

Sec. 21.36.125. Unfair claim settlement practices.

(a) A person may not commit any of the following acts or practices:

(1) misrepresent facts or policy provisions relating to coverage of an insurance policy;

(2) fail to acknowledge and act promptly upon communications regarding a claim arising under an insurance policy;

(3) fail to adopt and implement reasonable standards for prompt investigation of claims;

(4) refuse to pay a claim without a reasonable investigation of all of the available information and an explanation of the basis for denial of the claim or for an offer of compromise settlement;

(5) fail to affirm or deny coverage of claims within a reasonable time of the completion of proof-of-loss statements;

(6) fail to attempt in good faith to make prompt and equitable settlement of claims in which liability is reasonably clear;

(7) engage in a pattern or practice of compelling insureds to litigate for recovery of amounts due under insurance policies by offering substantially less than the amounts ultimately recovered in actions brought by those insureds;

(8) compel an insured or third-party claimant in a case in which liability is clear to litigate for recovery of an amount due under an insurance policy by offering an amount that does not have an objectively reasonable basis in law and fact and that has not been documented in the insurer's file;

(9) attempt to make an unreasonably low settlement by reference to printed advertising matter accompanying or included in an application;

(10) attempt to settle a claim on the basis of an application that has been altered without the consent of the insured;

(11) make a claims payment without including a statement of the coverage under which the payment is made;

(12) make known to an insured or third-party claimant a policy of appealing from an arbitration award in favor of an insured or third-party claimant for the purpose of compelling the insured or third-party claimant to accept a settlement or compromise less than the amount awarded in arbitration;

(13) delay investigation or payment of claims by requiring submission of unnecessary or substantially repetitive claims reports and proof-of-loss forms;

(14) fail to promptly settle claims under one portion of a policy for the purpose of influencing settlements under other portions of the policy;

(15) fail to promptly provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement; or

(16) offer a form of settlement or pay a judgment in any manner prohibited by [AS 21.89.030](#);

(17) violate a provision contained in [AS 21.07](#).

(b) The provisions of this section do not create or imply a private cause of action for a violation of this section.

Sec. 21.36.130. Stock operations and advisory board contracts.

A person may not issue or deliver or permit its agents, officers, or employees to issue or deliver, agency company stock or other capital stock, or benefit certificates or shares in a common law corporation, or securities, or an advisory board contract or other similar contract of any kind promising returns and profits as an inducement to insurance.

Sec. 21.36.140. Desist orders for prohibited practices. [Repealed, Sec. 11 ch 163 SLA 1976].

Repealed or Renumbered

Sec. 21.36.145. Unfair financial planning practices.

(a) A person may not represent, directly or indirectly, to be a financial planner, investment adviser, consultant, financial counselor, or similar specialist engaged in the business of giving financial planning or advice relating to investments, insurance,

real estate, tax matters, or trust and estate matters when the person is in fact only engaging in the sale of insurance.

(b) A person may not engage in the business of financial planning and solicit the sale of a product or service on the basis that the person is an insurance salesperson or that a commission for the sale of an insurance product will be received in addition to a fee for financial planning without full disclosure to the client before the execution of the agreement required in (c) of this section.

(c) A person licensed under this title may not charge a fee other than a commission for financial planning unless the fee is based upon a written agreement signed before the performance of a service under the agreement. The insurance salesperson shall provide the client a copy of the signed agreement at the time of signing. The agreement must specifically state the service for which a fee is to be charged and how the fee will be determined or calculated. The agreement must provide that the client is under no obligation to purchase an insurance product. The licensee shall retain a copy of the agreement for not less than five years after completion of services and the agreement shall be available to the director upon request.

Sec. 21.36.150. Procedures as to undefined practices.

(a) If the director believes that a person engaged in the insurance business is engaging in this state in an unfair method of competition or in an unfair or deceptive act or practice in the conduct of the business that is not defined as being unfair or deceptive under this chapter, the director shall hold a hearing on the matter, if the director believes it would be in the public interest to do so after giving notice of the hearing and of the charges. Upon conclusion of the hearing the director shall make a written report of the findings of fact relative to the charges and serve a copy upon the person and any intervenor at the hearing.

(b) If the report charges a violation of this chapter and if the method of competition, act, or practice has not been discontinued, the director may, through the attorney general of this state, at any time after the service of the report, cause an action to be instituted to enjoin and restrain the person from engaging in the method, act, or practice. In the action the court may grant a restraining order or injunction upon just terms, but the state may not be required to give security before the issuance of the order or injunction. If a record of the proceedings in the hearing before the director was made, a certified transcript, including all evidence taken and the report and findings, shall be received in evidence in the action.

