

SB0061



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

SB0061

Introduced 1/29/2021, by Sen. Bill Cunningham

SYNOPSIS AS INTRODUCED:

215 ILCS 5/154.6

from Ch. 73, par. 766.6

215 ILCS 5/154.9 new

Amends the Illinois Insurance Code. Provides that it is an improper claims practice for a domestic, foreign, or alien company transacting business in this State to fail to pay the replacement vehicle use or occupation tax, title, and transfer fees on a private passenger total loss claim if that act is committed knowingly in violation of the Code, has been committed with such frequency to indicate a persistent tendency to engage in that type of conduct, and is committed without just cause. Provides that an insurer shall pay use or occupation tax, title, and transfer fees when the insurer determines that an insured's or third-party claimant's private passenger automobile is a total loss covered under the terms of a personal automobile policy issued by the insurer. Provides that if an insurer elects to replace the insured vehicle, the insurer shall pay the use or occupation tax, title, and transfer fees on the replacement vehicle. Provides that if a cash settlement is provided for the total loss private passenger vehicle, an insurer shall reimburse or directly pay the insured or third-party claimant for replacement vehicle use or occupation tax, title, and transfer fees under specified conditions. Grants the Department of Insurance rulemaking authority. Effective January 1, 2022.

LRB102 05100 BMS 15120 b

A BILL FOR

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Insurance Code is amended by
5 changing Section 154.6 and by adding Section 154.9 as follows:

6 (215 ILCS 5/154.6) (from Ch. 73, par. 766.6)

7 Sec. 154.6. Acts constituting improper claims practice.

8 Any of the following acts by a company, if committed without
9 just cause and in violation of Section 154.5, constitutes an
10 improper claims practice:

11 (a) Knowingly misrepresenting to claimants and insureds
12 relevant facts or policy provisions relating to coverages at
13 issue;

14 (b) Failing to acknowledge with reasonable promptness
15 pertinent communications with respect to claims arising under
16 its policies;

17 (c) Failing to adopt and implement reasonable standards
18 for the prompt investigations and settlement of claims arising
19 under its policies;

20 (d) Not attempting in good faith to effectuate prompt,
21 fair and equitable settlement of claims submitted in which
22 liability has become reasonably clear;

23 (e) Compelling policyholders to institute suits to recover

1 amounts due under its policies by offering substantially less
2 than the amounts ultimately recovered in suits brought by
3 them;

4 (f) Engaging in activity which results in a
5 disproportionate number of meritorious complaints against the
6 insurer received by the Insurance Department;

7 (g) Engaging in activity which results in a
8 disproportionate number of lawsuits to be filed against the
9 insurer or its insureds by claimants;

10 (h) Refusing to pay claims without conducting a reasonable
11 investigation based on all available information;

12 (i) Failing to affirm or deny coverage of claims within a
13 reasonable time after proof of loss statements have been
14 completed;

15 (j) Attempting to settle a claim for less than the amount
16 to which a reasonable person would believe the claimant was
17 entitled, by reference to written or printed advertising
18 material accompanying or made part of an application or
19 establishing unreasonable caps or limits on paint or materials
20 when estimating vehicle repairs;

21 (k) Attempting to settle claims on the basis of an
22 application which was altered without notice to, or knowledge
23 or consent of, the insured;

24 (l) Making a claims payment to a policyholder or
25 beneficiary omitting the coverage under which each payment is
26 being made;

1 (m) Delaying the investigation or payment of claims by
2 requiring an insured, a claimant, or the physicians of either
3 to submit a preliminary claim report and then requiring
4 subsequent submission of formal proof of loss forms, resulting
5 in the duplication of verification;

6 (n) Failing in the case of the denial of a claim or the
7 offer of a compromise settlement to promptly provide a
8 reasonable and accurate explanation of the basis in the
9 insurance policy or applicable law for such denial or
10 compromise settlement;

