

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 514

Introduced by Christensen, 44.

Read first time January 18, 2011

Committee: Banking, Commerce and Insurance

A BILL

1 FOR AN ACT relating to insurance; to amend section 44-359, Reissue
2 Revised Statutes of Nebraska; to provide for an
3 additional recovery and attorney's fees for an
4 unreasonable delay or denial of a claim as prescribed; to
5 provide severability; and to repeal the original section.
6 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 44-359, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 44-359 (1) In all cases when the beneficiary or other
4 person entitled thereto brings an action upon any type of insurance
5 policy, except workers' compensation insurance, or upon any
6 certificate issued by a fraternal benefit society, against any
7 company, person, or association doing business in this state, the
8 court, upon rendering judgment against such company, person, or
9 association, shall allow the plaintiff a reasonable sum as ~~an~~
10 ~~attorney's fee~~ attorney's fees in addition to the amount of his or
11 her recovery, to be taxed as part of the costs. If such cause is
12 appealed, the appellate court shall likewise allow a reasonable sum
13 as ~~an attorney's fee~~ attorney's fees for the appellate proceedings,
14 except that if the plaintiff fails to obtain judgment for more than
15 may have been offered by such company, person, or association in
16 accordance with section 25-901, then the plaintiff shall not recover
17 the attorney's ~~fee~~ fees provided by this section.

18 (2) If a plaintiff's recovery awarded under subsection
19 (1) of this section was unreasonably delayed or denied, the court may
20 allow an additional recovery amount of up to one times the recovery
21 and reasonable attorney's fees as liquidated damages. This subsection
22 applies only to property and casualty insurance.

23 Sec. 2. If any section in this act or any part of any
24 section is declared invalid or unconstitutional, the declaration
25 shall not affect the validity or constitutionality of the remaining

1 portions.

2 Sec. 3. Original section 44-359, Reissue Revised Statutes

3 of Nebraska, is repealed.