
Business & Financial Services Committee

HB 2600

Brief Description: Prohibiting automobile insurers from committing certain unfair practices.

Sponsors: Representatives Kirby, Hudgins, Ryu, Pollet, Moscoso and Freeman.

Brief Summary of Bill

- Prohibits certain unfair acts by insurers regarding first- and third-party motor vehicle property damage claims when liability for a collision is reasonably clear.

Hearing Date: 1/29/14

Staff: Linda Merelle (786-7092).

Background:

In 2007, the Legislature passed Engrossed Substitute Senate Bill 5726 (ESSB 5726) which created the "Insurance Fair Conduct Act (Act)." Under the Act, an insurer may not unreasonably deny a claim for coverage or payment of benefits to any first party claimant.

"First party claimant" is defined as "an individual, corporation, association, partnership or other legal entity asserting a right to payment as a covered person under an insurance policy or insurance contract arising out of the occurrence of the contingency or loss covered by such policy or contract."

Any first party claimant who is unreasonably denied a claim for coverage or payment of benefits by an insurer may bring an action in the superior court to recover the actual damages sustained, together with the costs of the action, including reasonable attorneys' fees and litigation costs.

The superior court may award up to three times the first party claimant's damages, and must award reasonable attorneys' fees and actual and statutory litigation costs, including expert witness fees, if the insurer has:

- acted unreasonably in denying a claim for coverage or payment of benefits;

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- violated one of five specific unfair practice rules; or
- violated one of the unfair claims settlement practice rules adopted by the Commissioner that are codified in chapter 284-30 of the Washington Administrative Code (WAC).

The court may make any other determination regarding an unfair practice by an insurer or provide for any other remedy available at law.

A first party claimant must give written notice to the insurer and the Insurance Commissioner 20 days before filing suit. Notice is deemed to be received three business days after it is mailed and the statute of limitation is tolled for the 20-day period.

The remedies available under the Act are not available in an action against a health plan offered by a health carrier.

Summary of Bill:

When liability for a collision is reasonably clear, an automobile insurer may not unreasonably fail to pay first and third party property damage claims for damage to motor vehicles, including motor-driven cycles and bicycles, by committing any of the following unfair acts:

- *claimant's estimate*: unreasonably refusing to pay a claimant's estimate for repairs or to pay for a total loss;
- *supplemental repairs*: unreasonably refusing to pay supplemental repairs necessary to restore a vehicle to its pre-loss condition;
- *diminished value*: failing to advise a claimant in writing that the claimant may submit a claim to the insurer for the diminished value of the vehicle to which repairs were made, and unreasonably failing to pay for the diminished value;
- *total loss*: unreasonably electing to repair a vehicle, motor-driven cycle, or bicycle when it should be declared a total loss;
- *insurer's guidelines*: failing to inform claimants of the insurer's guidelines for electing to repair or replace a vehicle, motorcycle, or bicycle damaged in a collision;
- *communication with repair facility*: failing to make a good faith effort to communicate with the repair facility chosen by the claimant;
- *unreasonable travel*: requiring the claimant to travel unreasonably to obtain a repair estimate, to have a damaged vehicle repaired at a specific facility, or to obtain a temporary rental or loaner vehicle;
- *list of repair facilities*: failing, after a request by the claimant, to provide a list of repair facilities within a reasonable distance that will complete the vehicle repairs for the estimated cost of the insurer prepared estimate;
- *further discovered damage*: failing to consider any additional loss-related damage that the facility discovers during the repairs to a damaged vehicle; and
- other prohibited acts in the WAC 248-30-390.

Additional unfair acts prohibited are violations of one of the following existing provisions in the WAC as follows:

- 284-30-391: the methods and standards of practice for settlement of total loss vehicle claims;
- 284-30-393: the inclusion of the insured's deductible in the insurer's subrogation demands; and

- 284-30-394: the denial of storage and towing costs.

Appropriation: None.

Fiscal Note: Requested on January 28, 2014.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.