

SB165: Insurance Claims Cooperation

SB165 will enhance cooperation, reduce litigation, and eliminate the incentive to "set up" an insurance company for bad faith cause of action.

Duty to Cooperate

In current statute, there are no obligations for an insured claimant (the third party claimant) to cooperate with the insurance company as it adjusts the claim. SB165 would establish this affirmative duty to provide the insurance company with information necessary to investigate and evaluate an insurance claim. Insurance companies have statutory obligations to investigate claims timely and reasonably and to settle claims promptly where liability is reasonably clear. An insurance company's ability to fulfill its obligations is hindered by the failure or refusal of claimants to cooperate - this bill merely codifies a duty to cooperate by all parties.

Affirmative Defense

Since insurance companies have a statutory obligation to investigate claims timely and reasonably, they may be subject to a bad faith claim if they delay. However, if the insured or third-party claimant refuse to cooperate, the insurance company is unable to meet the statutory duty without essential important information. Some lawyers may encourage their client to be uncooperative in order to set up a bad faith claim and extract more money from the insurer. SB165 allows an insurance company to raise the claimant's lack of cooperation in the company's defense.



Remove duplicative Common Law bad faith tort claim

MCJA 25-16-242 currently provides a statutory remedy for a third-party claimant if an insurance company fails to settle claims promptly, fairly and equitably. SB 165 ends the duplicative court-created tort of common law bad faith for third-party claimants. No such claim exists for the insured party.