

85 LSO 0268

**HOUSE BILL 0079**

HOUSE BILL 0079

HB0079

AN ACT to create W.S. 26-13-124 relating to insurance; specifying unfair and deceptive insurance claims settlement practices; and providing for an effective date.

Introduced by:

*Red Harris*

DATE	ACTION	DATE	ACTION
JAN 8 1985	READ FIRST TIME	2/8/85	CONSIDERED ON COM. OF WHOLE Recommended DO NOT PASS Indefinite Postponed
	REFERRED TO COM. NO. 1		
	DELIVERED TO COM. NO. 1		
JAN 17 1985	RETURNED		
	Recommended Amend and Do Pass 10 days		
JAN 18 1985	CONSIDERED IN COM. OF WHOLE		
	Standing Com. Amendment HB 79 HSI/A		
	ADOPTED		
	RECOMMENDED DO PASS		
JAN 18 1985	READ SECOND TIME		
	Amended as follows HB 79 H21/A		
	ADOPTED		
JAN 21 1985	READ THIRD TIME		
	Amended as follows HB 79 H31/A		
	ADOPTED		
	Ayes 39, Noes 21, Excused 1, Absent 0		
	Sent to Senate		
1/21/85	ENGROSSED		
1/22/85	Sent to Senate		
1/22/85	Received from House		
	Read first time		
	Referred to Com. No. 3		
	Delivered to Com. No. 3		
2/7/85	STANDING COMM. REPORT		
	DO PASS		

CONTINUED ON BACK

## THE LEGISLATURE OF THE STATE OF WYOMING

## House of Representatives

HB 0079 H51/

Cheyenne, January 15, 1985

Mr. Speaker:

Your Committee No. 1 on JUDICIARY

to whom was referred HB No. 0079

respectfully reports same back to the House with the recommendation that HB0079

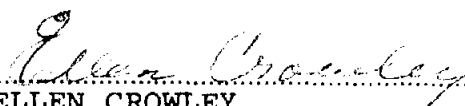
DO PASS with the following amendment;

SEE SCHEDULE "A" ATTACHED

AYESNOESABSENT  
EXCUSEDRep. Hansen.  
Harrison  
Lummis  
Odde  
Robertson  
Ryckman  
Tate  
Tipton  
Wolfley  
Crowley

0

0

  
 ELLEN CROWLEY
Chairman 

## HOUSE ROLL CALL

### FORTY-EIGHTH WYOMING LEGISLATURE

	Ayes	Noes	Excused	Absent		Ayes	Noes	Excused	Absent
ARNOLD	✓				MURPHY	✓			
BAKER		✓			ODDE	✓			
BARLOW	✓				PARKER	✓			
BIRLEFFI	✓				PERKINS	✓			
BLACKWELL	✓				RATLIFF	✓			
BROWN	✓				ROBERTSON	✓			
BUDD		✓			RYCKMAN	✓			
BURNS	✓				SALISBURY	✓			
BURTON	✓				SANDERS	✓			
BYRD	✓				SCHWOPE	✓			
CHAMBERLAIN		✓			SHREVE	✓			
CROSS	✓				<del>SMITH</del>				
CROWLEY	✓				SIMONS	✓			
DICKEY	✓				SORENSEN <i>Conf.</i>			✓	
DOBOS	✓				STAUFFER	✓			
GERINGER	✓				STRAND	✓			
GETTER	✓				TATE	✓			
GRANT	✓				THOMAS	✓			
HAGEMAN	✓				TIBBS	✓			
HANSEN	✓				TIPPETS	✓			
HARRISON	✓				TIPTON	✓			
HERBST	✓				TYSDAL	✓			
HINES		✓			WAGGENER	✓			
HUMPHREY	✓				WALLIS	✓			
JACKSON	✓				WEAVER	✓			
JENSEN	✓				WOLFLEY	✓			
JONES	✓				ZIMMERMAN	✓			
KUNZ	✓				ZUMBRUNNEN	✓			
LAMB	✓				MR. SPEAKER	✓			
LUMMIS	✓				<div style="display: flex; justify-content: space-between;"> <div>PRESENT _____</div> <div>             AYES <u>59</u>              NOES _____              EXCUSED <u>1</u>              ABSENT _____              TOTAL <u>64</u>              LESS _____           </div> </div>				
MACMILLAN	✓								
MALDONADO	✓								
MARTON	✓								
MCILVAIN	✓								
MEENAN	✓								
MICHEL	✓								

