

**Adopted  
AMENDMENT NO 1 PROPOSED TO**

**House Bill No. 1321**

**BY: Representatives Compretta, Simpson**

1           **AMEND** by striking Section 1 of the bill and inserting the  
2 following in lieu thereof:

3           **SECTION 1.** (1) An insurer must pay on a timely basis to its  
4 insured, an individual or entity directly entitled to benefits  
5 under its insured's contract of insurance, or a third party tort  
6 claimant, the benefits provided under the terms of its automobile,  
7 homeowners, and any type of flood, hurricane or windstorm  
8 insurance policies.

9           (2) Payment of a claim shall not be untimely during any  
10 period in which the insurer is unable to pay the claim when there  
11 is no recipient who is legally able to give a valid release for  
12 the payment, or where the insurer is unable to determine who is  
13 entitled to receive the payment, if the insurer has promptly  
14 notified the claimant of that inability and has offered in good  
15 faith to promptly pay the claim upon determination of who is  
16 entitled to receive the payment. Payment shall also not be  
17 untimely if the insured, individual or entity directly entitled to  
18 benefits under its insured's contract of insurance, or third party  
19 tort claimant, purposefully acts to cause the insurer to delay  
20 payment.

21           (3) If benefits are not paid on a timely basis and there is  
22 later an award against the insurer by a court of law, the benefits

23 paid to the insured, an individual or entity directly entitled to  
24 benefits under its insured's contract of insurance, or third party  
25 tort claimant, shall bear simple interest from the date of the  
26 judgment when the award was entered at the rate of twelve percent  
27 (12%) per annum. The interest shall be paid in addition to and at  
28 the time of payment of loss. If the loss exceeds the limits of  
29 insurance coverage available, interest shall be payable based upon  
30 the limits of the insurance coverage rather than the amount of the  
31 loss. If payment is offered by the insurer but is rejected by the  
32 claimant, and the claimant does not subsequently recover an amount  
33 in excess of the amount offered, interest is not due. Interest  
34 paid pursuant to this section shall not act to preclude an award  
35 against the insurer for any punitive damages, court costs,  
36 attorney fees, or any other general and special damages elsewhere  
37 allowed by law.

38 (4) For the purposes of this section:

39 (a) "Insurer" means any domestic or foreign insurance  
40 corporation or association engaged in the business of insurance or  
41 suretyship which has qualified to transact surety or casualty  
42 business in this state.

43 (b) "Timely basis" means payment of a claim within  
44 ninety (90) days after the insurer receives actual notice of a  
45 claim from the insured, individual or entity directly entitled to  
46 benefits under its insured's contract of insurance, or third party  
47 tort claimant.