

UNFAIR INSURANCE PRACTICES ACT - FURTHER DEFINING "ABUSE," "UNFAIR METHODS OF COMPETITION" AND "UNFAIR OR DECEPTIVE ACTS OR PRACTICES"

Act of Jul. 7, 2006, P.L. 363, No. 78

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Session of 2006

No. 2006-78

HB 1632

AN ACT

Amending the act of July 22, 1974 (P.L.589, No.205), entitled "An act relating to unfair insurance practices; prohibiting unfair methods of competition and unfair or deceptive acts and practices; and prescribing remedies and penalties," further defining "abuse," "unfair methods of competition" and "unfair or deceptive acts or practices."

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. The definition of "abuse" in section 3 of the act of July 22, 1974 (P.L.589, No.205), known as the Unfair Insurance Practices Act, added April 4, 1996 (P.L.100, No.24), is amended to read:

Section 3. Definitions.--As used in this act:

"Abuse" has the meaning given in 23 Pa.C.S. § 6102(a) (relating to definitions), notwithstanding the limited applicability provision in paragraph (5) of the definition of "abuse" in 23 Pa.C.S. § 6102(a). **The term also means attempting to cause or intentionally, knowingly or recklessly causing damage to property so as to intimidate or attempt to control the behavior of another person covered under 23 Pa.C.S. Ch. 61 (relating to protection from abuse).**

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Section 2. Section 5(a)(14) of the act, added April 4, 1996 (P.L.100, No.24), is amended to read:

Section 5. Unfair Methods of Competition and Unfair or Deceptive Acts or Practices Defined.--(a) "Unfair methods of competition" and "unfair or deceptive acts or practices" in the business of insurance means:

* * *

(14) (i) Taking any of the following actions because the insured or applicant for an insurance policy or insurance contract is a victim of abuse:

(A) Denying, refusing to issue, refusing to renew, refusing to reissue or cancelling or terminating an insurance policy or insurance contract or restricting coverage under an insurance policy or insurance contract.

(B) Adding a surcharge, applying a rating factor or using any other underwriting standard or practice which adversely takes into account a history or status of abuse.

(C) Excluding or limiting benefits or coverage under an insurance policy or insurance contract for losses incurred.

(D) With respect to a policy of a private passenger automobile, a policy covering owner-occupied private residential property or a policy covering personal property of individuals, refusing to pay an insured for losses arising out of abuse to that insured under a property and casualty insurance policy or contract to the extent of the insured's legal interest in the covered property if the loss is caused by the intentional act of another insured or

using other exclusions or limitations which the commissioner has determined unreasonably restrict the ability of victims of abuse to be indemnified for such losses. When an insured submits a claim for losses pursuant to this subsection, the insurer shall provide to the insured a notice stating:

(I) that the insurer cannot refuse to pay a claim without conducting a reasonable investigation;

(II) that such investigation may include or result in contact with other insureds;

(III) that at the request of the insured, the insurer will not disclose the location of the insured to the other insureds or third parties as part of the investigation;

(IV) that the insurer will notify the insured at least fourteen days prior to instituting any legal action against the insured alleged to have caused the loss;

(v) that, after an insurer has paid a loss as a result of the claim, the insurer may nonrenew coverage or impose a surcharge as to the insured alleged to have caused the loss as long as the nonrenewal or surcharge imposition is not done prior to the later of six months following payment of the claim or the policy's renewal date; and

(vi) the national domestic violence hotline number.

(ii) Nothing in this paragraph shall be construed as:

(A) requiring that a person issue, renew or reissue an insurance policy or insurance contract solely because the insured or applicant is a victim of abuse; or

(B) requiring a person to provide benefits or coverage for losses incurred solely because the insured or applicant is a victim of abuse.

(ii.1) Payment of a claim pursuant to subparagraph (i) (D) shall constitute payment as to all other insureds under the policy.

(iii) A person shall not be in violation of this paragraph if any action taken is permissible by law and applies to the same extent to all applicants and insureds without regard to whether an applicant or insured is a victim of abuse.

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Section 3. This act shall take effect in 60 days.

APPROVED--The 7th day of July, A. D. 2006.

EDWARD G. RENDELL