House of Intro				Second House			
_____	To Com. No.	_____		_____	To Com No.	_____	
_____	Stand Report	Do _____	Amd _____	Not _____	_____	Stand Report	Do _____
_____	Com Whole	Do _____	Amd _____	Not _____	_____	Com Whole	Do _____
_____	2nd Reading	Amd _____			_____	2nd Reading	Amd _____
_____	3rd Reading	Amd _____	Pass _____	Fail _____	_____	3rd Reading	Amd _____
							Pass _____
							Fail _____

INTRODUCED

1985

STATE OF WYOMING

85LSO-0268.01

HOUSE BILL NO. 0079

Unfair insurance claim practices.

Sponsored by: Representative(s) HARRISON

A BILL

for

1 AN ACT to create W.S. 26-13-124 relating to insurance;  
 2 specifying unfair and deceptive insurance claims settle-  
 3 ment practices; and providing for an effective date.

4 Be It Enacted by the Legislature of the State of Wyoming:

5 Section 1. W.S. 26-13-124 is created to read:

6 26-13-124. Unfair claims settlement practices.

7 (a) A person is considered to be engaging in an  
 8 unfair method of competition and unfair and deceptive act  
 9 or practice in the business of insurance if that person

- 1 -

HB 79

1 commits or performs with such frequency as to indicate a  
2 general business practice any of the following unfair  
3 claims settlement practices:

4 (i) Misrepresenting to claimants pertinent  
5 facts or insurance policy provisions relating to any cov-  
6 erages at issue;

7 (ii) Failing to acknowledge and act reasonably  
8 promptly upon communications with respect to claims aris-  
9 ing under insurance policies;

10 (iii) Failing to adopt and implement reason-  
11 able standards for the prompt investigation and processing  
12 of claims arising under insurance policies;

13 (iv) Failing to affirm or deny coverage of  
14 claims within a reasonable time after proof of loss  
15 requirements have been completed and submitted by the  
16 insured;

17 (v) Not attempting in good faith to carry out  
18 prompt, fair and equitable settlements of claims in which  
19 liability is reasonably clear;

20 (vi) Compelling insureds to institute litiga-  
21 tion to recover amounts due under an insurance policy by

1 offering substantially less than the amounts ultimately  
2 recovered in actions brought by those insureds, when those  
3 insureds have made claims for amounts reasonably similar  
4 to the amounts ultimately recovered;

5 (vii) Attempting to settle a claim by an  
6 insured for less than the amount to which a reasonable  
7 person would have believed he was entitled by reference to  
8 written or printed advertising material accompanying or  
9 made part of an application;

10 (viii) Attempting to settle claims on the  
11 basis of an application which was altered without notice  
12 to, or knowledge or consent of, the insured, his represen-  
13 tative, agent or broker;

14 (ix) Failing, after payment of a claim, to  
15 inform insureds or beneficiaries, upon request by them, of  
16 the coverage under which payment has been made;

17 (x) Making known to insureds or claimants a  
18 practice of the insurer of appealing from arbitration  
19 awards in favor of insureds or claimants for the purpose  
20 of compelling them to accept settlements or compromises  
21 less than the amount awarded in arbitration;

22 (xi) Delaying the investigation or payment of

1 claims by requiring an insured, claimant, or the physician  
2 of either, to submit a preliminary claim report, and then  
3 requiring the subsequent submission of formal proof of  
4 loss forms, both of which submissions contain substan-  
5 tially the same information;

(xii) Failing to settle claims promptly, where liability is apparent, under one (1) portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage;

(xiii) Failing to provide promptly a reasonable explanation of the basis relied on in the insurance policy, in relation to the facts or applicable law, for the denial of a claim or for the offer of a compromise settlement;

15           (xiv) Directly advising a claimant not to  
16    obtain the services of an attorney; or

17           (xv) Misleading a claimant as to the applica-  
18   ble statute of limitations.

