

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 740

Introduced by Hansen, 26.

Read first time January 06, 2016

Committee: Banking, Commerce and Insurance

- 1 A BILL FOR AN ACT relating to the Unfair Insurance Claims Settlement
- 2 Practices Act; to amend section 44-1540, Revised Statutes Cumulative
- 3 Supplement, 2014; to add an unfair claims settlement practice; and
- 4 to repeal the original section.
- 5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 44-1540, Revised Statutes Cumulative Supplement,
2 2014, is amended to read:

3 44-1540 Any of the following acts or practices by an insurer, if
4 committed in violation of section 44-1539, shall be an unfair claims
5 settlement practice:

6 (1) Knowingly misrepresenting to claimants and insureds relevant
7 facts or policy provisions relating to coverages at issue;

8 (2) Failing to acknowledge with reasonable promptness pertinent
9 communications with respect to claims arising under its policies;

10 (3) Failing to adopt and implement reasonable standards for the
11 prompt investigation and settlement of claims arising under its policies;

12 (4) Not attempting in good faith to effectuate prompt, fair, and
13 equitable settlement of claims submitted in which liability has become
14 reasonably clear;

15 (5) Not attempting in good faith to effectuate prompt, fair, and
16 equitable settlement of property and casualty claims (a) in which
17 coverage and the amount of the loss are reasonably clear and (b) for loss
18 of tangible personal property within real property which is insured by a
19 policy subject to section 44-501.02 and which is wholly destroyed by
20 fire, tornado, windstorm, lightning, or explosion;

21 (6) Compelling insureds or beneficiaries to institute litigation to
22 recover amounts due under its policies by offering substantially less
23 than the amounts ultimately recovered in litigation brought by them;

24 (7) Refusing to pay claims without conducting a reasonable
25 investigation;

26 (8) Failing to affirm or deny coverage of a claim within a
27 reasonable time after having completed its investigation related to such
28 claim;

29 (9) Attempting to settle a claim for less than the amount to which a
30 reasonable person would believe the insured or beneficiary was entitled
31 by reference to written or printed advertising material accompanying or

1 made part of an application;

2 (10) Attempting to settle claims on the basis of an application
3 which was materially altered without notice to or knowledge or consent of
4 the insured;

5 (11) Making a claims payment to an insured or beneficiary without
6 indicating the coverage under which each payment is being made;

7 (12) Unreasonably delaying the investigation or payment of claims by
8 requiring both a formal proof-of-loss form and subsequent verification
9 that would result in duplication of information and verification
10 appearing in the formal proof-of-loss form;

11 (13) Failing, in the case of the denial of a claim or the offer of a
12 compromise settlement, to promptly provide a reasonable and accurate
13 explanation of the basis for such action;

14 (14) Failing to provide forms necessary to present claims with
15 reasonable explanations regarding their use within fifteen working days
16 of a request;

17 (15) Failing to adopt and implement reasonable standards to assure
18 that the repairs of a repairer owned by or affiliated with the insurer
19 are performed in a skillful manner. For purposes of this subdivision, a
20 repairer is affiliated with the insurer if there is a preexisting
21 arrangement, understanding, agreement, or contract between the insurer
22 and repairer for services in connection with claims on policies issued by
23 the insurer;

24 (16) Requiring the insured or claimant to use a particular company
25 or location for motor vehicle repair. Nothing in this subdivision shall
26 prohibit an insurer from entering into discount agreements with companies
27 and locations for motor vehicle repair or otherwise entering into any
28 business arrangements or affiliations which reduce the cost of motor
29 vehicle repair if the insured or claimant has the right to use a
30 particular company or reasonably available location for motor vehicle
31 repair. If the insured or claimant chooses to use a particular company or

1 location other than the one providing the lowest estimate for like kind
2 and quality motor vehicle repair, the insurer shall not be liable for any
3 cost exceeding the lowest estimate. For purposes of this subdivision,
4 motor vehicle repair shall include motor vehicle glass replacement and
5 motor vehicle glass repair;

6 (17) Failing to provide coverage information or coordinate benefits
7 pursuant to section 68-928;~~and~~

8 (18) Failing to pay interest on any proceeds due on a life insurance
9 policy as required by section 44-3,143; and -

10 (19) Failing to disclose to a claimant, prior to the settlement of a
11 claim in which a motor vehicle is declared a total loss, any market
12 survey information used by the insurer in determining the value of such
13 motor vehicle.

14 Sec. 2. Original section 44-1540, Revised Statutes Cumulative
15 Supplement, 2014, is repealed.