

SENATE BILL NO. 177

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY SENATOR DONLEY

Introduced: 5/16/99

Referred: Labor and Commerce

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.** SHORT TITLE. This Act may be known as the Alaska Insurance Consumers
5 Protection Act.

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

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

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

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

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

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

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

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

14 (1) misrepresent facts or policy provisions relating to coverage of an
 15 insurance policy;

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

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

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

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

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

27 (7) compel **an insured or third-party claimant** [INSUREDS] to
 28 litigate for recovery of **an amount** [AMOUNTS] due under **an** insurance **policy**
 29 [POLICIES] by offering substantially less than **an amount** [THE AMOUNTS]
 30 ultimately recovered in **an action** [ACTIONS] brought by **the insured or third-party**
 31 **claimant** [THOSE INSUREDS];

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

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

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

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

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

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

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

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

22 * **Sec. 6.** AS 21.36 is amended by adding a new section to read:

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

27 * **Sec. 7.** This Act takes effect January 1, 2000.