

**TITLE 365. INSURANCE DEPARTMENT
CHAPTER 15. PROPERTY AND CASUALTY**

**SUBCHAPTER 3. CLAIMS RESOLUTION AND
UNFAIR CLAIM SETTLEMENT PRACTICES**

365:15-3-1. Purpose

(a) This subchapter is promulgated pursuant to the Insurance commissioner's authority as set forth in 36 O.S. Sections 1260 and 1228 (Supp.1988). It prohibits insurers and agents doing business in the state from engaging in unfair claims settlement practices and provides that if any insurer or agent performs any of the acts or practices prohibited by the Claims Resolution Act, the insurer or agent may be fined following an administrative hearing. The Unfair Claim Settlement Practices Act provides that a property and casualty insurer found by the Commissioner to engage in unfair claim settlement practices with such frequency as to indicate a general business practice shall be closely supervised by the Commissioner; the Commissioner may further require the property and casualty insurer to file periodic reports.

(b) The purpose of this subchapter is to set forth rules and procedures regarding the settlement of claims and to set forth the punishment for violation of this subchapter.

(c) The provisions of this subchapter are not exclusive and other acts, not specified herein, may also be deemed to be unfair claims settlement practices or unfair claim resolution acts.

365:15-3-2. Definitions

For the purpose of this subchapter, the terms "agent", "claimant", "first party claimant", "insurer", "Investigation", "notification of claim", "third party claimant", and "commissioner", shall have the meaning set forth in 36 O.S. § 1252 (1981), the Claims Resolution Act.

365:15-3-2.1. Minimum standard of performance

The minimum standard of performance for all insurers is to comply with the provisions of 36 O.S. § 1221 et seq.

[Source: Added at 11 Ok Reg 1859, eff 5-15-94]

365:15-3-3. File and record documentation

(a) The insurer's claim files shall be subject to examination by the Commissioner or by his duly appointed designees. Such files shall contain all notes and work papers pertaining to the claim in such detail that pertinent events and the dates of such events can be reconstructed. Such records shall reflect the date the insurer or the insurer's agent received notification of the claim.

(b) Notification given to an agent of an insurer shall be notification to the insurer.

365:15-3-4. Misrepresentation of policy provisions

(a) **Disclosure to first party claimants.** No insurer shall fail 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.

- (b) **Agent shall not conceal relevant policy information.** No agent shall conceal from first party claimants benefits, coverages or other provisions of any insurance policy or insurance contract when such benefits, coverages or other provisions are pertinent to a claim.
- (c) **Denial and proof.** No insurer shall deny a claim for failure to exhibit the property without proof of demand and unfounded refusal by a claimant to do so.
- (d) **Time limits on proof of loss.** No insurer shall, except where there is a time limit specified in the policy, make 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 such a time limit is not complied with unless the failure to comply with such time limit prejudices the insurer's rights.
- (e) **Release signed by first party claimant.** No insurer shall request a first party claimant to sign a release that extends beyond the subject matter that gave rise to the claim payment.
- (f) **Partial payments restricted.** No insurer shall issue checks or drafts in partial settlement of a loss or claim under a specific coverage which contain language which release the insurer or its insured from its total liability.

365:15-3-5. Failure to acknowledge pertinent communications

- (a) **Acknowledgment of receipt of claim.** Every property and casualty insurer, upon receiving notification of a claim shall, within thirty (30) business days, acknowledge the receipt of such notice unless payment is made within such period of time. If any acknowledgment is made by means other than writing, an appropriate notation of such acknowledgment shall be made in the claim file of the insured and dated. Notification given to an agent of an insurer shall be notification to the insurer.
- (b) **Response to inquiries from Insurance Department.** Every property and casualty insurer, upon receipt of any inquiry from the Insurance Department respecting a claim shall, within thirty (30) days from the date of such inquiry, furnish the Department with an adequate response to the inquiry.
- (c) **Response to other pertinent communications.** An appropriate reply shall be made within thirty (30) days of receipt on all other pertinent communications from a claimant which reasonably suggests that a response is expected.
- (d) **Insurer shall provide forms and assistance on claims to first party claimants.** Every property and casualty insurer, upon receiving notification for claim, shall promptly provide necessary claim forms, instructions, and reasonable assistance so that first party claimants can comply with the policy conditions and the insurer's reasonable requirements. Compliance with this paragraph within thirty (30) days of notification of a claim shall constitute compliance with subsection (a) of this section.

[Source: Amended at 28 Ok Reg 1961, eff 7-14-11]

365:15-3-6. Standards for prompt investigation of claims

Every property and casualty insurer shall complete investigation of a claim within 45 business days after receipt of proof of loss, unless such investigation cannot reasonably be completed within such time.

365:15-3-7. Standards for prompt, fair and equitable settlements applicable to all insurers

(a) **Claims accepted or denied within 45 days.**

(1) Within 45 business days after receipt by the property and casualty insurer of properly executed proof of loss, the first party claimant shall be advised of the acceptance or denial of the claim by the insurer. If investigation cannot reasonably be completed within such time the insurer shall notify the claimant within 45 business days after receipt of the proofs of loss giving reasons why more time is needed. No insurer shall deny a claim on the grounds of a specific policy provision, condition, of exclusion unless reference to such provision, condition, or exclusion is included in the denial. The denial must be given to the claimant in writing and the claim file of the insurer shall contain a copy of the denial.

