

**INSURANCE ADJUSTER CLAIM AMENDMENTS**

2023 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Todd D. Weiler**

House Sponsor: \_\_\_\_\_

**LONG TITLE**

**General Description:**

This bill modifies provisions related to insurance adjuster claim practices.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ adds to the type of actions that are considered an unfair claim settlement practice by an insurance adjuster; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**31A-26-102**, as last amended by Laws of Utah 2021, Chapter 252

**31A-26-303**, as last amended by Laws of Utah 1987, Chapter 91

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

Section 1. Section **31A-26-102** is amended to read:

**31A-26-102. Definitions.**



28 As used in this chapter, unless expressly provided otherwise:

29 (1) "Company adjuster" means a person employed by an insurer who negotiates or  
30 settles claims on behalf of the insurer or an affiliated insurer.

31 (2) "Designated home state" means the state or territory of the United States or the  
32 District of Columbia:

33 (a) in which an insurance adjuster does not maintain the adjuster's principal:

34 (i) place of residence; or

35 (ii) place of business;

36 (b) if the resident state, territory, or District of Columbia of the adjuster does not  
37 license adjusters for the line of authority sought, the adjuster has qualified for the license as if  
38 the person were a resident in the state, territory, or District of Columbia described in

39 Subsection (2)(a), including an applicable:

40 (i) examination requirement;

41 (ii) fingerprint background check requirement; and

42 (iii) continuing education requirement; and

43 (c) that the adjuster has designated as the insurance adjuster's designated home state.

44 (3) "Home state" means:

45 (a) a state or territory of the United States or the District of Columbia in which an  
46 insurance adjuster:

47 (i) maintains the adjuster's principal:

48 (A) place of residence; or

49 (B) place of business; and

50 (ii) is licensed to act as a resident adjuster; or

51 (b) if the resident state, territory, or the District of Columbia described in Subsection  
52 (3)(a) does not license adjusters for the line of authority sought, a state, territory, or the District  
53 of Columbia:

54 (i) in which the adjuster is licensed;

55 (ii) in which the adjuster is in good standing; and

56 (iii) that the adjuster has designated as the adjuster's designated home state.

57 (4) "Independent adjuster" means an insurance adjuster required to be licensed under  
58 Section [31A-26-201](#), who engages in insurance adjusting as a representative of one or more

59 insurers.

60 (5) "Insurance adjusting" or "adjusting" means directing or conducting the  
61 investigation, negotiation, or settlement of a claim under an insurance policy, on behalf of an  
62 insurer, policyholder, or a claimant under an insurance policy.

63 (6) (a) "Organization" means a person other than a natural person.

64 (b) "Organization" includes a sole proprietorship by which a natural person does  
65 business under an assumed name.

66 (7) "Portable electronics insurance" means the same as that term is defined in Section  
67 [31A-22-1802](#).

68 (8) "Public adjuster" means a person required to be licensed under Section  
69 [31A-26-201](#), who engages in insurance adjusting as a representative of insureds and claimants  
70 under insurance policies.

71 (9) (a) "Subrogation" means the assumption of the right to pursue an obligation owed  
72 by a debtor to the original creditor.

73 (b) "Subrogation" does not include:

74 (i) a claim under a contract to repay benefits from compensation received from a  
75 responsible third party; or

76 (ii) a lien created under applicable statute or a contract.

77 Section 2. Section **31A-26-303** is amended to read:

78 **31A-26-303. Unfair claim settlement practices.**

79 (1) ~~[No]~~ An insurer or person representing an insurer may not engage in any unfair  
80 claim settlement practice under ~~[Subsections (2), (3), and (4)]~~ Subsection (2), (3), or (4).

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

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

85 (b) attempting to use a policy application which was altered by the insurer without  
86 notice to, or knowledge, or consent of, the insured as the basis for settling or refusing to settle a  
87 claim; ~~[or]~~

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

90 settlements under other portions of the insurance policy coverage, but this Subsection (2)(c)  
91 applies only to claims made by persons in direct privity of contract with the insurer[-];

92 (d) separately paying a portion of settlement funds other than by subrogation to a  
93 lienholder or a party claiming entitlement to reimbursement;

94 (e) insisting on including a lienholder or party claiming entitlement to reimbursement  
95 other than by subrogation as a payee on instruments used to pay settlement funds; or

96 (f) refusing to promptly issue settlement funds without naming a lienholder or party  
97 claiming entitlement to reimbursement other than by subrogation if the person receiving the  
98 settlement;

99 (i) accepts liability for the satisfaction of liens or claims of entitlement to  
100 reimbursement; and

101 (ii) agrees to hold the insurer and insured harmless from the liens and claims.

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

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

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

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

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

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

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

120 (g) delaying the investigation or payment of claims by requiring an insured, claimant,

121 or the physician of either to submit a preliminary claim report and then requiring the  
122 subsequent submission of formal proof of loss forms which contain substantially the same  
123 information; or

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

126 (4) The commissioner may define by rule[;] made in accordance with Title 63G,  
127 Chapter 3, Utah Administrative Rulemaking Act, acts or general business practices which are  
128 unfair claim settlement practices, after a finding that those practices are misleading, deceptive,  
129 unfairly discriminatory, overreaching, or an unreasonable restraint on competition.

130 (5) This section does not create any private cause of action.