

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 683

H.P. 510 House of Representatives, March 10, 1987
Reference to the Committee on Banking and Insurance
suggested and ordered printed.

EDWIN H. PERT, Clerk
Presented by Speaker MARTIN of Eagle Lake.

Cosponsored by Representatives MARSANO of Belfast and
CONLEY of Portland.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-SEVEN

1 AN ACT Concerning Unfair Claims Practices.
2

3 Be it enacted by the People of the State of Maine as
4 follows:

5 24-A MRSA §2165-A is enacted to read:

6 §2165-A. Unfair claim practices

7 1. Unfair practices. Any of the following acts
8 by an insurer, if committed without just cause and
9 performed with such frequency as to indicate a gener-
10 al business practice, shall constitute unfair claim
11 settlement practices:

12 A. Knowingly misrepresenting to claimants or in-
13 sureds pertinent facts of policy provisions re-
14 lating to coverages at issue;

1 B. Failing to acknowledge and act promptly upon
2 communications with respect to claims arising un-
3 der insurance policies;

4 C. Failing to adopt and implement reasonable
5 standards for the prompt investigation of claims
6 arising under insurance policies;

7 D. Not attempting in good faith to effectuate
8 prompt, fair and equitable settlements or compro-
9 misses of claims in which liability has become
10 reasonably clear;

11 E. Compelling claimants to institute litigation
12 to recover amounts due under insurance policies
13 by offering substantially less than the amounts
14 ultimately recovered in actions brought by them;

15 F. Adopting or making known to insureds or
16 claimants a policy of appealing from arbitration
17 awards in favor of insureds or claimants for the
18 purpose of compelling them to accept settlements
19 or compromises less than the amount awarded in
20 arbitration;

21 G. Attempting settlement or compromise of a
22 claim on the basis of an application which was
23 altered without notice to, or knowledge or con-
24 sent of, the insured;

25 H. Attempting to settle or compromise a claim
26 for less than the amount which the insured had
27 been led to believe he was entitled to by written
28 or printed advertising material accompanying or
29 made part of an application;

30 I. Attempting to delay the investigation or pay-
31 ment of claims by requiring an insured and his
32 physician to submit a preliminary claim report
33 and then requiring the subsequent submission of
34 formal proof of loss forms, both of which
35 submissions contain substantially the same infor-
36 mation;

37 J. Making any claim payment not accompanied by a
38 statement setting forth the benefits included
39 within the claim payment;

- 1 K. Failing to affirm or deny coverage of claims
2 within a reasonable time after proof of loss
3 forms have been submitted;
- 4 L. Refusing payment of a claim solely on the ba-
5 sis of an insured's request to do so without mak-
6 ing independent evaluation of the insured's lia-
7 bility based upon all available information; and
- 8 M. Failure of an insurer to maintain a complete
9 record of all complaints which it has received,
10 whether or not the complaints were deemed valid,
11 the time it took to process the complaint and the
12 disposition of the complaint and to file an annu-
13 al report of the complaint with the insurance de-
14 partment.
- 15 2. Civil action. Notwithstanding other provi-
16 sions of this chapter, any person injured by a viola-
17 tion of subsection 1 may bring a civil action and re-
18 cover damages, together with costs and disbursements,
19 including costs of investigation and reasonable at-
20 torneys fees, and receive other equitable relief as
21 determined by the court.
- 22 3. Application. This section does not apply to
23 workers' compensation claims.

24 STATEMENT OF FACT

25 This State currently has no laws respecting un-
26 fair activities by insurance adjusters. Violations
27 of the Unfair Trade Practices Act are now treated by
28 a desist order, which provides no relief for a claim-
29 ant who has already been injured.

30 The purpose of this bill is to regulate the
31 claims conduct of insurance companies. This bill de-
32 lineates the specific responsibilities of the compa-
33 nies and their agents. It authorizes a cause of ac-
34 tion for injuries incurred as a result of a claim
35 practice which has been deemed to be unfair.

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