

State of Arizona
Senate
Forty-fifth Legislature
First Regular Session
2001

CHAPTER 343

SENATE BILL 1164

AN ACT

AMENDING SECTION 20-461, ARIZONA REVISED STATUTES; RELATING TO UNFAIR CLAIM SETTLEMENT PRACTICES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 20-461, Arizona Revised Statutes, is amended to
3 read:

4 20-461. Unfair claim settlement practices

5 A. A person shall not commit or perform with such a frequency to
6 indicate as a general business practice any of the following:

7 1. Misrepresenting pertinent facts or insurance policy provisions
8 relating to coverages at issue.

9 2. Failing to acknowledge and act reasonably and promptly upon
10 communications with respect to claims arising under an insurance policy.

11 3. Failing to adopt and implement reasonable standards for the prompt
12 investigation of claims arising under an insurance policy.

13 4. Refusing to pay claims without conducting a reasonable
14 investigation based upon all available information.

15 5. Failing to affirm or deny coverage of claims within a reasonable
16 time after proof of loss statements have been completed.

17 6. Not attempting in good faith to effectuate prompt, fair and
18 equitable settlements of claims in which liability has become reasonably
19 clear.

20 7. Compelling insureds to institute litigation to recover amounts due
21 under an insurance policy by offering substantially less than the amounts
22 ultimately recovered in actions brought by the insureds.

23 8. Attempting to settle a claim for less than the amount to which a
24 reasonable person would have believed he was entitled by reference to written
25 or printed advertising material accompanying or made part of an application.

26 9. Attempting to settle claims on the basis of an application which
27 was altered without notice to, or knowledge or consent of, the insured.

28 10. Making claims payments to insureds or beneficiaries not accompanied
29 by a statement setting forth the coverage under which the payments are being
30 made.

31 11. Making known to insureds or claimants a policy of appealing from
32 arbitration awards in favor of insureds or claimants for the purpose of
33 compelling them to accept settlements or compromises less than the amount
34 awarded in arbitration.

35 12. Delaying the investigation or payment of claims by requiring an
36 insured, a claimant or the physician of either to submit a preliminary claim
37 report and then requiring the subsequent submission of formal proof of loss
38 forms, both of which submissions contain substantially the same information.

39 13. Failing to promptly settle claims if liability has become
40 reasonably clear under one portion of the insurance policy coverage in order
41 to influence settlements under other portions of the insurance policy
42 coverage.

43 14. Failing to promptly provide a reasonable explanation of the basis
44 in the insurance policy relative to the facts or applicable law for denial
45 of a claim or for the offer of a compromise settlement.

1 15. Attempting to settle claims for the replacement of any
2 nonmechanical sheet metal or plastic part which generally constitutes the
3 exterior of a motor vehicle, including inner and outer panels, with an
4 aftermarket crash part which is not made by or for the manufacturer of an
5 insured's motor vehicle unless the part meets the specifications of section
6 44-1292 and unless the consumer is advised in a written notice attached to
7 or printed on a repair estimate which:

8 (a) Clearly identifies each part.

9 (b) Contains the following information in ten point or larger type:

10 "This estimate has been prepared based on the use of replacement
11 parts supplied by a source other than the manufacturer of your
12 motor vehicle. Warranties applicable to these replacement parts
13 are provided by the manufacturer or distributor of these parts
14 rather than the manufacturer of your vehicle."

15 16. As an insurer subject to section 20-826, 20-934, 20-1342, 20-1402
16 or 20-1404, or as an insurer of the same type as those subject to section
17 20-826, 20-934, 20-1342, 20-1402 or 20-1404 that issues policies, contracts,
18 plans, coverages or evidences of coverage for delivery in this state, failing
19 to pay charges for reasonable and necessary services provided by any
20 physician licensed pursuant to title 32, chapter 8, 13 or 17, if the services
21 are within the lawful scope of practice of the physician and the insurance
22 coverage includes diagnosis and treatment of the condition or complaint,
23 regardless of the nomenclature used to describe the condition, complaint or
24 service.

25 17. Failing to comply with chapter 15 of this title.

26 18. DENYING LIABILITY FOR A CLAIM UNDER A MOTOR VEHICLE LIABILITY
27 POLICY IN EFFECT AT THE TIME OF AN ACCIDENT WITHOUT HAVING SUBSTANTIAL FACTS
28 BASED ON REASONABLE INVESTIGATION TO JUSTIFY THE DENIAL FOR DAMAGES OR
29 INJURIES THAT ARE A RESULT OF THE ACCIDENT AND THAT WERE CAUSED BY THE
30 INSURED IF THE DENIAL IS BASED SOLELY ON A MEDICAL CONDITION THAT COULD
31 AFFECT THE INSURED'S DRIVING ABILITY.

32 B. Nothing in subsection A, paragraph 16 of this section shall be
33 construed to prohibit the application of deductibles, coinsurance, preferred
34 provider organization requirements, cost containment measures or quality
35 assurance measures if they are equally applied to all types of physicians
36 referred to in this section, and if any limitation or condition placed upon
37 payment to or upon services, diagnosis or treatment by any physician covered
38 by this section is equally applied to all physicians referred to in
39 subsection A, paragraph 16 of this section, without discrimination to the
40 usual and customary procedures of any type of physician.

41 C. In prescribing rules to implement this section, the director shall
42 follow, to the extent appropriate, the national association of insurance
43 commissioners unfair claims settlement practices model regulation.

1 D. Nothing contained in this section is intended to provide any
2 private right or cause of action to or on behalf of any insured or uninsured
3 resident or nonresident of this state. It is, however, the specific intent
4 of this section to provide solely an administrative remedy to the director
5 for any violation of this section or rule related thereto.

6 E. The director shall deposit, pursuant to sections 35-146 and 35-147,
7 all civil penalties collected pursuant to this article in the state general
8 fund.

**THIS BILL HAVING NOT BEEN RETURNED TO THE LEGISLATURE WITHIN 5 DAYS
AFTER IT WAS PRESENTED TO THE GOVERNOR, HAS BECOME A LAW THIS 7TH
DAY OF MAY, 2001.**

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 7, 2001.

Passed the House April 25, 20 01,

by the following vote: 58 Ayes,

0 Nays, 2 Not Voting

Jake Flake
Speaker of the House

Norman L. Moore
Chief Clerk of the House

Passed the Senate March 15, 20 01,

by the following vote: 23 Ayes,

6 Nays, 1 Not Voting

Randall Ament
President of the Senate

Charmie Bellington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

~~_____ day of _____, 20 _____,~~

~~at _____ o'clock _____ M.~~

~~_____
Secretary to the Governor~~

Approved this _____ day of

~~_____, 20 _____,~~

~~at _____ o'clock _____ M.~~

~~_____
Governor of Arizona~~

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EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

~~this _____ day of _____, 20 _____,~~

~~at _____ o'clock _____ M.~~

~~_____
Secretary of State~~

SENATE CONCURS IN HOUSE
AMENDMENTS AND FINAL PASSAGE

Passed the Senate May 01, 20 01,

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

[Signature]
President of the Senate

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

1 day of May, 2001,

at 10:54 o'clock A M.

[Signature]
Secretary to the Governor

APPROVED THIS _____ day of

_____, 20____,

at _____ o'clock _____ M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 7 day of May, 2001,

at 4:55 o'clock P M.

[Signature]
Secretary of State

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