19           Section 2.   This act is effective May 23, 1985.

20 (END)

FISCAL NOTE

<u>Anticipated REVENUE to:</u>	<u>Fiscal Year 19</u>	<u>Fiscal Year 19</u>
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_____	_____	_____
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_____	_____	_____
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TOTAL ESTIMATED REVENUE

=====

<u>Anticipated COST to:</u>	<u>Fiscal Year 19</u>	<u>Fiscal Year 19</u>
-----------------------------	-----------------------	-----------------------

_____	_____	_____
-------	-------	-------

_____	_____	_____
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TOTAL ESTIMATED COST

=====

1. A minimal amount of revenue may be generated by fines imposed by violating the provisions of the bill.
2. No apparent personnel impact.



SCHEDULE A

Page 1-line 1 After "26-13-124" insert "and 26-13-125".

Page 1-line 3 After ";" insert "establishing standards for prompt, fair and equitable settlements applicable to automobile insurance;".

Page 1-line 5 Delete "is" insert "and 26-13-125 are".

Page 2-line 16 After "insured" insert "as required by W.S. 26-15-124".

Page 3-line 5 Delete "by an".

Page 3-line 6 Delete "insured".

Page 3-line 12 After "insured" insert ";" and delete balance of line.

Page 3-line 13 Delete line entirely.

Page 4-line 7 Delete "apparent" insert "reasonably clear".

Page 4-line 16 Delete "or".

Page 4-line 18 Delete "." insert ";;".

Page 4-After line 18 insert:

(xvi) Refusing to pay claims without conducting a reasonable investigation based upon all available information;

(xvii) Failing to fully disclose to first party claimants all pertinent benefits, coverages or other provisions of an insurance policy or insurance contract under which a claim is presented;

(xviii) Denying a claim for failure to exhibit property that has sustained loss or damage for which the claim has been filed without proof of demand and unfounded refusal by a claimant to do so;

(xix) Except where there is a time limit specified in the policy, making statements, written or otherwise, requiring a claimant to give written notice of loss or proof of loss within a specified time limit and which seek to relieve the company of its obligations if the time limit is not complied with unless the failure to comply with the time limit prejudices the insurer's rights;

(xx) Requesting a first party claimant to sign a release that extends beyond the subject matter that gave rise to the claim payment;

(xxi) Denying a claim on the grounds of a spe-

1 cific policy provision, condition or exclusion unless refer-  
2 ence to such provision, condition or exclusion is included  
3 in the denial. The denial must be given to the claimant in  
4 writing and the claim file of the insurer shall contain a  
5 copy of the denial;

6 (xxii) Failing to settle first party claims on  
7 the basis that responsibility for payment should be assumed  
8 by others except as may otherwise be provided by policy pro-  
9 visions;

10 (xxiii) Continuing negotiations for settlement  
11 of a claim directly with a claimant or his attorney, where  
12 the continuation of the negotiations may cause the time  
13 limit established by any applicable statute of limitations  
14 or the policy or contract of insurance to expire, without  
15 giving written notice that the time limit may be expiring  
16 and may affect the claimant's rights under the policy or  
17 contract of insurance. The notice shall be given to first  
18 party claimants thirty (30) days and to third party claim-  
19 ants sixty (60) days before the date on which such time  
20 limit may expire; or

21 (xxiv) Making statements which indicate that the  
22 rights of a third party claimant may be impaired if a form  
23 or release is not completed within a given period of time  
24 unless the statement is given for the purpose of notifying  
25 the third party claimant of the provision of a statute of  
26 limitations.

27 26-13-125. Standards for prompt, fair and equi-  
28 table settlements applicable to automobile insurance.

29 (a) When the insurance policy provides for the  
30 adjustment and settlement of first party automobile total  
31 losses on the basis of actual cash value or replacement with  
32 another of like kind and quality, one (1) of the following  
33 methods shall apply:

34 (i) The insurer may elect to offer a replace-  
35 ment automobile which is a specific comparable automobile  
36 available to the insured, with all applicable taxes, license  
37 fees and other fees incident to transfer of or evidence of  
38 ownership of the automobile paid, at no cost other than any  
39 deductible provided in the policy. The offer and any rejec-  
40 tion thereof shall be documented in the claim file;

41 (ii) The insurer may elect a cash settlement  
42 based upon the actual cost, less any deductible provided in  
43 the policy, to purchase a comparable automobile including  
44 all applicable taxes, license fees and other fees incident  
45 to transfer of evidence of ownership of a comparable automo-  
46 bile. The cost may be determined by:

47 (A) The cost of a comparable automobile in  
48 the local market area when a comparable automobile is avail-  
49 able in the local market area; or

50 (B) One (1) of two (2) or more quotations  
51 obtained by the insurer from two (2) or more qualified deal-

1       ers located within the local market area when a comparable  
2       automobile is not available in the local market area.

