



Fair Claims Practice Act of California

Even before the 1994 Northridge earthquake, insurance company claims practices often confused policyholders. Furthermore, many policyholders, following the Loma Prieta earthquake and the Oakland Firestorm, had “gut” feelings that their adjuster or insurance company, while extremely friendly and seemingly helpful, was not treating them properly or fairly.

In 1992 a group of Allstate Insurance Company policyholders in the Oakland Firestorm put these “gut” feelings into substantial documentation and written complaints to the Department of Insurance, the state agency which regulates the activities of the insurance industry. The Department of Insurance, because of the documentation and the significant number of written complaints provided by policyholders, was able to sanction Allstate and fine the insurance company \$750,000 for violations of the Unfair Claims Practices Act.

It is important, then, that you know what the California Insurance Code considers “unfair.” **Section 790.03 of the Insurance Code** outlines UNFAIR claims settlement practices. Paraphrasing the code section, these unfair practices include:

- Misrepresenting to claimants any pertinent facts or insurance policy provisions.
- Failing to acknowledge or act reasonably promptly upon communications with respect to claims.
- Failing to affirm or deny coverage of claims in writing within a reasonable time after “proof of loss” requirements are completed.
- Failing to act in good faith to effectuate prompt, fair, equitable settlements.
- Compelling insureds to institute litigation to recover amounts due by offering less than the amounts ultimately recovered.
- Attempting to settle a claim by an insured for less than the amount to which he/she is reasonably entitled by reference to advertising material accompanying an application.
- Attempting to settle a claim on the basis of an application which was altered without notice to the insured.
- Failing, after payment of a claim, to inform insureds, upon request by them, of the coverage under which payment was made.
- Making known to insureds or claimants a practice of the insurer of appealing from arbitration awards in favor of insureds or claimants for the purpose of compelling them to accept settlements or compromises less than the amount awarded in arbitration.
- Delaying the investigation or payment of claims by requiring a preliminary claim report and then requiring subsequent submission of formal proof of loss forms, both of which submissions contain substantially the same information.
- Failing to settle claims promptly under one portion of the insurance policy coverage in order to influence settlements under other portions of the policy coverage.
- Failing to provide 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 offer of a compromise settlement.
- Directly advising a claimant not to obtain the services of an attorney.
- Misleading a claimant as to the applicable statute of limitations.

For the full text of the California Fair Claims Practice act, call the California Department of Insurance at 800-927-4357 (from within California) or 213-897-8921 (outside California) or go to <http://www.insurance.ca.gov/LGL/Regulations/Fair-Claims-Amendments.pdf>