(c) If the director's report made under (a) of this section, or order on hearing made under AS 21.36.320 does not charge a violation of this chapter, an intervenor in the proceedings may appeal from the order or report within the time and in the manner provided for appeals from the director generally.

(d) In addition to the unfair methods and unfair or deceptive acts or practices expressly defined in this title, the director may adopt regulations to define other methods of competition and other acts and practices related to the business of insurance that are unfair or deceptive.

Sec. 21.36.155. Health discount plans.

(a) A person may not sell, market, promote, advertise, or otherwise distribute a health discount plan unless

(1) each advertisement, policy, document, information, statement, or other communication regarding the health discount plan and the plan itself contain a statement, in bold and prominent type, that the health discount plan is not insurance;

(2) the discounts offered under the health discount plan are specifically authorized by a contract with each provider of the services or supplies listed in conjunction with the plan;

(3) the health discount plan states the name, address, and telephone number of the administrator of the plan;

(4) the person makes readily available to the consumer a complete, accurate, and up-to-date list of providers participating in the plan that offer discounted health care services or supplies in the consumer's local area and the discounts offered by the providers;

(5) the person provides the consumer the right to cancel the health discount plan within 30 days after purchase of the plan; and

(6) the person provides the consumer with a full refund of all payments made, except for a nominal processing fee, within 30 days after notification of cancellation of the plan under (5) of this subsection.

(b) The director may adopt regulations to implement this section and to establish additional requirements intended to prohibit unfair or deceptive practices relating to health discount plans.

Sec. 21.36.160. Right of debtor or borrower to select insurance producer and insurer.

If property insurance is required in connection with a debt or loan, the debtor or borrower has the reasonable right to select the insurance producer and insurer through whom the insurance is to be placed if (1) the insurance is provided for the protection of the creditor's or lender's interest in the property at the commencement of the risk; or (2) in the case of renewal of insurance, the renewal policy is delivered to the creditor or lender no later than 30 days before the renewal date.

Sec. 21.36.162. Nondisclosure of personal financial and personal health information.

The director shall adopt regulations regarding the release of financial and health information regarding an individual who seeks to obtain, obtains, or has obtained an insurance product or service from a licensee that is to be used primarily for personal, family, or household purposes. The regulations must be at least as restrictive as the model regulations adopted under the National Conference of Insurance Legislators Financial Information Privacy Protection Model Act, adopted by the National Conference of Insurance Legislators Executive Committee on November 17, 2000, and amended on March 2, 2001.

Sec. 21.36.164. Licensing of persons in a financial institution.

A financial institution may not allow a person to transact insurance in an office of the institution or on behalf of the institution, unless the person is licensed as required under AS 21.27.

Sec. 21.36.165. Anticoercion and antityping.

(a) A person may not

(1) require, as a condition to the lending of money or extension of credit, or a renewal of the loan or extension of credit, that the obligee of the money or credit negotiate a policy or contract of insurance through any particular person or group of persons;

(2) disapprove the insurance policy provided by a borrower for the protection of property securing credit or a loan if disapproval is based on other than reasonable standards uniformly applied and relating to the extent of coverage required and the financial soundness and the services of the insurer; the standards may not discriminate against a particular type of insurer or call for the disapproval of a policy containing coverage in addition to that required;

(3) unless charges are required when the person handling the insurance transaction is a licensee, require a consumer, insurer, broker, or agent to pay a separate charge for handling an insurance policy required as security for a loan on real property, or to pay a separate charge to substitute the insurance policy of one insurer for that of another, except that interest may be charged on premium loans or premium advancements in accordance with the security instrument.

(b) A person shall

(1) use separate documents for an insurance transaction, other than credit insurance or flood insurance, and for a credit transaction; and

(2) maintain separate and distinct records relating to insurance transactions, including consumer complaint information, and make the records available to the director for inspection upon notice.

(c) A person may not include insurance premiums in a primary credit transaction without the consent of the consumer.

(d) Nothing in this section prohibits a person from informing a consumer or prospective consumer that insurance is required in order to obtain a loan or credit, that loan or credit approval is contingent on the procurement of acceptable insurance by the consumer, or that insurance is available from the person.

Sec. 21.36.167. Misrepresentation in financial institution sales.