3               (iii) When a first party automobile total loss  
4       is settled on a basis which deviates from the methods  
5       described in paragraphs (i) and (ii) of this subsection, the  
6       deviation shall be supported by documentation giving partic-  
7       ulars of the automobile condition. Any deductions from the  
8       cost, including deduction for salvage, shall be measurable,  
9       discernible, itemized and specified as to dollar amount and  
10      shall be appropriate in amount. The basis for the settle-  
11      ment shall be fully explained to the first party claimant.

12              (b) Where liability and damages are reasonably clear,  
13      insurers shall not recommend that third party claimants make  
14      claim under their own policies solely to avoid paying claims  
15      under the insurer's insurance policy or insurance contract.

16              (c) Insurers shall not require a claimant to travel  
17      unreasonably either to inspect a replacement automobile, to  
18      obtain a repair estimate or to have the automobile repaired  
19      at a specific repair shop.

20              (d) If an insurer prepares an estimate of the cost of  
21      automobile repairs, the estimate shall be in an amount for  
22      which it may be reasonably expected the damage can be satis-  
23      factorily repaired. The insurer shall give a copy of the  
24      estimate to the claimant and may furnish to the claimant the  
25      names of one (1) or more conveniently located repair shops.

26              (e) When the amount claimed is reduced because of bet-  
27      terment or depreciation, all information for the reduction  
28      shall be contained in the claim file. The deductions shall  
29      be itemized and specified as to dollar amount and shall be  
30      appropriate for the amount of deductions.

31              (f) When the insurer elects to repair and designates a  
32      specific repair shop for automobile repairs, the insurer  
33      shall cause the damaged automobile to be restored to its  
34      condition prior to the loss at no additional cost to the  
35      claimant other than as stated in the policy and within a  
36      reasonable period of time.

37              (g) The insurer shall not use as a basis for cash set-  
38      tlement with a first party claimant an amount which is less  
39      than the amount which the insurer would pay if repairs were  
40      made, other than in total loss situations, unless the amount  
41      is agreed to by the insured." -HARRISON

House of Intro  
To Com. No. \_\_\_\_\_  
Stand Report Do \_\_\_ Amd \_\_\_ Not \_\_\_  
Com Whole Do \_\_\_ Amd \_\_\_ Not \_\_\_  
2nd Reading Amd \_\_\_  
3rd Reading Amd \_\_\_ Pass \_\_\_ Fail \_\_\_

Second House  
To Com No. \_\_\_\_\_  
Stand Report Do \_\_\_ Amd \_\_\_ Not \_\_\_  
Com Whole Do \_\_\_ Amd \_\_\_ Not \_\_\_  
2nd Reading Amd \_\_\_  
3rd Reading Amd \_\_\_ Pass \_\_\_ Fail \_\_\_

1985

STATE OF WYOMING

85LSO-0268/eng

HOUSE BILL NO. 0079

**ENGROSSED**

Unfair insurance claim practices.

Sponsored by: Representative(s) HARRISON

A BILL

for

1 AN ACT to create W.S. 26-13-124 relating to insurance;  
2 specifying unfair and deceptive insurance claims settle-  
3 ment practices; and providing for an effective date.

4 Be It Enacted by the Legislature of the State of Wyoming:

5 Section 1. W.S. 26-13-124 is created to read:

6 26-13-124. Unfair claims settlement practices.

