

TEXAS UNFAIR CLAIM SETTLEMENT PRACTICES

The following practices are defined as unfair claim settlement practices and are prohibited under Chapters 541 and 542 of the Texas Insurance Code:

1. Misrepresenting to a claimant a material fact or policy provision relating to coverage at issue.
2. Knowingly misrepresenting to a claimant a pertinent facts or policy provisions relating to coverage at issue.
3. Failing to acknowledge with reasonable promptness pertinent communications relating to a claim arising under the insurer's policy. [28 TAC 21.203 adds the following language: *provided that "pertinent communications" shall exclude written communications that are direct responses to specific inquiries made by the insurer after initial report of a claim. An acknowledgment within 15 business days is presumed to be reasonably prompt.*]
4. Failing to attempt in good faith to effectuate a prompt, fair, and equitable settlement of a claim with respect to which the insurer's liability has become reasonably clear.
5. Failing to attempt in good faith to effectuate a prompt, fair, and equitable settlement of a claim under one portion of a policy with respect to which the insurer's liability has become reasonably clear to influence the claimant to settle another claim under another portion of the coverage unless payment under one portion of the coverage constitutes evidence of liability under another portion.
6. Failing to promptly provide to a policyholder a reasonable explanation of the basis in the policy, in relation to the facts or applicable law, for the insurer's denial of a claim or offer of a compromise settlement of a claim.
7. Failing within a reasonable time to affirm or deny coverage of a claim to a policyholder. [28 TAC 21.203(10) adds the following language: *The reasonable submission of a reservation of rights letter by an insurer to a policyholder within a reasonable time is deemed compliance with the provisions of this paragraph.*]
8. Failing within a reasonable time to submit a reservation of rights to a policyholder.
9. Refusing, failing, or unreasonably delaying a settlement offer under applicable first-party coverage on the basis that other coverage may be available or that third parties are responsible for the damages suffered, except as may be specifically provided in the policy.
10. Undertaking to enforce a full and final release of a claim from a policyholder when only a partial payment has been made, unless the payment is a compromise settlement of a doubtful or disputed claim.
11. Refusing to pay a claim without conducting a reasonable investigation with respect to the claim.
12. With respect to a Texas personal automobile insurance policy, delaying or refusing settlement of a claim solely because there is other insurance of a different kind available to satisfy all or part of the loss forming the basis of that claim. [28 TAC § 21.203(17) adds the following language: *The claimant who has a right to recover from either or both insurers is entitled to choose under which coverage and in what order payment is to be made.*]
13. Requiring a claimant as a condition of settling a claim to produce the claimant's federal income tax returns for examination or investigation by the person unless: (A) a court orders the claimant to produce those tax returns; (B) the claim involves a fire loss; or c) the claim involves lost profits or income.
14. Failing to adopt and implement reasonable standards for the prompt investigation of claims arising under the insurer's policies.
15. Compelling a policyholder to institute a suit to recover an amount due under a policy by offering substantially less than the amount ultimately recovered in a suit brought by the policyholder.
16. Failing to maintain the information relating to records of complaints as required by Insurance Code Section 542.005, and as required under 28 TAC §21.2504 (relating to Complaint Record; Required Elements; Explanation and Instructions) of records relating to complaints for previous three years.
17. Committing another act the commissioner (of insurance) determines by rule constitutes an unfair claim settlement practice.
18. Failing to provide promptly, when provided for in the policy, claim forms when the insurer requires such forms as a prerequisite for a claim settlement.
19. Attempting to settle a claim for less than the amount to which a reasonable person would have believed she/he was entitled by reference to an advertisement, as described in §21.102 of this title (relating to Scope), made by an insurer or person acting on behalf of an insurer.
20. Failing to establish a policy and proper controls to make certain that agents calculate and deliver to policyholders or their assignees funds due under policy provisions relative to cancellation of coverage within a reasonable time after such coverages are terminated.
21. Failing to respond promptly to a request by a claimant for personal contact about or review of the claim.
22. Violating the Prompt Payment of Claims Statute.