



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB3037

Introduced 4/30/2008, by Sen. Susan Garrett - Michael W. Frerichs - Kimberly A. Lightford

SYNOPSIS AS INTRODUCED:

215 ILCS 5/143.11c new	
215 ILCS 5/154.6	from Ch. 73, par. 766.6
215 ILCS 5/155	from Ch. 73, par. 767

Amends the Illinois Insurance Code. Provides that no company may cancel, terminate, or refuse to renew any policy of property and casualty insurance during the pendency of a claim in which the primary residence of the policyholder is or comes to be uninhabitable, unoccupied, or under construction or has yet to be permanently repaired. Provides that any of the following acts by an insurer shall constitute improper claims practice: (1) paying an appraiser, contractor, or vendor involved in providing services or estimates for appraising the value of any loss for repairing a policyholder's home; (2) compelling a policyholder as to which appraiser, vendor, or contractor the policyholder must use for the repair; (3) failing to reimburse a policyholder within 30 days after receiving proof of reimbursable out-of-pocket expenses; or (4) denying a policyholder's request for reimbursement without a written explanation within 30 days after a policyholder's request. Eliminates the \$60,000 limit on the part of the taxable costs a court may allow in any action by or against a company where 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 where there is an unreasonable delay in settling a claim, and it appears to the court that such action or delay is vexatious and unreasonable. Effective immediately.

LRB095 20986 RPM 50057 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 adding
5 Section 143.11c and by changing Sections 154.6 and 155 as
6 follows:

7 (215 ILCS 5/143.11c new)

8 Sec. 143.11c. Cancellation of policy during pendency of a
9 claim. No company authorized to do business in this State may
10 cancel, terminate, or refuse to renew any policy of property
11 and casualty insurance during the pendency of a claim in which
12 the primary residence of the policyholder is or comes to be
13 uninhabitable, unoccupied, or under construction or has yet to
14 be permanently repaired.

15 (215 ILCS 5/154.6) (from Ch. 73, par. 766.6)

16 Sec. 154.6. Acts constituting improper claims practice.
17 Any of the following acts by a company, if committed without
18 just cause and in violation of Section 154.5, constitutes an
19 improper claims practice:

20 (a) Knowingly misrepresenting to claimants and insureds
21 relevant facts or policy provisions relating to coverages at
22 issue;

1 (b) Failing to acknowledge with reasonable promptness
2 pertinent communications with respect to claims arising under
3 its policies;

4 (c) Failing to adopt and implement reasonable standards for
5 the prompt investigations and settlement of claims arising
6 under its policies;

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

10 (e) Compelling policyholders to institute suits to recover
11 amounts due under its policies by offering substantially less
12 than the amounts ultimately recovered in suits brought by them;

13 (f) Engaging in activity which results in a
14 disproportionate number of meritorious complaints against the
15 insurer received by the Insurance Department;

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

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

21 (i) Failing to affirm or deny coverage of claims within a
22 reasonable time after proof of loss statements have been
23 completed;

24 (j) Attempting to settle a claim for less than the amount
25 to which a reasonable person would believe the claimant was
26 entitled, by reference to written or printed advertising

1 material accompanying or made part of an application or
2 establishing unreasonable caps or limits on paint or materials
3 when estimating vehicle repairs;

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

7 (l) Making a claims payment to a policyholder or
8 beneficiary omitting the coverage under which each payment is
9 being made;

10 (m) Delaying the investigation or payment of claims by
11 requiring an insured, a claimant, or the physicians of either
12 to submit a preliminary claim report and then requiring
13 subsequent submission of formal proof of loss forms, resulting
14 in the duplication of verification;

15 (n) Failing in the case of the denial of a claim or the
16 offer of a compromise settlement to promptly provide a
17 reasonable and accurate explanation of the basis in the
18 insurance policy or applicable law for such denial or
19 compromise settlement;

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

23 (p) Failing to adopt and implement reasonable standards to
24 verify that a repairer designated by the insurance company to
25 provide an estimate, perform repairs, or engage in any other
26 service in connection with an insured loss on a vehicle is duly

1 licensed under Section 5-301 of the Illinois Vehicle Code;

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

7 (q-5) Offering or agreeing to pay an appraiser, contractor,
8 or vendor involved in providing services or estimates for
9 appraising the value of any loss for repairing, restoring, or
10 reconstructing a policyholder's home;

11 (q-10) Compelling a policy holder as to which appraiser,
12 vendor, or contractor the policyholder must use for the repair,
13 restoration, or reconstruction of the policyholder's home;

14 (q-15) Failing to reimburse a policyholder for
15 out-of-pocket expenses incurred by the policyholder for goods
16 or services that are covered by the insurance policy within 30
17 days after receipt of proof of those expenses;

18 (q-20) Denying a policyholder's request for reimbursement
19 and failing to provide a written explanation, within 30 days
20 after receipt of a policyholder's request, that sets forth a
21 good faith basis for denying the specific item for which the
22 policyholder requested reimbursement;

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

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

1 (215 ILCS 5/155) (from Ch. 73, par. 767)

2 Sec. 155. Attorney fees.

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

11 (a) 60% of the amount which the court or jury finds
12 such party is entitled to recover against the company,
13 exclusive of all costs;

14 (b) (blank); ~~\$60,000~~;

15 (c) the excess of the amount which the court or jury
16 finds such party is entitled to recover, exclusive of
17 costs, over the amount, if any, which the company offered
18 to pay in settlement of the claim prior to the action.

19 (2) Where there are several policies insuring the same
20 insured against the same loss whether issued by the same or by
21 different companies, the court may fix the amount of the
22 allowance so that the total attorney fees on account of one
23 loss shall not be increased by reason of the fact that the
24 insured brings separate suits on such policies.

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

26 Section 99. Effective date. This Act takes effect upon

1 becoming law.