7 (a) A person is considered to be engaging in an  
8 unfair method of competition and unfair and deceptive act  
9 or practice in the business of insurance if that person

1 commits or performs with such frequency as to indicate a  
2 general business practice any of the following unfair  
3 claims settlement practices:

4 (i) Misrepresenting pertinent facts or insur-  
5 ance policy provisions relating to coverages at issue;

6 (ii) Failing to acknowledge and act reasonably  
7 promptly upon communications with respect to claims aris-  
8 ing under insurance policies;

9 (iii) Failing to adopt and implement reason-  
10 able standards for the prompt investigation of claims  
11 arising under insurance policies;

12 (iv) Refusing to pay claims without conducting  
13 a reasonable investigation based upon all available infor-  
14 mation;

15 (v) Failing to affirm or deny coverage of  
16 claims within a reasonable time after proof of loss state-  
17 ments have been completed;

18 (vi) Not attempting in good faith to effectuate  
19 prompt, fair and equitable settlements of claims in  
20 which liability has become reasonably clear;

21 (vii) Compelling insureds to institute litiga-

1     tion to recover amounts due under an insurance policy by  
2     offering substantially less than the amounts ultimately  
3     recovered in actions brought by such insureds;

4             (viii) Attempting to settle a claim for less  
5     than the amount to which a reasonable man would have  
6     believed he was entitled by reference to written or  
7     printed advertising material accompanying or made part of  
8     an application;

9             (ix) Attempting to settle claims on the basis  
10    of an application which was altered without notice to, or  
11    knowledge or consent of the insured;

12            (x) Making claims payments to insureds or ben-  
13    eficiaries not accompanied by statement setting forth the  
14    coverage under which the payments are being made;

15            (xi) Making known to insured or claimants a  
16    policy of appealing from arbitration awards in favor of  
17    insureds or claimants for the purpose of compelling them  
18    to accept settlements or compromises less than the amount  
19    awarded in arbitration;

20            (xii) Delaying the investigation or payment of  
21    claims by requiring an insured, claimant, or the physician  
22    of either to submit a preliminary claim report and then

1 requiring the subsequent submission of formal proof of  
2 loss forms, both of which submissions contain substan-  
3 tially the same information;

4 (xiii) Failing to promptly settle claims,  
5 where liability has become reasonably clear, under one (1)  
6 portion of the insurance policy coverage in order to  
7 influence settlements under other portions of the insur-  
8 ance policy coverage; or

9 (xiv) Failing to promptly provide a reasonable  
10 explanation of the basis in the insurance policy in rela-  
11 tion to the facts or applicable law for denial of a claim  
12 or for the offer of a compromise settlement.

13 Section 2. This act is effective May 23, 1985.

14 (END)

2 Page 1-line 1 After "26-13-124" insert "and 26-13-125".

3 Page 1-line 3 After ";" insert "establishing standards  
4 for prompt, fair and equitable settlements  
5 applicable to automobile insurance;".

6 Page 1-line 5 Delete "is" insert "and 26-13-125 are".

7 Page 2-line 16 After "insured" insert "as required by W.S.  
8 26-15-124".

9 Page 3-line 5 Delete "by an".

10 Page 3-line 6 Delete "insured".

11 Page 3-line 12 After "insured" insert ";" and delete bal-  
12 ance of line.

13 Page 3-line 13 Delete line entirely.

14 Page 4-line 7 Delete "apparent" insert "reasonably  
15 clear".

16 Page 4-line 16 Delete "or".

17 Page 4-line 18 Delete "." insert ";".

18 Page 4-After line 18 insert:

19 "(xvi) Refusing to pay claims without con-  
20 ducting a reasonable investigation based upon all available  
21 information;

22 "(xvii) Failing to fully disclose to first  
23 party claimants all pertinent benefits, coverages or other  
24 provisions of an insurance policy or insurance contract  
25 under which a claim is presented;

26 "(xviii) Denying a claim for failure to exhibit  
27 property that has sustained loss or damage for which the  
28 claim has been filed without proof of demand and unfounded  
29 refusal by a claimant to do so;

30 "(xix) Except where there is a time limit speci-  
31 fied in the policy, making statements, written or otherwise,  
32 requiring a claimant to give written notice of loss or proof  
33 of loss within a specified time limit and which seek to  
34 relieve the company of its obligations if the time limit is  
35 not complied with unless the failure to comply with the time  
36 limit prejudices the insurer's rights;

