

Second Regular Session
Sixty-seventh General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 10-0386.01 Christy Chase

SENATE BILL 10-076

SENATE SPONSORSHIP

Carroll M.,

HOUSE SPONSORSHIP

(None),

Senate Committees
Health and Human Services

House Committees

A BILL FOR AN ACT

101 CONCERNING UNREASONABLE INSURANCE CLAIMS SETTLEMENT
102 PRACTICES.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billssummaries>.)

Section 1 of the bill defines as an unfair claim settlement practice and a deceptive act or practice in the business of insurance the practice of providing compensation to induce or encourage the decision to deny or delay resolution of a claim or to cancel or rescind an insurance policy. In civil actions in which a jury is to determine whether an insurer's delay or

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

denial of a claim was reasonable, **section 2** of the bill allows the court to instruct the jury that the willful payment of a financial incentive is prohibited and may be considered if the prohibited conduct caused or contributed to the delay or denial and the claimant's injury, damage, or loss.

Section 3 of the bill establishes a presumption of unreasonableness when a claim for benefits is denied or delayed and the person who makes the decision to delay or deny payment of the claim receives any personal financial incentive, including compensation, to deny or delay the claim.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 10-3-1104 (1) (h), Colorado Revised Statutes, is
3 amended BY THE ADDITION OF A NEW SUBPARAGRAPH to read:

4 **10-3-1104. Unfair methods of competition and unfair or**
5 **deceptive acts or practices.** (1) The following are defined as unfair
6 methods of competition and unfair or deceptive acts or practices in the
7 business of insurance:

8 (h) Unfair claim settlement practices: Committing or performing,
9 either in willful violation of this part 11 or with such frequency as to
10 indicate a tendency to engage in a general business practice, any of the
11 following:

12 (XVIII) PROVIDING COMPENSATION IN ANY FORM TO INDUCE OR
13 ENCOURAGE THE DECISION TO DENY, OR DELAY THE RESOLUTION OF, A
14 CLAIM OR TO CANCEL OR RESCIND AN INSURANCE POLICY.

15 **SECTION 2.** 10-3-1113 (4), Colorado Revised Statutes, is
16 amended to read:

17 **10-3-1113. Information to trier of fact in civil actions.** (4) In
18 determining whether an insurer's delay or denial was reasonable, the jury
19 may be instructed that willful conduct of the kind set forth in section
20 10-3-1104 (1) (h) (I) to (1) (h) (XIV) AND (1) (h) (XVIII) is prohibited

1 and may be considered if the delay or denial and the claimed injury,
2 damage, or loss was caused by or contributed to by such prohibited
3 conduct.

4 **SECTION 3.** 10-3-1115 (2), Colorado Revised Statutes, is
5 amended to read:

6 **10-3-1115. Improper denial of claims - prohibited - definitions**
7 **- severability.** (2) Notwithstanding section 10-3-1113 (3), for the
8 purposes of an action brought pursuant to this section and section
9 10-3-1116, an insurer's delay or denial ~~was~~ IS PRESUMED unreasonable if:

10 (a) The insurer delayed or denied authorizing payment of a
11 covered benefit without a reasonable basis for that action; OR

12 (b) THE PERSON WHO MAKES THE DECISION TO DELAY OR DENY
13 PAYMENT OF A CLAIM FOR BENEFITS RECEIVES ANY PERSONAL FINANCIAL
14 INCENTIVE, INCLUDING COMPENSATION, TO DENY OR DELAY THE CLAIM.

15 **SECTION 4. Safety clause.** The general assembly hereby finds,
16 determines, and declares that this act is necessary for the immediate
17 preservation of the public peace, health, and safety.