



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB2109

Introduced 2/14/2008, by Sen. John J. Cullerton

SYNOPSIS AS INTRODUCED:

215 ILCS 5/154.6	from Ch. 73, par. 766.6
215 ILCS 5/155	from Ch. 73, par. 767
720 ILCS 5/46-5	

Amends the Illinois Insurance Code. Provides that a company that commits an improper claim practice may be subject to civil penalties pursuant to the Code or a private cause of action, or both. Removes the \$60,000 damage cap in an action by or against a company wherein there is in issue the liability of a company on a policy or policies of insurance or the amount of the loss payable thereunder, or for an unreasonable delay in settling a claim, and it appears to the court that such action or delay is vexatious and unreasonable. Amends the Criminal Code of 1961. Provides that an insurance company or self-insured entity that brings an action against a person for insurance fraud or fraud on a governmental entity in bad faith shall be liable to that person for 3 times (rather than twice) the value of the property claimed, plus reasonable attorneys fees.

LRB095 19301 AMC 45593 b

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 Sections 154.6 and 155 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
12 insureds relevant facts or policy provisions relating to
13 coverages at issue;

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

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

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

4 (f) Engaging in activity which results in a
5 disproportionate number of meritorious complaints against
6 the 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
11 reasonable investigation based on all available
12 information;

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

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

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

25 (l) Making a claims payment to a policyholder or
26 beneficiary omitting the coverage under which each payment

1 is being made;

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

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

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

15 (p) Failing to adopt and implement reasonable
16 standards to verify that a repairer designated by the
17 insurance company to provide an estimate, perform repairs,
18 or engage in any other service in connection with an
19 insured loss on a vehicle is duly licensed under Section
20 5-301 of the Illinois Vehicle Code;

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

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

3 A company that commits an improper claim practice described
4 in this Section may be subject to civil penalties pursuant to
5 this Code or a private cause of action, or both.

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

7 (215 ILCS 5/155) (from Ch. 73, par. 767)

8 Sec. 155. Attorney fees.

9 (1) In any action by or against a company wherein there is
10 in issue the liability of a company on a policy or policies of
11 insurance or the amount of the loss payable thereunder, or for
12 an unreasonable delay in settling a claim, and it appears to
13 the court that such action or delay is vexatious and
14 unreasonable, the court may allow as part of the taxable costs
15 in the action reasonable attorney fees, other costs, plus an
16 amount not to exceed any one of the following amounts:

17 (a) 60% of the amount which the court or jury finds
18 such party is entitled to recover against the company,
19 exclusive of all costs.~~†~~

20 (b) (Blank). ~~\$60,000;~~

21 (c) The ~~the~~ excess of the amount which the court or
22 jury finds such party is entitled to recover, exclusive of
23 costs, over the amount, if any, which the company offered
24 to pay in settlement of the claim prior to the action.

25 (2) Where there are several policies insuring the same

1 insured against the same loss whether issued by the same or by
2 different companies, the court may fix the amount of the
3 allowance so that the total attorney fees on account of one
4 loss shall not be increased by reason of the fact that the
5 insured brings separate suits on such policies.

6 (Source: P.A. 93-485, eff. 1-1-04.)

7 Section 10. The Criminal Code of 1961 is amended by
8 changing Section 46-5 as follows:

9 (720 ILCS 5/46-5)

10 Sec. 46-5. Civil damages for insurance fraud or fraud on a
11 governmental entity.

12 (a) A person who knowingly obtains, attempts to obtain, or
13 causes to be obtained, by deception, control over the property
14 of any insurance company by the making of a false claim or by
15 causing a false claim to be made on a policy of insurance
16 issued by an insurance company, or by the making of a false
17 claim or by causing a false claim to be made to a self-insured
18 entity intending to deprive an insurance company or
19 self-insured entity permanently of the use and benefit of that
20 property, shall be civilly liable to the insurance company or
21 self-insured entity that paid the claim or against whom the
22 claim was made or to the subrogee of that insurance company or
23 self-insured entity in an amount equal to either 3 times the
24 value of the property wrongfully obtained or, if no property

1 was wrongfully obtained, twice the value of the property
2 attempted to be obtained, whichever amount is greater, plus
3 reasonable attorneys fees. A person who knowingly obtains,
4 attempts to obtain, or causes to be obtained, by deception,
5 control over the property of a governmental entity by the
6 making of a false claim of bodily injury or of damage to or
7 loss or theft of property, intending to deprive the
8 governmental entity permanently of the use and benefit of that
9 property, shall be civilly liable to the governmental entity
10 that paid the claim or against whom the claim was made or to
11 the subrogee of the governmental entity in an amount equal to
12 either 3 times the value of the property wrongfully obtained
13 or, if property was not wrongfully obtained, twice the value of
14 the property attempted to be obtained, whichever amount is
15 greater, plus reasonable attorneys fees.

16 (b) An insurance company or self-insured entity that brings
17 an action against a person under subsection (a) of this Section
18 in bad faith shall be liable to that person for 3 times ~~twice~~
19 the value of the property claimed, plus reasonable attorneys
20 fees. In determining whether an insurance company or
21 self-insured entity acted in bad faith, the court shall relax
22 the rules of evidence to allow for the introduction of any
23 facts or other information on which the insurance company or
24 self-insured entity may have relied in bringing an action under
25 subsection (a) of this Section.

26 (c) For the purposes of this Section, where the exact value

1 of the property attempted to be obtained is either not alleged
2 by the claimant or not specifically set by the terms of a
3 policy of insurance, the value of the property shall be the
4 fair market replacement value of the property claimed to be
5 lost, the reasonable costs of reimbursing a vendor or other
6 claimant for services to be rendered, or both.

7 (Source: P.A. 90-333, eff. 1-1-98; 91-232, eff. 1-1-00.)