(2) Where there is a reasonable basis supported by specific information available for review by the Commissioner that the first party claimant had fraudulently caused or contributed to the loss by arson, the insurer is relieved from the requirements of this section. Provided, however, that the claimant shall be advised of the acceptance or denial of the claim within a reasonable time for full investigation after receipt by the insurer of a properly executed proof of loss.

(b) **Notation of denial in claim file until confirmed in writing.** If a claim is denied for reasons other than those described in (a) of this section and is made by any other means than writing, an appropriate notation shall be made in the claim file of the property and casualty insurer until such time as a written confirmation can be made.

(c) **Notification of delay in determination of acceptance or denial.** If the property and casualty insurer needs more time to determine whether a first party claim should be accepted or denied, it shall so notify the first party claimant within 45 business days after receipt of the proofs of loss, giving the reasons more time is needed. If the investigation remains incomplete, the insurer shall, forty-five days from the date of the initial notification and every forty-five days thereafter, send to such claimant a letter setting forth the reasons additional time is needed for investigation.

(d) **Failure to settle on grounds of another party's liability.** Insurers shall not fail to settle first party claims on the basis that responsibility for payment should be assumed by others except as may otherwise be provided by policy provisions.

(e) **Negotiations shall not be delayed unreasonably.** Insurers shall not continue to delay negotiations for settlement with a claimant who is neither an attorney nor represented by an attorney, for a length of time which causes the claimant's rights to be affected by a statute of limitations or a policy or contract time limit, without giving the claimant written notice that the time limit may be expiring and may affect the claimant's rights. Such notice shall be given to first party claimants thirty days before the date on which such time limit may expire. Such notice shall be given to third party claimants sixty days before the date on which such time limit may expire.

(f) **Rights of third party claimant.** No insurer shall make statements which indicate that the rights of a third party claimant may be impaired if a form or release is not completed within a given period of time unless the statement is given for the purpose of notifying the third party claimant of a provision of a statute of limitations.

(g) **Lawsuit supersedes time limitations.** If a lawsuit on the claim is initiated, the time limits provided for in this section shall not apply.

**365:15-3-8. Standards for prompt, fair and equitable settlements
applicable to automobile insurance**

(a) **Automobile total losses.** When the insurance policy provides for the adjustment and settlement of first party automobile total losses on the basis of actual cash value or replacement with another of like kind and quality, one of the following methods must apply:

(1) The insurer may elect to offer a replacement motor vehicle which is a specific comparable motor vehicle available to the insured, with all applicable taxes, license fees and other fees incident to transfer of evidence of ownership of the motor vehicle paid, at no cost other than any deductible provided in the policy. The offer and any rejection thereof must be documented in the claim file.

(2) When a first party motor vehicle total loss is settled on a basis which deviates from the methods described in (1) and (2) of this subsection, the deviation must be supported by documentation giving particulars of the automobile condition. Any deductions from such cost, including but not limited to, deduction for salvage, must be measurable, discernible, itemized and specified as to dollar amount and shall be appropriate in amount. The basis for such settlement shall be fully explained to the first party claimant.

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

(c) **Unreasonable travel.** Insurers shall not require a claimant to travel unreasonably either to inspect a replacement motor vehicle, to obtain a repair estimate or to have the motor vehicle repaired at a specific repair shop.

(d) **Including deductible in subrogation demands.** Insurers shall, upon the claimant's request, include the first party claimant's deductible, if any, in subrogation demands. Subrogation recoveries shall be shared on a proportionate basis with the first party claimant, unless the deductible amount has been otherwise recovered. No deduction for expenses can be made from the deductible recovery unless an outside attorney is retained to collect such recovery. The deduction may then be for only a pro rata share of the allocated loss adjustment expense.

(e) **Estimates.** If an insurer prepares an estimate of the cost of motor vehicle repairs, such estimate shall be in an amount for which it may be reasonably expected the damage can be satisfactorily repaired. The insurer shall give a copy of the estimate to the claimant and may furnish to the claimant, the names of one or more conveniently located repair shops, if requested by the claimant.

(f) **Reductions due to betterment or depreciation.** When the amount claimed is reduced because of betterment or depreciation, all information for such reduction shall be contained in the claim file. Such deductions shall be itemized and specified as to dollar amount and shall be appropriate for the amount of deductions.

(g) **Repairs.** When the insurer elects to repair a damaged motor vehicle and designates a specific repair shop for automobile repairs, the insurer shall cause the damaged motor vehicle to be restored to its condition prior to the loss at no additional cost and within a reasonable period of time. The claimant shall also be furnished an itemized statement of repair at the time of acceptance of the repaired motor vehicle.

365:15-3-9. Separability provision

If any provisions of this subchapter, or application of such provisions to any person or circumstances shall be held invalid, the remainder of the subchapter, and the application of such

provisions to person or circumstances other than those to which it is held invalid, shall not be affected thereby.