

HOUSE CS FOR CS FOR SENATE BILL NO. 177(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered: 4/25/00

Referred: Today's Calendar

Sponsor(s): SENATOR DONLEY

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to insurance trade practices; and providing for an effective
2 date."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new
5 section to read:

6 SHORT TITLE. This Act may be known as the Alaska Insurance Consumers
7 Protection Act.

8 * **Sec. 2.** AS 21.36.010 is amended to read:

9 **Sec. 21.36.010. Purpose.** The purpose of this chapter is to regulate an act or
10 a trade practice [PRACTICES] in the business of insurance in accordance with the
11 intent of Congress as expressed in 15 U.S.C. 1011 - 1015 (McCarran-Ferguson Act)
12 [THE ACT OF CONGRESS OF MARCH 9, 1945 (P.L. 79-15; CH. 20, 59 STAT.
13 33),] by defining or providing for determination of all the practices in this state that
14 constitute an unfair method [METHODS] of competition or an unfair or deceptive act

1 or practice [ACTS OR PRACTICES] and by prohibiting them.

2 * **Sec. 3.** AS 21.36.020 is amended to read:

3 **Sec. 21.36.020. Unfair methods, deceptive acts prohibited.** A person may
4 not engage in an act or a trade practice in this state or relative to a subject resident,
5 located, or to be performed in this state that is defined in this chapter as, or determined
6 under this chapter to be, an unfair method of competition or an unfair or deceptive act
7 or practice in the business of insurance.

8 * **Sec. 4.** AS 21.36.070(b) is amended to read:

9 (b) A person providing the director with information concerning the financial
10 condition or an act or a practice [PRACTICES] of a licensee of the division is
11 immune from liability for defamation.

12 * **Sec. 5.** AS 21.36.125 is amended to read:

13 **Sec. 21.36.125. Unfair claim settlement practices.** A person may not commit
14 [OR ENGAGE IN WITH SUCH FREQUENCY AS TO INDICATE A PRACTICE]
15 any of the following acts or practices:

16 (1) misrepresent facts or policy provisions relating to coverage of an
17 insurance policy;

18 (2) fail to acknowledge and act promptly upon communications
19 regarding a claim arising under an insurance policy;

20 (3) fail to adopt and implement reasonable standards for prompt
21 investigation of claims;

22 (4) refuse to pay a claim without a reasonable investigation of all of
23 the available information and an explanation of the basis for denial of the claim or for
24 an offer of compromise settlement;

25 (5) fail to affirm or deny coverage of claims within a reasonable time
26 of the completion of proof-of-loss statements;

27 (6) fail to attempt in good faith to make prompt and equitable
28 settlement of claims in which liability is reasonably clear;

29 (7) engage in a pattern or practice of compelling [COMPEL]
30 insureds to litigate for recovery of amounts due under insurance policies by offering
31 substantially less than the amounts ultimately recovered in actions brought by those

insureds;

(8) compel an insured or third-party claimant in a case in which liability is clear to litigate for recovery of an amount due under an insurance policy by offering an amount that does not have an objectively reasonable basis in law and fact and that has not been documented in the insurer's file;

(9) attempt to make an unreasonably low settlement by reference to printed advertising matter accompanying or included in an application;

(10) [(9)] attempt to settle a claim on the basis of an application that has been altered without the consent of the insured;

(11) [(10)] make a claims payment without including a statement of the coverage under which the payment is made;

(12) [(11)] make known to an insured or third-party claimant [INSUREDS OR CLAIMANTS] a policy of appealing from an arbitration award [AWARDS] in favor of an insured or third-party claimant [INSUREDS OR CLAIMANTS] for the purpose of compelling the insured or third-party claimant [THEM] to accept a settlement or compromise [SETTLEMENTS OR COMPROMISES] less than the amount awarded in arbitration;

(13) [(12)] delay investigation or payment of claims by requiring submission of unnecessary or substantially repetitive claims reports and proof-of-loss forms;

(14) [(13)] fail to promptly settle claims under one portion of a policy for the purpose of influencing settlements under other portions of the policy;

(15) [(14)] fail to promptly provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement; or

(16) [(15)] offer a form of settlement or pay a judgment in any manner prohibited by AS 21.89.030.

* **Sec. 6.** AS 21.36.125 is amended by adding a new subsection to read:

(b) The provisions of this section do not create or imply a private cause of action for a violation of this section.

* **Sec. 7.** AS 21.36 is amended by adding a new section to read:

1 **Sec. 21.36.212. Prohibited denial of claim for causation.** An insurer may
2 not deny a claim if a risk, hazard, or contingency insured against is the dominant cause
3 of a loss and the denial occurs because an excluded risk, hazard, or contingency is also
4 in a chain of causes but operates on a secondary basis.

5 * **Sec. 8.** AS 21.36.320(g) is amended to read:

6 (g) In determining the penalty imposed under (d) and (e) of this section, the
7 director shall consider the amount of loss or harm caused by the violation and the
8 amount of benefit derived by the person by reason of the violation and may consider
9 other factors, including the seriousness of the violation, the promptness and
10 completeness of remedial action, whether the violation was a single act or a trade
11 practice, and deterrence of the violator or others.

12 * **Sec. 9.** AS 21.36.320 is amended by adding a new subsection to read:

13 (h) If the violation is a single act prohibited under AS 21.36.125 that results
14 in loss or harm, the director may require restitution or issue a cease and desist order
15 but may not impose a penalty that includes a fine or require other remedial action,
16 unless the violation results in loss or harm and is intentional. This subsection does not
17 affect the director's authority to impose a penalty for multiple acts prohibited under
18 AS 21.36.125 or a penalty for an act prohibited under a provision of law other than
19 AS 21.36.125.

20 * **Sec. 10.** This Act takes effect January 1, 2001.