

HB 2858 STAFF MEASURE SUMMARY

House Committee On Business and Labor

Prepared By: Jan Nordlund, LPRO Analyst

Meeting Dates: 3/15, 3/20

WHAT THE MEASURE DOES:

Establishes process and timeline for Director of Department of Consumer and Business Services to follow after complaint received alleging violation of Insurance Code. Permits Director to enter negotiation to settle complaint on behalf of complainant. Permits Director to enter into remediation agreement to remedy violations. Specifies that complaint to be dismissed if complainant is made more than one year after alleged violation, or if complainant brings action in court, or if no substantial evidence found after one year investigation period. Prohibits respondent from engaging in conduct that deprives complainant of services or benefits they are entitled to under contract or policy after respondent is notified of complaint and before a final order, settlement or dismissal. Provides private right of action when person suffers ascertainable harm as result of violation of Insurance Code. Specifies statute of limitation is one year or 90 days after Director dismisses complaint. Provides right to jury trial, injunctive and other equitable relief damages or \$200, whichever is greater, and punitive damages. Allows court to award reasonable attorney fees and costs to prevailing plaintiff. Subjects the State Accident Insurance Fund Corporation to provisions of the measure. Gives authority to Director and Attorney General to assess civil penalties on insurer or other person for pattern or practice of denying or resisting rights provided by Insurance Code. Becomes operative on January 1, 2018. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- Agency authority to seek restitution under SB 414 (2013)
- Current process agency follows when complaint received
- Lack of timelines mean complaints not resolved for years yet statute of limitation clock is running
- Value of transparency
- Whether property and casualty insurance would/should be affected by bill
- Impact on premiums
- Rules of discovery provided in bill differ from what courts allow

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

The Director of the Department of Consumer and Business Services, in which the Insurance Division is housed, is given general authority to enforce the provisions of the Insurance Code and specific authority to investigate matters, conduct hearings, and issue orders. House Bill 2858 adds greater specificity to the enforcement provisions, setting timelines in which investigations, appeals, notice, and hearings are to take place. The measure adds a private right of action that does not currently exist in the Insurance Code.