

**MOTOR VEHICLE INSURANCE - SETTLEMENT OF
CLAIMS**

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Gene Davis

House Sponsor: Brian S. King

LONG TITLE

General Description:

This bill modifies the Insurance Code by amending provisions relating to unfair claim settlement practices on certain motor vehicle insurance policies.

Highlighted Provisions:

This bill:

- ▶ provides that a person injured by an unfair claim settlement practice may bring a private cause of action against an insurer or a person representing an insurer who engages in an unfair claim settlement practice if the unfair claim settlement practice was made in relation to certain motor vehicle insurance policies;

- ▶ provides that a court may award a person injured by an unfair claim settlement practice actual damages, costs, and attorney fees, and, if the court determines that the circumstances are appropriate, punitive damages; and

- ▶ makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:



28 [31A-26-303](#), as last amended by Laws of Utah 1987, Chapter 91

29 ENACTS:

30 [31A-22-322](#), Utah Code Annotated 1953



32 *Be it enacted by the Legislature of the state of Utah:*

33 Section 1. Section [31A-22-322](#) is enacted to read:

34 **[31A-22-322](#). Private action for a motor vehicle insurance unfair claim settlement**
35 **practice.**

36 (1) A person injured by an unfair claim settlement practice, as described in Section
37 [31A-26-303](#), may bring a private cause of action against an insurer or a person representing an
38 insurer who engages in the unfair claim settlement practice if the unfair claim settlement
39 practice was made in relation to an insurance policy or combination of insurance policies
40 purchased to satisfy the owner's or operator's security requirement of Section [41-12a-301](#).

41 (2) In an action under Subsection (1), a court may award a person injured by an unfair
42 claim settlement practice:

- 43 (a) actual damages;
- 44 (b) costs and attorney fees; and
- 45 (c) if the court determines that circumstances are appropriate, punitive damages.

46 Section 2. Section [31A-26-303](#) is amended to read:

47 **[31A-26-303](#). Unfair claim settlement practices.**

48 (1) No insurer or person representing an insurer may engage in any unfair claim
49 settlement practice under Subsections (2), (3), and (4).

50 (2) Each of the following acts is an unfair claim settlement practice:

51 (a) knowingly misrepresenting material facts or the contents of insurance policy
52 provisions at issue in connection with a claim under an insurance contract; however, this
53 provision does not include the failure to disclose information;

54 (b) attempting to use a policy application which was altered by the insurer without
55 notice to, or knowledge, or consent of, the insured as the basis for settling or refusing to settle a
56 claim; or

57 (c) failing to settle a claim promptly under one portion of the insurance policy
58 coverage, where liability and the amount of loss are reasonably clear, in order to influence

59 settlements under other portions of the insurance policy coverage, but this Subsection (2)(c)
60 applies only to claims made by persons in direct privity of contract with the insurer.

61 (3) Each of the following is an unfair claim settlement practice if committed or
62 performed with such frequency as to indicate a general business practice by an insurer or
63 persons representing an insurer:

64 (a) failing to acknowledge and act promptly upon communications about claims under
65 insurance policies;

66 (b) failing to adopt and implement reasonable standards for the prompt investigation
67 and processing of claims under insurance policies;

68 (c) compelling insureds to institute litigation to recover amounts due under an
69 insurance policy by offering substantially less than the amounts ultimately recovered in actions
70 brought by those insureds when the amounts claimed were reasonably near to the amounts
71 recovered;

72 (d) failing, after payment of a claim, to inform insureds or beneficiaries, upon request
73 by them, of the coverage under which payment was made;

74 (e) failing to promptly provide to the insured a reasonable explanation of the basis for
75 denial of a claim or for the offer of a compromise settlement;

76 (f) appealing from substantially all arbitration awards in favor of insureds for the
77 purpose of compelling them to accept settlements or compromises for less than the amount
78 awarded in arbitration;

79 (g) delaying the investigation or payment of claims by requiring an insured, claimant,
80 or the physician of either to submit a preliminary claim report and then requiring the
81 subsequent submission of formal proof of loss forms which contain substantially the same
82 information; or

83 (h) not attempting in good faith to effectuate a prompt, fair, and equitable settlement of
84 claims in which liability is reasonably clear.

85 (4) The commissioner may define by rule, acts or general business practices which are
86 unfair claim settlement practices, after a finding that those practices are misleading, deceptive,
87 unfairly discriminatory, overreaching, or an unreasonable restraint on competition.

88 (5) [~~This~~] Except as provided in Section 31A-22-322, this section does not create any
89 private cause of action.

Legislative Review Note
as of 2-13-14 2:26 PM

Office of Legislative Research and General Counsel