

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

No. 889

S.P. 281

In Senate, February 6, 1997

An Act to Ensure Fair Claims Settlement Practices.

Reference to the Committee on Banking and Insurance suggested and ordered printed.

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator LaFOUNTAIN of York.
Cosponsored by Representative: SAXL of Bangor.

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

2
4 **Sec. 1. 24-A MRSA §2436-A**, as enacted by PL 1987, c. 291,
§2, is repealed and the following enacted in its place:

6 **§2436-A. Unfair claims settlement practices**

8 **1. Civil actions.** A person injured by an insurer may bring
10 a civil action and recover damages, together with costs and
disbursements, reasonable attorney's fees and interest on damages
12 at the rate of 1 1/2% per month, if the insurer:

14 A. Knowingly misrepresents to a claimant or an insured
relevant facts or policy provisions related to coverage at
issue;

16 B. Fails to acknowledge with reasonable promptness
18 pertinent communications with respect to a claim arising
under its policies;

20 C. Fails to adopt and implement reasonable standards for
22 the prompt investigation and settlement of a claim arising
under its policies;

24 D. Does not attempt in good faith to effectuate prompt,
26 fair and equitable settlement of a claim submitted in which
liability has become reasonably clear;

28 E. Compels an insured or a beneficiary to institute a suit
30 to recover an amount due under its policies by offering
substantially less than the amount ultimately recovered in a
32 suit brought by the insured or beneficiary;

34 F. Refuses to pay a claim without conducting a reasonable
investigation;

36 G. Fails to affirm or deny coverage of a claim within a
38 reasonable time after having completed its investigation
related to the claim;

40 H. Attempts to settle or settles a claim for less than the
42 amount to which a reasonable person would believe the
insured or beneficiary was entitled according to written or
44 printed advertising material accompanying or made part of an
application;

46 I. Attempts to settle or settles a claim on the basis of an
48 application that was materially altered without notice to,
or knowledge or consent of, the insured;

2 J. Makes a claim payment to an insured or beneficiary
without indicating the coverage under which the payment is
being made;

4
6 K. Unreasonably delays the investigation or payment of a
claim by requiring both a formal proof of loss and
subsequent verification when subsequent verification would
8 result in duplication of information and verification
appearing in the formal proof of loss;

10
12 L. Fails in the case of a denial of a claim or offer of
compromise settlement to promptly provide a reasonable and
accurate explanation of the basis for the action;

14
16 M. Fails to provide forms, accompanied by reasonable
explanation for their use, necessary to present a claim
within 15 calendar days of a request for the forms; or

18
20 N. Fails to adopt and implement reasonable standards to
ensure that the repairs of a repairer owned by or required
to be used by the insurer are performed in a professional
22 manner.

24 2. Application. This section does not apply to workers'
compensation claims.

26
28
30 **SUMMARY**

32 This bill expands the list of the types of unfair claims
settlement practices by an insurer for which recovery may be made.