

HB 632 INTRODUCED BY WHALEN, ET AL.
INSURANCE SETTLEMENT PRACTICE NEED NOT BE FREQUENT
TO BE UNFAIR

2/06 INTRODUCED
2/06 REFERRED TO BUSINESS & LABOR
2/07 REREFERRED TO JUDICIARY
2/19 HEARING
2/23 TABLED IN COMMITTEE

1 House BILL NO. 632
2 INTRODUCED BY Whalen Adley
3

4 A BILL FOR AN ACT ENTITLED: "AN ACT REMOVING THE
5 REQUIREMENT THAT AN INSURANCE CLAIM SETTLEMENT PRACTICE MUST
6 BE DONE WITH SUCH FREQUENCY AS TO INDICATE A GENERAL
7 BUSINESS PRACTICE BEFORE THE PRACTICE IS CONSIDERED UNFAIR;
8 PROVIDING THAT EVIDENCE OF A DEFENDANT INSURER'S VIOLATIONS
9 OF TITLE 33, CHAPTER 18, IS ADMISSIBLE TO SHOW A GENERAL
10 BUSINESS PRACTICE; AND AMENDING SECTION 33-18-201, MCA."

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12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

13 Section 1. Section 33-18-201, MCA, is amended to read:

14 "33-18-201. Unfair claim settlement practices
15 prohibited. No person may, ~~with such frequency as to~~
16 ~~indicate a general business practice,~~ do any of the
17 following:

18 (1) misrepresent pertinent facts or insurance policy
19 provisions relating to coverages at issue;

20 (2) fail to acknowledge and act reasonably promptly
21 upon communications with respect to claims arising under
22 insurance policies;

23 (3) fail to adopt and implement reasonable standards
24 for the prompt investigation of claims arising under
25 insurance policies;

1 (4) refuse to pay claims without conducting a
2 reasonable investigation based upon all available
3 information;

4 (5) fail to affirm or deny coverage of claims within a
5 reasonable time after proof of loss statements have been
6 completed;

7 (6) neglect to attempt in good faith to effectuate
8 prompt, fair, and equitable settlements of claims in which
9 liability has become reasonably clear;

10 (7) compel insureds to institute litigation to recover
11 amounts due under an insurance policy by offering
12 substantially less than the amounts ultimately recovered in
13 actions brought by such insureds;

14 (8) attempt to settle a claim for less than the amount
15 to which a reasonable man would have believed he was
16 entitled by reference to written or printed advertising
17 material accompanying or made part of an application;

18 (9) attempt to settle claims on the basis of an
19 application which was altered without notice to or knowledge
20 or consent of the insured;

21 (10) make claims payments to insureds or beneficiaries
22 not accompanied by statements setting forth the coverage
23 under which the payments are being made;

24 (11) make known to insureds or claimants a policy of
25 appealing from arbitration awards in favor of insureds or



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1 claimants for the purpose of compelling them to accept
 2 settlements or compromises less than the amount awarded in
 3 arbitration;

4 (12) delay the investigation or payment of claims by
 5 requiring an insured, claimant, or physician of either to
 6 submit a preliminary claim report and then requiring the
 7 subsequent submission of formal proof of loss forms, both of
 8 which submissions contain substantially the same
 9 information;

10 (13) fail to promptly settle claims, if liability has
 11 become reasonably clear, under one portion of the insurance
 12 policy coverage in order to influence settlements under
 13 other portions of the insurance policy coverage; or

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

18 NEW SECTION. Section 2. Evidence of violations as a
 19 general business practice. In a civil action based in whole
 20 or part on a provision or the violation of a provision of
 21 this chapter, evidence of multiple violations of this
 22 chapter by a defendant insurer is admissible to show that
 23 the frequency of the violations indicates a general business
 24 practice or practices.

25 NEW SECTION. Section 3. Extension of authority. Any

1 existing authority of the commissioner of insurance to make
 2 rules on the subject of the provisions of this act is
 3 extended to the provisions of this act.

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