



# LAWS OF ALASKA

2000

**Source**

HCS CSSB 177(FIN)

**Chapter No.**

97

**AN ACT**

Relating to insurance trade practices; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1

Approved by the Governor: June 1, 2000

Actual Effective Date: January 1, 2001

AN ACT

1 Relating to insurance trade practices; and providing for an effective date.

2

3 \* **Section 1.** The uncodified law of the State of Alaska is amended by adding a new  
4 section to read:

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

7 \* **Sec. 2.** AS 21.36.010 is amended to read:

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

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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 is a single act prohibited under AS 21.36.125 that results  
14 in loss or harm, the director may require restitution or issue a cease and desist order  
15 but may not impose a penalty that includes a fine or require other remedial action,  
16 unless the violation results in loss or harm and is intentional. This subsection does not  
17 affect the director's authority to impose a penalty for multiple acts prohibited under  
18 AS 21.36.125 or a penalty for an act prohibited under a provision of law other than  
19 AS 21.36.125.

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