In the sale of insurance by a financial institution, a person may not engage in any practice or use an advertisement that may tend to mislead or deceive a consumer or cause a consumer to erroneously believe that

(1) the insurance is backed by or a return on the insurance is guaranteed by the state, the federal government, the person, or the Federal Deposit Insurance Corporation;

(2) the state or federal government

(A) will pay a claim under an insurance contract that is an obligation of or was sold by the person;

(B) is responsible for the insurance sales activities of the person; or

(C) guarantees the credit of the person;

(3) for insurance that contains investment risk, the insurance does not contain investment risk, the principal may not be lost, or the value of the insurance may not decline;

(4) the lending of money, extension of credit, or a renewal of a loan is conditioned on the purchase of insurance from the person and that insurance may not be purchased from another source.

Sec. 21.36.168. Disclosures required in financial institution sales.

(a) In the sale of insurance by a financial institution, a person shall disclose both orally and in writing to a consumer before the initial purchase of insurance that

(1) the insurance is not a deposit or other obligation of the person;

(2) the insurance is not guaranteed by the person or the person soliciting insurance;

(3) the insurance is not insured by the Federal Deposit Insurance Corporation or other agency of the United States, the financial institution, or the person;

(4) if the insurance contains risk, the insurance contains investment risk and the insurance may lose value;

(5) the consumer is not required to negotiate a policy or contract of insurance through any particular person or group of persons as a condition to the lending of money or extension of credit, or a renewal of the loan or extension of credit, except that the person may impose reasonable requirements uniformly applied and relating to the extent of coverage required and the financial soundness and the services of the insurer and that the standards may not discriminate against a particular type of insurer or require disapproval of a policy containing coverage in addition to that required.

(b) A person shall also provide the disclosures required in (a) of this section to a consumer both orally and in writing at the time of application for an extension of credit.

(c) If an application for insurance is made by telephone, written disclosure as required in (a) of this section must be mailed to the consumer within three working days.

(d) A person may provide the disclosures required in (a) of this section electronically, if

- (1) the consumer affirmatively consents to electronic disclosure; and
 - (2) the disclosures are provided in a format that the consumer is able to access at a later time by a method such as through printing or storing the disclosures electronically.
- (e) A person shall provide the disclosures required in (a) of this section in a meaningful form and in a conspicuous, simple, direct, and understandable manner that is designed to call attention to the information provided.
- (f) A person shall obtain a written acknowledgment or, in the case of an electronic disclosure provided in compliance with (d) of this section, a written or electronic acknowledgment, by the consumer that the consumer received the disclosures as required in this section.
- (g) This section does not require that a person provide the disclosures required in this section in advertisements that are of a general nature or that describe or list the services or products offered by a financial institution or on behalf of a financial institution.

(h) In this section, "meaningful form" means

- (1) for other than an electronic form, a form of disclosure that is provided to a consumer orally and in writing;
- (2) for an electronic form, a disclosure that a consumer cannot electronically bypass before purchasing insurance.

Sec. 21.36.169. Definitions for [AS 21.36.164](#) - 21.36.169.

In [AS 21.36.164](#) - 21.36.169, unless the context otherwise requires,

- (1) "consumer" means a person who obtains, applies to obtain, or is solicited to obtain insurance from or on behalf of a financial institution;
- (2) "financial institution" means a bank holding company under 12 U.S.C. 1841 (Bank Holding Company Act of 1956); a credit union under 12 U.S.C. 1752 (Federal Credit Union Act); a bank, savings bank, savings and loan association, or trust company, or any depository institution under 12 U.S.C. 1813(c)(1); and any other person authorized to take federally insured deposits and make loans in the state; "financial institution" includes any employee or agent of a financial institution and any nondepository affiliate or subsidiary of a financial institution but only in the

instances when the nondepository affiliate or subsidiary is soliciting the sale or purchase of insurance recommended or sponsored by, on the premises of, or in connection with a product offering of the financial institution; "financial institution" does not include an insurer.

Sec. 21.36.170. Interlocking ownership, management.

(a) An insurer may retain, invest in, or acquire the whole or a part of the capital stock of another insurer or insurers, or have a common management with another insurer or insurers, unless the retention, investment, acquisition, or common management is inconsistent with a provision of this title, or unless by reason thereof the business of the insurers with the public is conducted in a manner that substantially lessens competition generally in the insurance business or tends to create a monopoly.

(b) A person otherwise qualified may be director of two or more insurers that are competitors, unless the effect is to lessen substantially competition between insurers generally or tends materially to create a monopoly.

