

TRANSCRIPT PREPARED BY THE CLERK OF THE LEGISLATURE
Transcriber's Office

February 18, 1999 LB 331

is to lift an insurer's authorization, sort of this "death penalty" approach. They can suspend or revoke the authority of a risk management pool to operate. It can revoke a self-insurance status. However, if those organizations are out of compliance repeatedly, there's nothing short of this "death penalty" situation. So this gives the court the power to again use the civil penalty in those cases. To me, the most important part of the bill is the application of an existing set of rules, the Unfair Insurance Claims Settlement Practices Act, which exists over the insurance section in Chapter 44 and which specifically exempt workers' compensation cases, to be made applicable to workers' compensation cases and workers' compensation insurance. If you've got a copy of the bill, you'll find that these...this recitation begins on, oh, the bottom of four and five and the top of six. A set of practices which in all other insurance companies writing all other kinds of insurance have to follow, but there's a specific exemption for workers' comp insurance and, therefore, workers' comp companies, risk management pools, or self-insureds do not have these same obligations. So the failure to acknowledge with reasonable promptness pertinent communications; not attempting in good faith to effectuate prompt, fair and equitable payment of benefits when liability has become reasonably clear; compelling an injured employee or beneficiary of a deceased employee to institute litigation to recover amounts due under the act by withholding or delaying payment; refusing to pay benefits without conducting a reasonable investigation, these are obligations that every other insurance company has and the Department of Insurance has been able to manage, if you will. They do it in their market conduct studies and violations are brought to the attention of the department and they can fine for violations and they can also life authorizations as well. There's a hole in the middle of our law with respect to workers' compensation claims, 'cause there is no set of unfair claims practices that applies to these kinds of cases and there should be. Let me say that there is some controversy in the bill. Let me tell you what that controversy is, and it's from several parts. Number one, this places responsibility for the Unfair Claims Practices Act with the court. Now, insurance companies don't object to the existence of an Unfair Claims Practices Act, like this, but they're not sure they want it to be in the court. They think that it probably ought to be in the Department of