37 "(xx) Requesting a first party claimant to sign a  
38 release that extends beyond the subject matter that gave  
39 rise to the claim payment;

40 "(xxi) Denying a claim on the grounds of a spe-  
41 cific policy provision, condition or exclusion unless refer-  
42 ence to such provision, condition or exclusion is included



1 in the denial. The denial must be given to the claimant in  
2 writing and the claim file of the insurer shall contain a  
3 copy of the denial;

4 (xxii) Failing to settle first party claims on  
5 the basis that responsibility for payment should be assumed  
6 by others except as may otherwise be provided by policy pro-  
7 visions;

8 (xxiii) Continuing negotiations for settlement  
9 of a claim directly with a claimant or his attorney, where  
10 the continuation of the negotiations may cause the time  
11 limit established by any applicable statute of limitations  
12 or the policy or contract of insurance to expire, without  
13 giving written notice that the time limit may be expiring  
14 and may affect the claimant's rights under the policy or  
15 contract of insurance. The notice shall be given to first  
16 party claimants thirty (30) days and to third party claim-  
17 ants sixty (60) days before the date on which such time  
18 limit may expire; or

19 (xxiv) Making statements which indicate that the  
20 rights of a third party claimant may be impaired if a form  
21 or release is not completed within a given period of time  
22 unless the statement is given for the purpose of notifying  
23 the third party claimant of the provision of a statute of  
24 limitations.

25 26-13-125. Standards for prompt, fair and equi-  
26 table settlements applicable to automobile insurance.

27 (a) When the insurance policy provides for the  
28 adjustment and settlement of first party automobile total  
29 losses on the basis of actual cash value or replacement with  
30 another of like kind and quality, one (1) of the following  
31 methods shall apply:

32 (i) The insurer may elect to offer a replace-  
33 ment automobile which is a specific comparable automobile  
34 available to the insured, with all applicable taxes, license  
35 fees and other fees incident to transfer of or evidence of  
36 ownership of the automobile paid, at no cost other than any  
37 deductible provided in the policy. The offer and any rejection  
38 thereof shall be documented in the claim file;

39 (ii) The insurer may elect a cash settlement  
40 based upon the actual cost, less any deductible provided in  
41 the policy, to purchase a comparable automobile including  
42 all applicable taxes, license fees and other fees incident  
43 to transfer of evidence of ownership of a comparable automo-  
44 bile. The cost may be determined by:

45 (A) The cost of a comparable automobile in  
46 the local market area when a comparable automobile is avail-  
47 able in the local market area; or

48 (B) One (1) of two (2) or more quotations  
49 obtained by the insurer from two (2) or more qualified deal-  
50 ers located within the local market area when a comparable  
51 automobile is not available in the local market area.

deleted by  
#3/14

1 (iii) When a first party automobile total loss  
2 is settled on a basis which deviates from the methods  
3 described in paragraphs (i) and (ii) of this subsection, the  
4 deviation shall be supported by documentation giving partic-  
5 ulars of the automobile condition. Any deductions from the  
6 cost, including deduction for salvage, shall be measurable,  
7 discernible, itemized and specified as to dollar amount and  
8 shall be appropriate in amount. The basis for the settle-  
9 ment shall be fully explained to the first party claimant.

10 (b) Where liability and damages are reasonably clear,  
11 insurers shall not recommend that third party claimants make  
12 claim under their own policies solely to avoid paying claims  
13 under the insurer's insurance policy or insurance contract.

14 (c) Insurers shall not require a claimant to travel  
15 unreasonably either to inspect a replacement automobile, to  
16 obtain a repair estimate or to have the automobile repaired  
17 at a specific repair shop.

18 (d) If an insurer prepares an estimate of the cost of  
19 automobile repairs, the estimate shall be in an amount for  
20 which it may be reasonably expected the damage can be satis-  
21 factorily repaired. The insurer shall give a copy of the  
22 estimate to the claimant and may furnish to the claimant the  
23 names of one (1) or more conveniently located repair shops.

24 (e) When the amount claimed is reduced because of bet-  
25 terment or depreciation, all information for the reduction  
26 shall be contained in the claim file. The deductions shall  
27 be itemized and specified as to dollar amount and shall be  
28 appropriate for the amount of deductions.

