

SENATE BILL 389

By Niceley

AN ACT to amend Tennessee Code Annotated, Title 56,
relative to insurance.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 56-8-104, is amended by adding the following new subdivision:

() **Unfair Insurance Provisions.**

(A) Including in an insurance policy a provision that would, ninety (90) days from the date a claim was filed with an insurer, prohibit any party from taking appropriate court action to obtain relief in regards to an unsettled claim, including but not limited to, including a provision that would require alternative dispute resolution prior to filing a court action; or

(B) Including in an insurance policy a provision that would require the insured to complete repairs prior to the settlement of a claim.

SECTION 2. Tennessee Code Annotated, Section 56-8-105(1), is amended by deleting the subdivision and substituting the following:

(1) Knowingly misrepresenting relevant facts or policy provisions relating to coverages at issue, or including provisions in a policy that favor the insurer against the insured;

SECTION 3. Tennessee Code Annotated, Section 56-8-105(2), is amended by deleting the subdivision and substituting the following:

(2) Failing to acknowledge, within fifteen (15) days from the date the communication was received, pertinent communications with respect to claims arising under its policies;

SECTION 4. Tennessee Code Annotated, Section 56-8-113, is amended by deleting the section and substituting the following:

(a) Except as otherwise provided in subsection (b), title 50 and this title shall provide the sole and exclusive statutory remedies and sanctions applicable to an insurer, person, or entity licensed, permitted, or authorized to do business under this title for alleged breach of, or for alleged unfair or deceptive acts or practices in connection with, a contract of insurance as defined in § 56-7-101(a). Nothing in this section shall eliminate or otherwise affect any:

(1) Remedy, cause of action, right to relief, or sanction available under common law;

(2) Right to declaratory, injunctive, or equitable relief, whether provided under title 29 or the Tennessee Rules of Civil Procedure; or

(3) Statutory remedy, cause of action, right to relief, or sanction referenced in title 50 or this title.

(b)

(1) Any insured alleging an unfair trade practice pursuant to § 56-8-105(1) or (2) by an insurer, person, or entity licensed, permitted, or authorized to do business under this title may bring a civil cause of action against the insurer, person, or entity for damages.

(2) If the court finds that the unfair trade practice was a willful or knowing violation of § 56-8-105(1) or (2), the court may award three (3) times the actual damages sustained and may provide other relief as it considers necessary and proper.

(3) Upon a finding by the court that § 56-8-105(1) or (2) has been violated, the court may award to the insured bringing the action reasonable attorney's fees and costs.

SECTION 5. This act shall take effect upon becoming a law, the public welfare requiring it.