Sec. 21.36.180. Illegal dealing in premiums. [Repealed, Sec. 22 ch 149 SLA 1984].

Repealed or Renumbered

Sec. 21.36.185. Maintenance of complaint handling records.

An insurer shall maintain a complete record of all the complaints received by the insurer since the date of the insurer's last market conduct examination under AS 21.06.120 or for four years, whichever occurs first. This record must indicate the total number of complaints, the classification of each complaint by line of insurance, the nature of each complaint, the disposition of each complaint, and the time it took to process each complaint. For purposes of this section, "complaint" means any written communication primarily expressing a grievance.

Sec. 21.36.190. Fictitious groups.

(a) An insurer, whether an authorized or unauthorized insurer, may not make available through a rating plan or form, property, casualty, or surety insurance to a firm, corporation, or association of individuals, a preferred rate or premium based upon a fictitious group of the firm, corporation, or association of individuals.

(b) A form or plan of insurance covering a group or combination of persons or risks may not be written or delivered inside or outside this state to cover persons or risks in this state at a preferred rate or on a form other than that offered to persons not

in the group or combination and to the public generally, unless the form, plan of insurance, and the rates or premiums to be charged have been submitted to and approved by the director as being not unfairly discriminatory and not otherwise in conflict with (a) of this section or with AS 21.39 to the extent that AS 21.39 is, by its terms, applicable to it.

(c) This section does not apply to mortgage guaranty insurance, life insurance, health insurance, or annuity contracts.

(d) This section does not apply to workers' compensation insurance when issued to an association of employers formed for purposes other than the purchase of insurance and that

(1) has a constitution and bylaws;

(2) incorporates a safety program;

(3) as a group has preferred characteristics over similar risks written on an individual basis; and

(4) has filed and received approval from the director for the rating program to be applied to the group.

(e) This section does not apply to insurance coverage under a joint insurance arrangement authorized by AS 21.76.

(f) Except as provided in [AS 21.36.065](#), an insurer, whether authorized or unauthorized, may not underwrite an owner controlled insurance program or contractor controlled insurance program. In this subsection, "owner controlled insurance program" and "contractor controlled insurance program" have the meanings given in [AS 21.36.065](#).

Sec. 21.36.195. Surplus lines brokers and insurance producers; prohibited acts.

A surplus lines broker or an insurance producer may not fail to provide evidence of insurance, filings, or reports, or fail to maintain the records, or fail to pay the taxes and fees, required under AS 21.34.

Sec. 21.36.200. False applications, claims, proofs of loss. [Repealed, Sec. 22 ch 149 SLA 1984].

Repealed or Renumbered

Sec. 21.36.210. Limits on cancellation.

(a) An insurer may not exercise its right to cancel a policy of personal automobile insurance except for the following reasons:

(1) nonpayment of premium; or

(2) the driver's license or motor vehicle registration of either the named insured or of an operator who resides in the same household as the named insured or who customarily operates a motor vehicle insured under the policy has been under suspension or revocation during the policy period or, if the policy is a renewal, during its policy period or the 180 days immediately preceding its effective date; this paragraph does not apply to revocation as described under [AS 21.89.027](#).

(b) During the policy period, a modification of automobile physical damage coverage, except coverage for loss caused by collision, whereby provision is made for the application of a deductible amount not exceeding \$100 is not a cancellation of the coverage or of the policy.

(c) *[Repealed, Sec. 47 ch 29 SLA 1987].*

(d) This section does not apply to

(1) the failure to renew a policy, except as to coverage in force for less than 12 months;

(2) a policy that has been in effect less than 60 days at the time notice of cancellation is mailed or delivered by the insurer, unless it is a renewal policy.

(e) *[Repealed, Sec. 47 ch 29 SLA 1987].*

(f) An insurer may not exercise its right to cancel a policy of personal insurance other than personal automobile insurance, except for the following reasons:

(1) nonpayment of premiums, including nonpayment of additional premiums, calculated in accordance with the current rating manual of the insurer, justified by a physical change in the insured property or a change in its occupancy or use;

(2) conviction of the insured of a crime having as one of its necessary elements an act increasing a hazard insured against;

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(3) discovery of fraud or material misrepresentation made by the insured or a representative of the insured in obtaining the insurance or by the insured in pursuing a claim under the policy;

(4) discovery of a grossly negligent act or omission by the insured that substantially increases the hazards insured against; or

(5) physical changes in the insured property that result in the property becoming uninsurable.