a list of the types of additional insurance coverage that are available. Contact your insurance company, insurance producer, or insurance agent to discuss these additional coverages."; and

(4) contain a list of additional optional coverage.

Subd. 3. **Effect of notice.** A statement provided under this section does not create a private right of action.

Sec. 4. Minnesota Statutes 2012, section 72A.201, subdivision 4, is amended to read:

Subd. 4. **Standards for claim filing and handling.** The following acts by an insurer, an adjuster, a self-insured, or a self-insurance administrator constitute unfair settlement practices:

(1) except for claims made under a health insurance policy, after receiving notification of claim from an insured or a claimant, failing to acknowledge receipt of the notification of the claim within ten business days, and failing to promptly provide all necessary claim forms and instructions to process the claim, unless the claim is settled within ten business days. The acknowledgment must include the telephone number of the company representative who can assist the insured or the claimant in providing information and assistance that is reasonable so that the insured or claimant can comply with the policy conditions and the insurer's reasonable requirements. If an acknowledgment is made by means other than writing, an appropriate notation of the acknowledgment must be made in the claim file of the insurer and dated. An appropriate notation must include at least the following information where the acknowledgment is by telephone or oral contact:

(i) the telephone number called, if any;

(ii) the name of the person making the telephone call or oral contact;

(iii) the name of the person who actually received the telephone call or oral contact;

(iv) the time of the telephone call or oral contact; and

(v) the date of the telephone call or oral contact;

(2) failing to reply, within ten business days of receipt, to all other communications about a claim from an insured or a claimant that reasonably indicate a response is requested or needed;

(3)(i) unless provided otherwise by clause (ii) or (iii), other law, or in the policy, failing to complete its investigation and inform the insured or claimant of acceptance or denial of a claim within 30 business days after receipt of notification of claim unless the investigation cannot be reasonably completed within that time. In the event that the investigation cannot reasonably be completed within that time, the insurer shall notify the insured or claimant within the time period of the reasons why the investigation is not

complete and the expected date the investigation will be complete. For claims made under a health policy the notification of claim must be in writing;

(ii) for claims submitted under a health policy, the insurer must comply with all of the requirements of section 62Q.75;

(iii) for claims submitted under a health policy that are accepted, the insurer must notify the insured or claimant no less than semiannually of the disposition of claims of the insured or claimant. Notwithstanding the requirements of section 72A.20, subdivision 37, this notification requirement is satisfied if the information related to the acceptance of the claim is made accessible to the insured or claimant on a secured Web site maintained by the insurer. For purposes of this clause, acceptance of a claim means that there is no additional financial liability for the insured or claimant, either because there is a flat co-payment amount specified in the health plan or because there is no co-payment, deductible, or coinsurance owed;

(4) where evidence of suspected fraud is present, the requirement to disclose their reasons for failure to complete the investigation within the time period set forth in clause (3) need not be specific. The insurer must make this evidence available to the Department of Commerce if requested;

(5) failing to notify an insured who has made a notification of claim of all available benefits or coverages which the insured may be eligible to receive under the terms of a policy and of the documentation which the insured must supply in order to ascertain eligibility;

(6) unless otherwise provided by law or in the policy, requiring an insured to give written notice of loss or proof of loss within a specified time, and thereafter seeking to relieve the insurer of its obligations if the time limit is not complied with, unless the failure to comply with the time limit prejudices the insurer's rights and then only if the insurer gave prior notice to the insured of the potential prejudice;

(7) advising an insured or a claimant not to obtain the services of an attorney or an adjuster, or representing that payment will be delayed if an attorney or an adjuster is retained by the insured or the claimant;

(8) failing to advise in writing an insured or claimant who has filed a notification of claim known to be unresolved, and who has not retained an attorney, of the expiration of a statute of limitations at least 60 days prior to that expiration. For the purposes of this clause, any claim on which the insurer has received no communication from the insured or claimant for a period of two years preceding the expiration of the applicable statute of limitations shall not be considered to be known to be unresolved and notice need not be sent pursuant to this clause;

(9) demanding information which would not affect the settlement of the claim;

(10) unless expressly permitted by law or the policy, refusing to settle a claim of an insured on the basis that the responsibility should be assumed by others;

(11) failing, within 60 business days after receipt of a properly executed proof of loss, to advise the insured of the acceptance or denial of the claim by the insurer. No insurer shall deny a claim on the grounds of a specific policy provision, condition, or exclusion unless reference to the provision, condition, or exclusion is included in the denial. The denial must be given to the insured in writing with a copy filed in the claim file;

(12) denying or reducing a claim on the basis of an application which was altered or falsified by the agent or insurer without the knowledge of the insured;

(13) failing to notify the insured of the existence of the additional living expense coverage when an insured under a homeowners policy sustains a loss by reason of a covered occurrence and the damage to the dwelling is such that it is not habitable;

(14) failing to inform an insured or a claimant that the insurer will pay for an estimate of repair if the insurer requested the estimate and the insured or claimant had previously submitted two estimates of repair.;

(15) refusing to discuss a claim with the contractor with whom the claimant has contracted to provide goods and services in connection with the loss.

Sec. 5. Minnesota Statutes 2012, section 325E.66, is amended by adding a subdivision to read:

Subd. 1a. **Payments to residential contractor.** (a) The insurer shall make payment by check or draft directly to the residential contractor providing the covered home repair or improvement services or, with the consent of the residential contractor, by an electronic funds transfer to the residential contractor, if the following conditions are met and if the insured has actual knowledge of them:

(1) the property owner of record has signed or transmitted to the insurer a written statement of all of the following:

(i) the work completed under the contract is satisfactory;

(ii) the insurer, upon direct payment to the residential contractor, is released from liability; and

(iii) the written statement was not signed by the owner until all work under the contract was completed;

(2) the property owner of record, the named insured, and any loss payee have consented in writing to the direct payment and release from liability; and

(3) the completed work has been approved by the appropriate public official as conforming to existing building, electrical, and construction codes.

(b) If the insurer has authorized the work and its liability is not in dispute, the direct payment provided for in paragraph (a) must be made to the residential contractor performing the work no later than 30 days after the insurer has actual knowledge that the conditions in paragraph (a) have been satisfied.

(c) For purposes of this subdivision, "loss payee" includes any mortgagee of the insured real property.

Sec. 6. Minnesota Statutes 2012, section 325E.66, subdivision 2, is amended to read:

Subd. 2. **Private remedy.** (a) If a residential contractor violates subdivision 1, the insured or the applicable insurer may bring an action against the residential contractor in a court of competent jurisdiction for damages sustained by the insured or insurer as a consequence of the residential contractor's violation.

(b) If an insurer violates subdivision 1a, the residential contractor may bring an action against the insurer in a court of competent jurisdiction for damages sustained as a result of the insurer's violation.