29 (f) When the insurer elects to repair and designates a  
30 specific repair shop for automobile repairs, the insurer  
31 shall cause the damaged automobile to be restored to its  
32 condition prior to the loss at no additional cost to the  
33 claimant other than as stated in the policy and within a  
34 reasonable period of time.

35 (g) The insurer shall not use as a basis for cash set-  
36 tlement with a first party claimant an amount which is less  
37 than the amount which the insurer would pay if repairs were  
38 made, other than in total loss situations, unless the amount  
39 is agreed to by the insured." -CROWLEY, CHAIRMAN

SW

(Encl.)

- 1 ✓ HB0079H21/ *A* *Revised by HB 79*
- 2 Delete the standing committee amendment (HB0079HS1/A).
- 3 Page 1-line 2 Delete "specifying" insert "granting the  
4 commissioner rulemaking authority relating  
5 to".
- 6 Page 1-lines 7 through 9 Delete entirely.
- 7 Page 2-line 1 through 21 Delete entirely.
- 8 Page 3 lines 1 through 22 Delete entirely.
- 9 Page 4-lines 1 through 18 Delete entirely and insert "The  
10 commissioner may promulgate reasonable  
11 rules and regulations defining unfair and  
12 deceptive insurance settlement practices  
13 which constitute unfair trade practices  
14 under this chapter." -THOMAS

**ADOPTED***(Cmt)*

2 ~~X~~ Delete the Thomas second reading amendment (HB0079H21/A).

3 ~~X~~ Delete the Standing committee amendment (HB0079HS1/A).

4 ~~X~~ Page 2-lines 4 through 21 Delete entirely.

5 ~~X~~ Page 3-lines 1 through 22 Delete entirely.

6 ~~X~~ Page 4-lines 1 through 18 Delete entirely.

7 Page 4-After line 18 Insert:

8 "(i) Misrepresenting pertinent facts or insurance policy  
9 provisions relating to coverages at issue;

10 (ii) Failing to acknowledge and act reasonably promptly  
11 upon communications with respect to claims arising under  
12 insurance policies;

13 (iii) Failing to adopt and implement reasonable standards  
14 for the prompt investigation of claims arising under insur-  
15 ance policies;

16 (iv) Refusing to pay claims without conducting a reasonable  
17 investigation based upon all available information;

18 (v) Failing to affirm or deny coverage of claims within a  
19 reasonable time after proof of loss statements have been  
20 completed;

21 (vi) Not attempting in good faith to effectuate prompt,  
22 fair and equitable settlements of claims in which liability  
23 has become reasonably clear;

24 (vii) Compelling insureds to institute litigation to  
25 recover amounts due under an insurance policy by offering  
26 substantially less than the amounts ultimately recovered in  
27 actions brought by such insureds;

28 (viii) Attempting to settle a claim for less than the  
29 amount to which a reasonable man would have believed he was  
30 entitled by reference to written or printed advertising  
31 material accompanying or made part of an application;

32 (ix) Attempting to settle claims on the basis of an appli-  
33 cation which was altered without notice to, or knowledge or  
34 consent of the insured;

35 (x) Making claims payments to insureds or beneficiaries not  
36 accompanied by statement setting forth the coverage under  
37 which the payments are being made;

38 (xi) Making known to insured or claimants a policy of  
39 appealing from arbitration awards in favor of insureds or  
40 claimants for the purpose of compelling them to accept set-  
41 tlements or compromises less than the amount awarded in  
42 arbitration;

- 1 (xii) Delaying the investigation or payment of claims by  
2 requiring an insured, claimant, or the physician of either  
3 to submit a preliminary claim report and then requiring the  
4 subsequent submission of formal proof of loss forms, both of  
5 which submissions contain substantially the same informa-  
6 tion;
- 7 (xiii) Failing to promptly settle claims, where liability  
8 has become reasonably clear, under one portion of the insur-  
9 ance policy coverage in order to influence settlements under  
10 other portions of the insurance policy coverage; or
- 11 (xiv) Failing to promptly provide a reasonable explanation  
12 of the basis in the insurance policy in relation to the  
13 facts or applicable law for denial of a claim or for the  
14 offer of a compromise settlement." -HARRISON

*W*  
**ADOPTED**

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