
HOUSE BILL 2060

State of Washington 63rd Legislature 2013 1st Special Session

By Representatives Kirby, Pedersen, Sawyer, and Goodman

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1 AN ACT Relating to third party claims under the fair conduct act;
2 and amending RCW 48.30.010 and 48.30.015.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 48.30.010 and 2007 c 498 s 2 are each amended to read
5 as follows:

6 (1) No person engaged in the business of insurance shall engage in
7 unfair methods of competition or in unfair or deceptive acts or
8 practices in the conduct of such business as such methods, acts, or
9 practices are defined pursuant to subsection (2) of this section.

10 (2) In addition to such unfair methods and unfair or deceptive acts
11 or practices as are expressly defined and prohibited by this code, the
12 commissioner may from time to time by regulation promulgated pursuant
13 to chapter 34.05 RCW, define other methods of competition and other
14 acts and practices in the conduct of such business reasonably found by
15 the commissioner to be unfair or deceptive after a review of all
16 comments received during the notice and comment rule-making period.

17 (3)(a) In defining other methods of competition and other acts and
18 practices in the conduct of such business to be unfair or deceptive,
19 and after reviewing all comments and documents received during the

1 notice and comment rule-making period, the commissioner shall identify
2 his or her reasons for defining the method of competition or other act
3 or practice in the conduct of insurance to be unfair or deceptive and
4 shall include a statement outlining these reasons as part of the
5 adopted rule.

6 (b) The commissioner shall include a detailed description of facts
7 upon which he or she relied and of facts upon which he or she failed to
8 rely, in defining the method of competition or other act or practice in
9 the conduct of insurance to be unfair or deceptive, in the concise
10 explanatory statement prepared under RCW 34.05.325(6).

11 (c) Upon appeal the superior court shall review the findings of
12 fact upon which the regulation is based de novo on the record.

13 (4) No such regulation shall be made effective prior to the
14 expiration of thirty days after the date of the order by which it is
15 promulgated.

16 (5) If the commissioner has cause to believe that any person is
17 violating any such regulation, the commissioner may order such person
18 to cease and desist therefrom. The commissioner shall deliver such
19 order to such person direct or mail it to the person by registered mail
20 with return receipt requested. If the person violates the order after
21 expiration of ten days after the cease and desist order has been
22 received by him or her, he or she may be fined by the commissioner a
23 sum not to exceed two hundred and fifty dollars for each violation
24 committed thereafter.

25 (6) If any such regulation is violated, the commissioner may take
26 such other or additional action as is permitted under the insurance
27 code for violation of a regulation.

28 (7) An insurer engaged in the business of insurance may not
29 unreasonably deny a claim for coverage or payment of benefits to any
30 first party claimant or third party claimant.

31 (a) "First party claimant" has the same meaning as in RCW
32 48.30.015.

33 (b) "Third party claimant" has the same meaning as in RCW
34 48.30.015.

35 **Sec. 2.** RCW 48.30.015 and 2007 c 498 s 3 are each amended to read
36 as follows:

37 (1) Any first party claimant or third party claimant to a policy of

1 insurance who is unreasonably denied a claim for coverage or payment of
2 benefits by an insurer may bring an action in the superior court of
3 this state to recover the actual damages sustained, together with the
4 costs of the action, including reasonable attorneys' fees and
5 litigation costs, as set forth in subsection (3) of this section.

6 (2) The superior court may, after finding that an insurer has acted
7 unreasonably in denying a claim for coverage or payment of benefits or
8 has violated a rule in subsection (5) of this section, increase the
9 total award of damages to an amount not to exceed three times the
10 actual damages.

11 (3) The superior court shall, after a finding of unreasonable
12 denial of a claim for coverage or payment of benefits, or after a
13 finding of a violation of a rule in subsection (5) of this section,
14 award reasonable attorneys' fees and actual and statutory litigation
15 costs, including expert witness fees, to the first party claimant or
16 third party claimant of an insurance contract who is the prevailing
17 party in such an action.

18 (4)(a) "First party claimant" means an individual, corporation,
19 association, partnership, or other legal entity asserting a right to
20 payment as a covered person under an insurance policy or insurance
21 contract arising out of the occurrence of the contingency or loss
22 covered by such a policy or contract.

23 (b) "Third party claimant" means any individual, corporation,
24 association, partnership, or other legal entity asserting a claim
25 against any individual, corporation, association, partnership, or other
26 legal entity insured under an insurance policy or insurance contract of
27 the insurer.

28 (5) A violation of any of the following is a violation for the
29 purposes of subsections (2) and (3) of this section:

30 (a) WAC 284-30-330, captioned "specific unfair claims settlement
31 practices defined";

32 (b) WAC 284-30-350, captioned "misrepresentation of policy
33 provisions";

34 (c) WAC 284-30-360, captioned "failure to acknowledge pertinent
35 communications";

36 (d) WAC 284-30-370, captioned "standards for prompt investigation
37 of claims";

1 (e) WAC 284-30-380, captioned "standards for prompt, fair and
2 equitable settlements applicable to all insurers"; or

3 (f) An unfair claims settlement practice rule adopted under RCW
4 48.30.010 by the insurance commissioner intending to implement this
5 section. The rule must be codified in chapter 284-30 of the Washington
6 Administrative Code.

7 (6) This section does not limit a court's existing ability to make
8 any other determination regarding an action for an unfair or deceptive
9 practice of an insurer or provide for any other remedy that is
10 available at law.

11 (7) This section does not apply to a health plan offered by a
12 health carrier. "Health plan" has the same meaning as in RCW
13 48.43.005. "Health carrier" has the same meaning as in RCW 48.43.005.

14 (8)(a) Twenty days prior to filing an action based on this section,
15 a first party claimant must provide written notice of the basis for the
16 cause of action to the insurer and office of the insurance
17 commissioner. Notice may be provided by regular mail, registered mail,
18 or certified mail with return receipt requested. Proof of notice by
19 mail may be made in the same manner as prescribed by court rule or
20 statute for proof of service by mail. The insurer and insurance
21 commissioner are deemed to have received notice three business days
22 after the notice is mailed.

23 (b) If the insurer fails to resolve the basis for the action within
24 the twenty-day period after the written notice by the first party
25 claimant or third party claimant, the first party claimant or third
26 party claimant may bring the action without any further notice.

27 (c) The first party claimant or third party claimant may bring an
28 action after the required period of time in (a) of this subsection has
29 elapsed.

30 (d) If a written notice of claim is served under (a) of this
31 subsection within the time prescribed for the filing of an action under
32 this section, the statute of limitations for the action is tolled
33 during the twenty-day period of time in (a) of this subsection.

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