



# LAWS OF ALASKA

1976

Source

CSHB 558

Chapter No.

163

## AN ACT

Relating to the regulation of insurance practices.

### BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

\* Section 1. AS 21.36.010 is amended to read:

Sec. 21.36.010. PURPOSE. The purpose of this chapter is to regulate trade practices in the business of insurance in accordance with the intent of Congress as expressed in the Act of Congress of March 9, 1945 (Public Law 15, 79th Congress (ch. 20, 59 U.S. Stat. at Large 33)), by defining or providing for determination of all the practices in this state which constitute unfair methods of competition or unfair or deceptive acts or practices and by prohibiting them.

\* Sec. 2. AS 21.36.030 is repealed and re-enacted to read:

Sec. 21.36.030. MISREPRESENTATION AND FALSE ADVERTISING OF INSURANCE POLICIES. (a) No person may make, issue, circulate, broadcast, or have made, issued, circulated, or broadcast an estimate, circular, statement, illustration, comparison, or other written or oral presentation which

(1) misrepresents the benefits, advantages, conditions, sponsorship, source or terms of an insurance policy;

(2) misrepresents the dividends or share of the surplus to be received on an insurance policy;

(3) misrepresents an insurance policy as being a share or shares of stock;

(4) makes a false or misleading statement as to

the dividends or shares of the surplus previously paid on an insurance policy;

(5) misrepresents or makes a misleading statement as to the financial condition of an insurer or as to the legal reserve system upon which a life insurer operates;

(6) uses a name or title of an insurance policy or class of insurance policies misrepresenting its true nature;

(7) is a misrepresentation for the purpose of inducing, or which tends to induce the lapse, forfeiture, exchange, conversion or surrender of an insurance policy;

(8) is a misrepresentation for the purpose of effecting or tending to effect a pledge or assignment of or loan against an insurance policy;

(9) appears to be an actual policy for a named individual when it is merely an advertisement;

(10) does not clearly designate the name of the insurer providing the coverage or about which the statements are made; or

(11) is in any other way misleading, false, or deceptive.

(b) For purposes of this section, "misrepresentation" includes any statement or omission of a statement which when taken in the context of the whole presentation may tend to mislead or deceive the person or persons addressed.

\* Sec. 3. AS 21.36.060 is amended to read:

Sec. 21.36.060. FALSE FINANCIAL STATEMENTS. (a) No person may knowingly file with a public official, or knowingly make, publish, disseminate, circulate or deliver to a person, or place before the public, or knowingly cause, directly or indirectly, to be made, published, disseminated, circulated, delivered to a person, or placed before the public, a false statement of the financial condition of a person in the insurance business.

(b) No person may make a false entry in a book, report or statement of a person in the insurance business, knowing it to be a false entry, or knowingly omit to make a true entry of a material fact pertaining to the business of a person in the insurance business in a book, report or statement.

\* Sec. 4. AS 21.36.070 is amended to read:

Sec. 21.36.070. DEFAMATION. (a) No person may make, publish, disseminate, or circulate, directly or indirectly, or aid, abet or encourage the making, publishing, disseminating or circulating of an oral or written statement or a pamphlet, circular, article or literature which is false, or maliciously critical of or derogatory to the financial condition of a person in the insurance business or proposing to enter the insurance business and which is calculated to

injure a person engaged or proposing to engage in the business of insurance.

(b) Persons providing the director with information concerning the financial condition or practices of a licensee of the division are immune from liability for defamation.

\* Sec. 5. AS 21.36.090 is amended by adding a new subsection to read:

(c) No person may make or permit arbitrary or unfair discrimination between insureds or property having like insuring or risk characteristics, in the premium or rates charged for a policy or contract of property, casualty, surety, marine, wet marine or transportation insurance, or in the dividends or other benefits payable on the insurance, or in the selection of it, or in any other of the terms and conditions of the insurance.

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

Sec. 21.36.125. UNFAIR CLAIM SETTLEMENT PRACTICES. No person may commit or engage in with such frequency as to indicate a practice any of the following acts or practices:

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

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

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

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

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

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

(7) compel insureds to litigate for recovery of amounts due under insurance policies by offering substantially less than the amounts ultimately recovered in actions brought by those insureds;

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

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

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

(11) make known to insureds or claimants a policy of appealing from arbitration awards in favor of insureds or claimants for the purpose of compelling them to accept settlements or compromises less than the amount awarded in arbitration;

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

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

(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

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

\* Sec. 7. AS 21.36.130 is amended to read:

Sec. 21.36.130. STOCK OPERATIONS AND ADVISORY BOARD CONTRACTS. No person may issue or deliver or permit its agents, officers, or employees to issue or deliver, agency company stock or other capital stock, or benefit certificates or shares in a common-law corporation, or securities, or an advisory board contract or other similar contract of any kind promising returns and profits as an inducement to insurance.

