

AMENDMENTS TO LB 58

1 1. Strike the original sections and all amendments
2 thereto and insert the following new sections:

3 "Section 1. Section 44-1540, Reissue Revised Statutes of
4 Nebraska, is amended to read:

5 44-1540. Any of the following acts or practices by an
6 insurer, if committed in violation of section 44-1539, shall be an
7 unfair claims settlement practice:

8 (1) Knowingly misrepresenting to claimants and insureds
9 relevant facts or policy provisions relating to coverages at issue;

10 (2) Failing to acknowledge with reasonable promptness
11 pertinent communications with respect to claims arising under its
12 policies;

13 (3) Failing to adopt and implement reasonable standards
14 for the prompt investigation and settlement of claims arising under
15 its policies;

16 (4) Not attempting in good faith to effectuate prompt,
17 fair, and equitable settlement of claims submitted in which
18 liability has become reasonably clear;

19 (5) Not attempting in good faith to effectuate prompt,
20 fair, and equitable settlement of property and casualty claims (a)
21 in which coverage and the amount of the loss are reasonably clear
22 and (b) for loss of tangible personal property within real property
23 which is insured by a policy subject to section 44-501.02 and which
24 is wholly destroyed by fire, tornado, windstorm, lightning, or

1 explosion;

2 (6) Compelling insureds or beneficiaries to institute
3 litigation to recover amounts due under its policies by offering
4 substantially less than the amounts ultimately recovered in
5 litigation brought by them;

6 (7) Refusing to pay claims without conducting a
7 reasonable investigation;

8 (8) Failing to affirm or deny coverage of a claim within
9 a reasonable time after having completed its investigation related
10 to such claim;

11 (9) Attempting to settle a claim for less than the amount
12 to which a reasonable person would believe the insured or
13 beneficiary was entitled by reference to written or printed
14 advertising material accompanying or made part of an application;

15 (10) Attempting to settle claims on the basis of an
16 application which was materially altered without notice to or
17 knowledge or consent of the insured;

18 (11) Making a claims payment to an insured or beneficiary
19 without indicating the coverage under which each payment is being
20 made;

21 (12) Unreasonably delaying the investigation or payment
22 of claims by requiring both a formal proof-of-loss form and
23 subsequent verification that would result in duplication of
24 information and verification appearing in the formal proof-of-loss
25 form;

26 (13) Failing, in the case of the denial of a claim or the
27 offer of a compromise settlement, to promptly provide a reasonable

1 and accurate explanation of the basis for such action;

2 (14) Failing to provide forms necessary to present claims
3 with reasonable explanations regarding their use within fifteen
4 working days of a request;

5 (15) Failing to adopt and implement reasonable standards
6 to assure that the repairs of a repairer owned by or affiliated
7 with the insurer are performed in a skillful manner. For purposes
8 of this subdivision, a repairer is affiliated with the insurer if
9 there is a preexisting arrangement, understanding, agreement, or
10 contract between the insurer and repairer for services in
11 connection with claims on policies issued by the insurer; and

12 (16) Requiring the insured or claimant to use a
13 particular company or location for motor vehicle repair. Nothing
14 in this subdivision shall prohibit an insurer from entering into
15 discount agreements with companies and locations for motor vehicle
16 repair or otherwise entering into any business arrangements or
17 affiliations which reduce the cost of motor vehicle repair if the
18 insured or claimant has the right to use a particular company or
19 reasonably available location for motor vehicle repair. If the
20 insured or claimant chooses to use a particular company or location
21 other than the one providing the lowest estimate for like kind and
22 quality motor vehicle repair, the insurer shall not be liable for
23 any cost exceeding the lowest estimate. For purposes of this
24 subdivision, motor vehicle repair shall include motor vehicle glass
25 replacement and motor vehicle glass repair.

26 Sec. 2. Original section 44-1540, Reissue Revised
27 Statutes of Nebraska, is repealed."