11 (o) Failing to provide forms necessary to present claims
12 within 15 working days of a request with such explanations as
13 are necessary to use them effectively;

14 (p) Failing to adopt and implement reasonable standards to
15 verify that a repairer designated by the insurance company to
16 provide an estimate, perform repairs, or engage in any other
17 service in connection with an insured loss on a vehicle is duly
18 licensed under Section 5-301 of the Illinois Vehicle Code;

19 (q) Failing to provide as a persistent tendency a
20 notification on any written estimate prepared by an insurance
21 company in connection with an insured loss that Illinois law
22 requires that vehicle repairers must be licensed in accordance
23 with Section 5-301 of the Illinois Vehicle Code;

24 (r) Failing to pay the replacement vehicle use or
25 occupation tax, title, and transfer fees required by Section
26 154.9 of this Code;

1 (s) ~~(r)~~ Engaging in any other acts which are in substance
2 equivalent to any of the foregoing.

3 (Source: P.A. 90-340, eff. 8-8-97.)

4 (215 ILCS 5/154.9 new)

5 Sec. 154.9. Payment of applicable use or occupation tax,
6 title, and transfer fees on a private passenger total loss
7 claim.

8 (a) When an insurer determines that an insured's or
9 third-party claimant's private passenger automobile is a total
10 loss that is covered under the terms of a personal automobile
11 policy issued by the insurer, the insurer shall pay any use or
12 occupation tax imposed by the State or a unit of local
13 government and title and transfer fees as provided for in this
14 Section. As used in this Section, "private passenger vehicle"
15 means a private passenger motor vehicle, station wagon, or any
16 other 4-wheeled motor vehicle with a load capacity of 1,500
17 pounds or less that is not used in the occupation, profession,
18 or business of the insured or third-party claimant, not used
19 as a public or livery conveyance for passengers, nor rented to
20 others.

21 (b) If the insurer elects to replace the insured vehicle,
22 the insurer shall pay any use or occupation tax imposed by the
23 State or a unit of local government tax and title and transfer
24 fees on the replacement vehicle.

25 (c) If a cash settlement is provided for the total loss

1 private passenger vehicle, the insurer shall reimburse the
2 insured or third-party claimant for any use or occupation tax
3 imposed by the State or a unit of local government and title
4 and transfer fees if the replacement vehicle is purchased or
5 leased within 30 days after the receipt of the cash settlement
6 by the insured or third-party claimant and the insured or
7 third-party claimant substantiates such purchase and the
8 payment of such taxes and fees by submission of appropriate
9 documentation to the insurer within 33 days after the receipt
10 of the settlement or receipt of the required reimbursement
11 form from the insurer, whichever is later.

12 (1) With respect to leased vehicles, use or occupation
13 taxes and title and transfer fees shall be deemed to be
14 incurred by the insured or the third-party claimant at the
15 time the lease is entered into, but only if such use or
16 occupation taxes and title and transfer fees are included
17 in the cost of the lease or are paid directly by the
18 insured or third-party claimant.

19 (2) The insurer is not required to reimburse the
20 insured or third-party claimant for any use or occupation
21 taxes and title or transfer fees in excess of the amount
22 payable based on the value of the total loss vehicle at the
23 time of the loss or for taxes and title or transfer fees
24 not actually paid by the insured or third-party claimant.

25 (3) In lieu of this reimbursement procedure, the
26 insurer may directly pay the required amount of any use or

1 occupation taxes and title and transfer fees to the
2 claimant at the time of settlement.

3 (4) If an insurer requires a particular form be used
4 to apply for reimbursement of any use or occupation taxes
5 and title or transfer fees, the form must be delivered to
6 the insured or third-party claimant at or before the time
7 of settlement.

8 (d) The Department may adopt rules establishing uniform
9 standards for implementation of this Section, including, but
10 not limited to, prescribing the method of determining the
11 market value of the insured's or third-party claimant's
12 vehicle.

13 Section 99. Effective date. This Act takes effect January
14 1, 2022.