

# MAINE STATE LEGISLATURE

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(New Draft of H.P. 510, L.D. 683)  
FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 1696

H.P. 1244 House of Representatives, May 29, 1987  
Reported by Representative RYDELL from the Committee on  
Banking and Insurance and printed under Joint Rule 2.

EDWIN H. PERT, Clerk

Original bill sponsored 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

**AN ACT Concerning Unfair Claims Practices.**

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

Sec. 1. 24-A MRSA §2164-D is enacted to read:

§2164-D. Unfair claims practices

1. Unfair practices. Any of the following ac-  
tivities by an insurer, if committed without just  
cause and performed with such frequency as to indi-  
cate a general business practice, constitutes unfair  
claims settlement practices. The Superintendent of  
Insurance shall investigate and determine if the in-  
surer engaged in any of the following activities:

1 A. Knowingly misrepresenting to an insured per-  
2 tinent facts of policy provisions relating to  
3 coverage at issue;

4 B. Failing to acknowledge and review claims,  
5 which may include payment or denial of a claim,  
6 within a reasonable time following receipt of  
7 written notice by the insurer of a claim by an  
8 insured arising under a policy;

9 C. Adopting a policy of appealing from arbitra-  
10 tion awards in favor of insureds for the sole  
11 purpose of compelling them to accept settlements  
12 less than the arbitration award;

13 D. Failing to affirm coverage, reserving any ap-  
14 propriate defenses, or deny coverage within a  
15 reasonable time after completed proof of loss  
16 forms have been received by the insurer; or

17 E. Failing to deal with insureds in good faith  
18 to resolve claims made against a policy of an in-  
19 insured.

20 2. Application. This section does not apply to  
21 health or life insurance or workers' compensation  
22 claims.

23 Sec. 2. 24-A MRSA §2436-A is enacted to read:

24 §2436-A. Unfair claims practices

25 1. Civil actions. Any person injured by any of  
26 the following actions taken by his own insurer may  
27 bring a civil action and recover damages, together  
28 with costs and disbursements, reasonable attorneys  
29 fees and interest on damages at the rate of 1 1/2%  
30 per month:

31 A. Knowingly misrepresenting to an insured per-  
32 tinent facts of policy provisions relating to  
33 coverage at issue;

34 B. Failing to acknowledge and review claims,  
35 which may include payment or denial of a claim,  
36 within a reasonable time following receipt of  
37 written notice by the insurer of a claim by an  
38 insured arising under a policy;

1 C. Threatening to appeal from an arbitration  
2 award in favor of an insured for the sole purpose  
3 of compelling the insured to accept a settlement  
4 less than the arbitration award; or

5 D. Failing to affirm coverage, reserving any ap-  
6 propriate defenses, or deny coverage within a  
7 reasonable time after completed proof of loss  
8 forms have been received by the insurer.

9 2. Application. This section does not apply to  
10 health or life insurance or workers' compensation  
11 claims.

12 STATEMENT OF FACT

13 This new draft expands existing protections to  
14 insureds in their contractual relationships with in-  
15 surers. Section 1 delineates circumstances in which  
16 the Bureau of Insurance is empowered to investigate  
17 and exercise disciplinary measures. Section 2 out-  
18 lines circumstances when the insured has a private  
19 right of action against the insurer.

20 The original bill expanded existing protections  
21 to 3rd parties and gave a private right of action to  
22 3rd parties. This new draft does not do either.

23 Neither section applies to life and health insur-  
24 ance nor workers' compensation claims.

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