

ENGROSSED HOUSE AMENDMENT  
TO  
ENGROSSED SENATE BILL NO. 622

BY: STIPE of the SENATE

and

STOTTLEMYRE of the HOUSE

AN ACT RELATING TO INSURANCE; AMENDING 36 O.S. 1991,  
SECTION 1219, WHICH RELATES TO UNFAIR TRADE  
PRACTICES; REQUIRING NOTIFICATION OF ASSIGNEE OF  
RECORD; CLARIFYING PROVISION RELATING TO EFFECT OF  
FAILURE TO PROVIDE NOTIFICATION OF PROOF OF LOSS;  
CLARIFYING CERTAIN TIME PERIOD; AND PROVIDING AN  
EFFECTIVE DATE.

AMENDMENT NO. 1. Strike the title, enacting clause and entire bill  
and insert

"AN ACT RELATING TO INSURANCE; AMENDING 36 O.S. 1991,  
SECTION 1219, WHICH RELATES TO UNFAIR TRADE PRACTICES;  
REQUIRING NOTIFICATION OF ASSIGNEE OF RECORD; CLARIFYING  
PROVISION RELATING TO EFFECT OF FAILURE TO PROVIDE  
NOTIFICATION OF PROOF OF LOSS; CLARIFYING CERTAIN TIME  
PERIOD; AMENDING 36 O.S. 1991, SECTIONS 1222, 1223 AND  
1227, WHICH RELATE TO THE UNFAIR CLAIM SETTLEMENT  
PRACTICES ACT; MODIFYING APPLICABILITY OF THE UNFAIR CLAIM  
SETTLEMENT PRACTICES ACT; PROVIDING THAT CERTAIN  
PROVISIONS DO NOT AFFECT RIGHT TO COMPENSATE POLICYHOLDERS  
DIRECTLY; PROVIDING FOR CODIFICATION; AND PROVIDING AN  
EFFECTIVE DATE.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 36 O.S. 1991, Section 1219, is amended to read as follows:

Section 1219. A. In the administration, servicing or processing of any individual, group or blanket accident and health insurance policy, it shall be an unfair trade practice for any insurer to fail to notify a policyholder or assignee of record in writing of the cause for delay in payment of any claim where said claim is not paid within thirty (30) days after receipt of proof of loss; ~~the.~~ The notification shall be by mail with return receipt requested. ~~In addition, if~~ Failure of an insurer to provide a policyholder or assignee of record with such notification shall constitute prima facie evidence that the claim will be paid in accordance with the terms of the policy.

B. If a claim is not paid within sixty (60) days after receipt of proof of loss, the insurer shall pay interest which shall be the same rate of interest as the average United States Treasury Bill rate of the preceding calendar year as certified to the State Insurance Commissioner by the State Treasurer on the first regular business day in January of each year, plus two (2) percentage points, which shall accrue from the sixty-first day after receipt of proof of loss until the claim is paid.

C. As used in this section:

"Proof of loss" ~~for purposes of this section shall mean~~ means written ~~proofs~~ documents such as claim forms, medical bills, or other reasonable evidence of a claim, but shall not include information not necessary for determination of proof of loss and not pertinent to filed claims, such as any medical reports that the insurer wants to secure merely for completion of business records or files. ~~Failure to provide the insured or the assignee of record with such notification shall be prima facie evidence that the claim will be paid in accordance with the terms of the policy. Provided that in~~

D. In the event litigation should ensue based upon such a claim, the prevailing party shall be entitled to recover a reasonable attorney's fee to be set by the court and taxed as costs against the party or parties ~~which~~ who do not prevail.

E. The provisions of this section shall not apply to the Oklahoma Life and Health Insurance Guaranty Association or to the Oklahoma Property and Casualty Insurance Guaranty Association.

SECTION 2. AMENDATORY 36 O.S. 1991, Section 1222, is amended to read as follows:

Section 1222. No ~~property and casualty~~ insurer doing business in this state shall engage in unfair claim settlement practices. Any of the following acts by a ~~property and casualty~~ an insurer, if committed without cause, shall constitute unfair claim settlement practices:

1. Knowingly misrepresenting to claimants pertinent facts or policy provisions relating to coverages at issue;
2. Failing to acknowledge with reasonable promptness pertinent communications with respect to claims arising under its policies;
3. Failing to adopt and implement reasonable standards for prompt investigation of claims arising under its policies;
4. Not attempting in good faith to effectuate prompt, fair, and equitable settlements of claims submitted in which liability has become reasonably clear;
5. Compelling policyholders to institute suits to recover amounts due under its policies by offering substantially less than the amounts ultimately recovered in suits brought by them, when such policyholders have made claims for amounts reasonably similar to the amounts ultimately recovered; or
6. Failure of any insurer to maintain a complete record of all the complaints which it has received during the preceding three (3) years or since the date of its last examination by the Insurance Commissioner, whichever time is shorter. This record shall indicate

the total number of complaints, their classification by line of insurance, the nature of each complaint, the disposition of these complaints, and the time it took to process each complaint. For the purposes of this paragraph, "complaint" means any written communication primarily expressing a grievance.

SECTION 3. AMENDATORY 36 O.S. 1991, Section 1223, is amended to read as follows:

Section 1223. A. If the Insurance Commissioner determines, based on his investigation of complaints of unfair claim settlement practices, that ~~a property and casualty~~ an insurer has engaged in unfair claim settlement practices with such frequency as to indicate a general business practice and should be subjected to closer supervision with respect to such practices, the Insurance Commissioner may require the ~~property and casualty~~ insurer to file a report at such periodic intervals as the Insurance Commissioner deems necessary. The Insurance Commissioner shall also devise a statistical plan for such periodic reports, which shall contain but not be limited to the following information:

1. The total number of written claims filed, including the original amount filed for by the insured and the classification by line of insurance of each individual written claim, for the past twelve-month period or from the date of the insurer's last periodic report, whichever time is shorter;

2. The total number of written claims denied, for the past twelve-month period or from the date of the insurer's last periodic report, whichever time is shorter;

3. The total number of written claims settled, including the original amount filed for by the insured, the settled amount, and the classification of line of insurance of each individual settled claim, for the past twelve-month period or from the date of the insurer's last periodic report, whichever time is shorter;

4. The total number of written claims for which lawsuits were instituted against the insurer, including the original amount filed for by the insured, the amount of final adjudication, the reason for the lawsuit and the classification by line of insurance of each individual written claim, for the past twelve-month period or from the date of the insurer's last periodic report, whichever time is shorter; and

5. All information required by paragraph 6 of Section ~~6~~ 1222 of this ~~act~~ title.

B. For the purposes of this section, "written claims" means those claims reduced to writing and filed by a resident of this state with an insurer.

SECTION 4. AMENDATORY 36 O.S. 1991, Section 1227, is amended to read as follows:

Section 1227. The provisions of the Unfair Claim Settlement Practices Act shall apply ~~specifically~~ to all claims arising under insurance policies ~~providing liability coverage~~ or insurance contracts issued by any insurer.

SECTION 5. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 3624B of Title 36, unless there is created a duplication in numbering, reads as follows:

The provisions of Section 1219 of Title 36 of the Oklahoma Statutes shall not affect any right under Section 6055 of Title 36 of the Oklahoma Statutes of an insurer to compensate a policyholder directly even if there is an assignment of benefits available under an insurance policy, trust, plan or contract.

SECTION 6. This act shall become effective September 1, 1992."

Passed the House of Representatives the 7th day of April, 1992.

Speaker of the House of Representatives

Passed the Senate the \_\_\_\_ day of \_\_\_\_\_, 1992.

President            of the Senate