

HOUSE CS FOR CS FOR SENATE BILL NO. 177(L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered: 4/14/00

Referred: Judiciary, Finance

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) compel

30 (A) an insured [INSUREDS] to litigate for recovery of an
31 amount [AMOUNTS] due under an insurance policy [POLICIES] by offering

1 substantially less than **an amount** [THE AMOUNTS] ultimately recovered in
 2 **an action** [ACTIONS] brought by **the insured; or**

3 **(B) a third-party claimant regarding a claim in which**
 4 **liability is not at issue to litigate for recovery of an amount due under an**
 5 **insurance policy by offering an amount that does not have a reasonable**
 6 **basis in law and fact** [THOSE INSUREDS];

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

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

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

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

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

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

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

26 (15) offer a form of settlement or pay a judgment in any manner
 27 prohibited by AS 21.89.030.

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

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

31 * **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 caused by the violation and the amount of
8 benefit derived by the person by reason of the violation and may consider other
9 factors, including the seriousness of the violation, **whether the violation was a single**
10 **act or a trade practice**, and deterrence of the violator or others.

11 * **Sec. 9.** This Act takes effect January 1, 2001.