\* Sec. 8. AS 21.36 is amended by adding new sections to read:

Sec. 21.36.165. FAVORED AGENT OR INSURER; COERCION OF DEBTORS. No person may

(1) require, as a condition to the lending of money or extension of credit, or a renewal of the loan or extension of credit, that the obligee of the money or credit negotiate a policy or contract of insurance through any particular person or group of persons;

(2) disapprove the insurance policy provided by a borrower for the protection of property securing credit or a lien if disapproval is based on other than reasonable standards uniformly applied and relating to the extent of coverage required and the financial soundness and the services of the insurer; nor may the standards discriminate against a particular type of insurer, or call for the disapproval of a policy containing coverage in addition to that required;

(3) require a borrower, mortgagor, purchaser, insurer, broker or agent to pay a separate charge for handling an insurance policy required as security for a loan on real property, or to pay a separate charge to substitute the insurance policy of one insurer for that of another,

except that interest may be charged on premium loans of premium advancements in accordance with the security instrument;

(4) use or disclose information resulting from a requirement that a borrower, mortgagor or purchaser furnish insurance of any kind on real property being conveyed or used as collateral security to a loan, when the information is to the advantage of the mortgagee, vendor, or lender, or is to the detriment of the borrower, mortgagor, purchaser, insurer, agent, or broker complying with the requirement.

Sec. 21.36.320. HEARINGS AND ORDER ON VIOLATION. (a) On the complaint of a person or on his own motion, the director may conduct an investigation to determine whether a person in this state is engaged in an unfair method of competition or unfair or deceptive act or practice prohibited by this chapter.

(b) If there are grounds for believing that a person is engaged in an act or practice prohibited by this chapter, the director may institute proceedings under AS 21.06.170 - 21.06.240.

(c) On a finding of a violation of this chapter, the director shall serve upon the person charged an order requiring that person to stop the acts or practices.

(d) In addition to an order issued under (c) of this section, the director may also order a penalty of not more than \$1,000 for each act or \$10,000 for engaging in a general business practice in violation of this chapter.

(e) If the person charged knew or should have known he was in violation of this chapter, a penalty in addition to that prescribed in (d) of this section of not more than \$1,000 for each act or \$25,000 for engaging in the general business practice in violation of this chapter, or suspension or revocation of the person's license, or both, may also be ordered by the director.

(f) If the director believes that a person has violated a stop order issued under (c) of this section, he may certify the relevant facts to the superior court in the appropriate district, for proceedings under AS 44.62.590. In addition to the penalties and remedies provided for in AS 44.62.590, the superior court, upon finding that the stop order has been violated, may order the violator to pay a penalty of not more than \$10,000 for each violation, and may revoke or suspend the violator's license, or both.

Sec. 21.36.330. INJUNCTIVE RELIEF. The director may seek injunctive relief to aid in the enforcement of the provisions of this chapter.

Sec. 21.36.340. PROVISIONS OF CHAPTER ADDITIONAL TO OTHER LAW. The powers vested in the director by this chapter are in addition to any other powers to enforce penalties, fines or other forfeitures authorized by law with respect to acts and practices declared in this chapter to be unfair or deceptive.

Sec. 21.36.350. ENFORCEMENT. The director of insurance shall promulgate regulations to implement, define and enforce sec. 125 of this chapter.

\* Sec. 9. AS 21.90.050 is amended to read:

Sec. 21.90.050. "PERSON" DEFINED. In this title, "person" includes an individual, insurer, company, association, organization, Lloyds, society, fraternal benefit society, medical service or hospital service plan as defined in ch. 87 of this title, reciprocal or interinsurance exchange, partnership, syndicate, business trust, corporation, and any other legal entity engaged in the business of transacting insurance, including agents, brokers, and claims adjusters.

\* Sec. 10. AS 21.90 is amended by adding a new section to read:

Sec. 21.90.110. OTHER DEFINITIONS. In this title

(1) "policy" means the written contract of or written agreement for or effecting insurance, by whatever name called, and includes all clauses, riders, endorsements and papers attached to it and a part of it;

(2) "premium" is the consideration for insurance, by whatever name called, and by whatever method paid or collected, including an assessment, or membership, policy, survey, inspection, service or similar fee or charge made in consideration for an insurance contract.

\* Sec. 11. AS 21.36.140 and AS 21.42.360 are repealed.