

SSB 5726 - S AMD 155
By Senator Weinstein

ADOPTED AS AMENDED 03/13/2007

1 Strike everything after the enacting clause and insert the
2 following:

3 "NEW SECTION. **Sec. 1.** This act may be known and cited as the
4 insurance fair conduct act.

5 **Sec. 2.** RCW 48.30.010 and 1997 c 409 s 107 are each amended to
6 read as follows:

7 (1) No person engaged in the business of insurance shall engage in
8 unfair methods of competition or in unfair or deceptive acts or
9 practices in the conduct of such business as such methods, acts, or
10 practices are defined pursuant to subsection (2) of this section.

11 (2) In addition to such unfair methods and unfair or deceptive acts
12 or practices as are expressly defined and prohibited by this code, the
13 commissioner may from time to time by regulation promulgated pursuant
14 to chapter 34.05 RCW, define other methods of competition and other
15 acts and practices in the conduct of such business reasonably found by
16 the commissioner to be unfair or deceptive after a review of all
17 comments received during the notice and comment rule-making period.

18 (3)(a) In defining other methods of competition and other acts and
19 practices in the conduct of such business to be unfair or deceptive,
20 and after reviewing all comments and documents received during the
21 notice and comment rule-making period, the commissioner shall identify
22 his or her reasons for defining the method of competition or other act
23 or practice in the conduct of insurance to be unfair or deceptive and
24 shall include a statement outlining these reasons as part of the
25 adopted rule.

26 (b) The commissioner shall include a detailed description of facts
27 upon which he or she relied and of facts upon which he or she failed to
28 rely, in defining the method of competition or other act or practice in

1 the conduct of insurance to be unfair or deceptive, in the concise
2 explanatory statement prepared under RCW 34.05.325(6).

3 (c) Upon appeal the superior court shall review the findings of
4 fact upon which the regulation is based de novo on the record.

5 (4) No such regulation shall be made effective prior to the
6 expiration of thirty days after the date of the order by which it is
7 promulgated.

8 (5) If the commissioner has cause to believe that any person is
9 violating any such regulation, the commissioner may order such person
10 to cease and desist therefrom. The commissioner shall deliver such
11 order to such person direct or mail it to the person by registered mail
12 with return receipt requested. If the person violates the order after
13 expiration of ten days after the cease and desist order has been
14 received by him or her, he or she may be fined by the commissioner a
15 sum not to exceed two hundred and fifty dollars for each violation
16 committed thereafter.

17 (6) If any such regulation is violated, the commissioner may take
18 such other or additional action as is permitted under the insurance
19 code for violation of a regulation.

20 (7) An insurer engaged in the business of insurance may not
21 unreasonably deny or delay a claim for coverage or payment of benefits
22 to any first party claimant. "First party claimant" has the same
23 meaning as in section 3 of this act.

24 NEW SECTION. Sec. 3. A new section is added to chapter 48.30 RCW
25 to read as follows:

26 (1) Any first party claimant to a policy of insurance who is
27 unreasonably denied or delayed a claim for coverage or payment of
28 benefits by an insurer may bring an action in the superior court of
29 this state to recover the actual damages sustained, together with the
30 costs of the action, including reasonable attorneys' fees and
31 litigation costs, as set forth in subsection (3) of this section.

32 (2) The superior court may, after finding that an insurer has acted
33 unreasonably in denying or delaying a claim for coverage or payment of
34 benefits or has violated rules under the Washington Administrative Code
35 adopted by the commissioner under RCW 48.30.010(2), increase the total
36 award of damages to an amount not to exceed three times the actual
37 damages.

1 (3) The superior court shall, after a finding of unreasonable
2 denial or delay of a claim for coverage or payment of benefits, or
3 after a finding of a violation of rules under the Washington
4 Administrative Code adopted by the commissioner under RCW 48.30.010(2),
5 award reasonable attorneys' fees and actual and statutory litigation
6 costs, including expert witness fees, to the first party claimant of an
7 insurance contract who is the prevailing party in such an action.

8 (4) The remedies set forth in this chapter are separate from the
9 remedies prescribed by RCW 19.86.090 of the consumer protection act.

10 (5) "First party claimant" means an individual, corporation,
11 association, partnership, or other legal entity asserting a right to
12 payment under an insurance policy or insurance contract arising out of
13 the occurrence of the contingency or loss covered by such a policy or
14 contract."

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15 On page 1, line 1 of the title, after "act;" strike the remainder
16 of the title and insert "amending RCW 48.30.010; adding a new section
17 to chapter 48.30 RCW; creating a new section; and prescribing
18 penalties."

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