

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

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 4/19/00
Referred: 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) **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

1 insureds;

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

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

8 (10) [(9)] attempt to settle a claim on the basis of an application that
 9 has been altered without the consent of the insured;

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

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

18 (13) [(12)] delay investigation or payment of claims by requiring
 19 submission of unnecessary or substantially repetitive claims reports and proof-of-loss
 20 forms;

21 (14) [(13)] fail to promptly settle claims under one portion of a policy
 22 for the purpose of influencing settlements under other portions of the policy;

23 (15) [(14)] fail to promptly provide a reasonable explanation of the
 24 basis in the insurance policy in relation to the facts or applicable law for denial of a
 25 claim or for the offer of a compromise settlement; or

26 (16) [(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 **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 of this chapter is a single act, the director may not impose
14 a penalty unless the violation results in loss or harm or is intentional.

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