

**§2164-D. Unfair claims practices**

**1. Definition.** As used in this section, "insurer" means any person, reciprocal exchange, Lloyd's insurer, fraternal benefit society and any other legal entity engaged in the business of insurance, including, but not limited to, producers, adjusters and 3rd-party administrators. "Insurer" also means nonprofit hospital or medical service organizations, as described in Title 24, section 2301.

- A. [PL 1997, c. 634, Pt. A, §1 (RP).]
  - B. [PL 1997, c. 634, Pt. A, §1 (RP).]
  - C. [PL 1997, c. 634, Pt. A, §1 (RP).]
  - D. [PL 1997, c. 634, Pt. A, §1 (RP).]
  - E. [PL 1997, c. 634, Pt. A, §1 (RP).]
- [PL 1997, c. 634, Pt. A, §1 (RPR).]

**2. Prohibited activities.** It is an unfair claims practice for any domestic, foreign or alien insurer transacting business in this State to commit any act under subsection 3 if:

- A. It is committed in conscious disregard of this section and any rules adopted under this section; or [PL 1997, c. 634, Pt. A, §1 (NEW).]
  - B. It has been committed with such frequency as to indicate a general business practice to engage in that type of conduct. [PL 1997, c. 634, Pt. A, §1 (NEW).]
- [PL 1997, c. 634, Pt. A, §1 (RPR).]

**3. Unfair practices.** Any of the following acts by an insurer, if committed in violation of subsection 2, constitutes an unfair claims practice:

- A. Knowingly misrepresenting to claimants and insureds relevant facts or policy provisions related to coverages at issue; [PL 1997, c. 634, Pt. A, §1 (NEW).]
- B. Failing to acknowledge with reasonable promptness pertinent written communications with respect to claims arising under its policies; [PL 1997, c. 634, Pt. A, §1 (NEW).]
- C. Failing to adopt and implement reasonable standards for the prompt investigation and settlement of claims arising under its policies; [PL 1997, c. 634, Pt. A, §1 (NEW).]
- D. Failing to develop and maintain documented claim files supporting decisions made regarding liability; [PL 1997, c. 634, Pt. A, §1 (NEW).]
- E. Refusing to pay claims without conducting a reasonable investigation; [PL 1997, c. 634, Pt. A, §1 (NEW).]
- F. Failing to affirm coverage or deny coverage, reserving any appropriate defenses, within a reasonable time after having completed its investigation related to a claim; [PL 1997, c. 634, Pt. A, §1 (NEW).]
- G. Attempting to settle or settling claims on the basis of an application that was materially altered without notice to, or knowledge or consent of, the insured; [PL 1997, c. 634, Pt. A, §1 (NEW).]
- H. Making claim payments to an insured or beneficiary without indicating the coverage under which each payment is being made; [PL 1997, c. 634, Pt. A, §1 (NEW).]
- I. Unreasonably delaying the investigation or payment of claims by requiring both a formal proof of loss and subsequent verification when subsequent verification would result in duplication of information appearing in the formal proof of loss; [PL 1997, c. 634, Pt. A, §1 (NEW).]

J. Failing, in the case of claims denials or offers of compromise settlement, to promptly provide an accurate written explanation of the basis for those actions; [PL 1997, c. 634, Pt. A, §1 (NEW).]

K. Failing to provide forms, accompanied by reasonable explanations for their use, necessary to present claims within 15 calendar days of such a request. This paragraph does not apply when there is an extraordinary loss or series of losses resulting from a catastrophe as determined by the superintendent; or [PL 1997, c. 634, Pt. A, §1 (NEW).]

L. Failing to adopt and implement reasonable standards to ensure that the repairs of a repairer owned by or required to be used by the insurer are performed in a professional manner. [PL 1997, c. 634, Pt. A, §1 (NEW).]

[PL 1997, c. 634, Pt. A, §1 (NEW).]

**4. Compelling insureds to institute suits.** It is an unfair claims practice for any domestic, foreign or alien insurer transacting business in this State to compel insureds to institute suits to recover amounts due under its policies by offering substantially less than the amounts ultimately recovered in suits brought by them with such frequency as to indicate a general business practice; except that this provision does not apply when the insurer has a reasonable basis to contest liability or dispute the amount of any damages or the extent of any injuries claimed.

[PL 1997, c. 634, Pt. A, §1 (NEW).]

**5. Resolution of claims.** It is an unfair claims practice for any domestic, foreign or alien insurer transacting business in this State to fail to deal with insureds in good faith to resolve claims made against policies of insureds without just cause and with such frequency as to indicate a general business practice.

[PL 1997, c. 634, Pt. A, §1 (NEW).]

**6. Chapter 56-A.** The superintendent shall ensure that the provisions of chapter 56-A and any rules adopted pursuant to that chapter are enforced consistent with this section.

[PL 1997, c. 634, Pt. A, §1 (NEW).]

**7. Rules.** The superintendent may adopt rules necessary to carry out the provisions of this section. Rules adopted pursuant to this section are major substantive rules as defined in Title 5, chapter 375, subchapter II-A.

[PL 1997, c. 634, Pt. A, §1 (NEW).]

**8. Private action.** This section may not be construed as abridging an insurer's duty to its insured or altering policy provisions. This section may not be construed to create or imply a private cause of action for violation of this section.

[PL 1997, c. 634, Pt. A, §1 (NEW).]

**9. Applicability.** This section does not apply to claims involving workers' compensation, medical malpractice, fidelity, suretyship or boiler and machinery insurance.

[PL 1997, c. 634, Pt. A, §1 (NEW).]

## SECTION HISTORY

PL 1987, c. 291, §1 (NEW). PL 1997, c. 634, §A1 (RPR).

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