

TEXAS

Acknowledgment of Claim

Under Texas law, no insurer shall engage in unfair claim settlement practices. Unfair claim settlement practices means, among other things, failing to acknowledge with reasonable promptness pertinent communications with respect to claims arising under its policies. An acknowledgment within **15 business days** is presumed to be reasonably prompt. See 28 Tex. Admin. Code § 21.203(2).

Prompt, Fair and Equitable Settlement of Claims

Under Texas law, no insurer shall engage in unfair claim settlement practices. Unfair claim settlement practices means, among other things, failing to adopt and implement reasonable standards for **prompt** investigation of claims arising under its policies. See 28 Tex. Admin. Code § 21.203(3).

Unfair claim settlement practice also means not attempting in good faith to effectuate **prompt**, fair and equitable settlements of claims submitted in which liability has become reasonably clear. See 28 Tex. Admin. Code § 21.203(4).

Unfair claim settlement practice also means failing to provide **promptly**, when provided for in the policy, claims forms when the insurer requires such forms as a prerequisite for claim settlement. See 28 Tex. Admin. Code § 21.203(7).

Unfair claim settlement practice also means failing to affirm or deny coverage of a claim to a policyholder within a **reasonable time**. The submission of a reservation of rights letter by an insurer to a policyholder within a **reasonable time** is deemed compliance with the provisions of this paragraph. See 28 Tex. Admin. Code § 21.203(10).

TEXAS ADMINISTRATIVE CODE
TITLE 28. INSURANCE
PART 1. TEXAS DEPARTMENT OF INSURANCE
CHAPTER 21. TRADE PRACTICES
SUBCHAPTER C. UNFAIR CLAIMS SETTLEMENT PRACTICES
(Current through May 31, 2007)

§ 21.203. Unfair Claim Settlement Practices

No insurer shall engage in unfair claim settlement practices. Unfair claim settlement practices means committing or performing any of the following:

- (1) misrepresenting to claimants pertinent facts or policy provisions relating to coverages at issue;
- (2) failing to acknowledge with reasonable promptness pertinent communications with respect to claims arising under its policies, provided that 'pertinent communications' shall exclude written communications that are direct responses to specific inquiries made by the insurer after initial report of a claim. An acknowledgment within 15 business days is presumed to be reasonably prompt;
- (3) failing to adopt and implement reasonable standards for prompt investigation of claims arising under its policies;
- (4) not attempting in good faith to effectuate prompt, fair, and equitable settlements of claims submitted in which liability has become reasonably clear;
- (5) compelling policyholders to institute suits to recover amounts due under its policies by offering substantially less than the amounts ultimately recovered in suits brought by them;
- (6) failure of any insurer to maintain, in substantial compliance with §21.2504 of this title (relating to Complaint Record; Required Elements; Explanation and Instructions), a complete record of all complaints, as that term is defined in §21.202(4) of this title (relating to Definitions), which it has received during the preceding three years or since the date of its most recent financial examination by the commissioner of insurance, whichever time is shorter. For purposes of this section, 'substantial compliance' has the meaning set out in §21.2503 of this title (relating to Compliance Standard);
- (7) failing to provide promptly, when provided for in the policy, claim forms when the insurer requires such forms as a prerequisite for a claim settlement;
- (8) not attempting in good faith to settle promptly claims where liability has become reasonably clear under one portion of the policy in order to influence settlement under other portions of the policy coverage. (This provision does not apply to those situations where payment under one portion of coverage constitutes evidence of liability under another portion of coverage);
- (9) failing to provide promptly to a policyholder a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement;

- (10) failing to affirm or deny coverage of a claim to a policyholder within a reasonable time. The reasonable submission of a reservation of rights letter by an insurer to a policyholder within a reasonable time is deemed compliance with the provisions of this paragraph;
- (11) except as may be specifically provided in the policy, to refuse, fail, or unreasonably delay offer of settlement under applicable first-party coverage on the basis that other coverage may be available or third parties are responsible in law for damages suffered;
- (12) attempting to settle a claim for less than the amount to which a reasonable person would have believed she/he was entitled by reference to an advertisement, as described in §21.102 of this title (relating to Scope), made by an insurer or person acting on behalf of an insurer;
- (13) undertaking to enforce a full and final release from a policyholder when, in fact, only a partial payment has been made. (This provision shall not prevent or have application to the compromise settlement of doubtful or disputed claims);
- (14) failing to establish a policy and proper controls to make certain that agents calculate and deliver to policyholders or their assignees funds due under policy provisions relative to cancellation of coverage within a reasonable time after such coverages are terminated;
- (15) refusing to pay claims without conducting a reasonable investigation based upon all available information;
- (16) failing to respond promptly to a request by a claimant for personal contact about or review of the claim;
- (17) with respect to the Texas personal auto policy, to delay or refuse settlement of a claim solely because there is other insurance of a different type available to satisfy partially or entirely the loss forming the basis of that claim. The claimant who has a right to recover from either or both insurers is entitled to choose under which coverage and in what order payment is to be made;
- (18) a violation of the Insurance Code, Article 21.55, by an insurer subject to its provisions;
- (19) requiring a claimant, as a condition of settling a claim, to produce the claimant's federal income tax returns for examination or investigation by the insurer unless the claimant is ordered to produce those tax returns by a court of competent jurisdiction, the claim involves a fire loss, or the claim involves a loss of profits or income.