

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

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered: 3/1/00  
Referred: Rules

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 **an insured or third-party claimant** [INSUREDS] to  
30 litigate for recovery of **an amount** [AMOUNTS] due under **an** insurance **policy**  
31 [POLICIES] by offering substantially less than **an amount** [THE AMOUNTS]

1 ultimately recovered in **an action** [ACTIONS] brought by **the insured or third-party**  
 2 **claimant** [THOSE INSUREDS];

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

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

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

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

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

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

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

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

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

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

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

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

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

2 (g) In determining the penalty imposed under (d) and (e) of this section, the  
3 director shall consider the amount of loss caused by the violation and the amount of  
4 benefit derived by the person by reason of the violation and may consider other  
5 factors, including the seriousness of the violation, **whether the violation was a single**  
6 **act or a trade practice,** and deterrence of the violator or others.

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