58-33-67. Unfair or deceptive practices in dealing with insured. In dealing with the insured or representative of the insured, unfair or deceptive acts or practices in the business of insurance include, but are not limited to, the following:

(1) Failing to acknowledge and act within thirty days upon communications with respect to claims arising under insurance policies and to adopt and adhere to reasonable standards for the prompt investigation of such claims;

(2) Making claims payments to any claimant, insured, or beneficiary not accompanied by a statement setting forth the coverage under which the payments are being made;

(3) Failing to promptly provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement;

(4) Failing to promptly settle claims, where liability has become reasonably clear under one portion of the insurance policy coverage to influence settlements under other portions of the insurance policy coverage;

(5) Requiring as a condition of payment of a claim that repairs to any damaged vehicle shall be made by a particular contractor or repair shop;

(6) Failing to make a good faith assignment of the degree of contributory negligence in ascertaining the issue of liability;

(7) Unless permitted by law and the insurance policy, refusing to settle a claim of an insured or claimant on the basis that the responsibility should be assumed by others.

Source: SL 1986, ch 422, § 2; SL 1989, ch 439, § 3.

58-33-68. Factors considered in determining action taken against violator--Failure to remedy situation--Administrative action. The Division of Insurance, in interpreting and enforcing §§ 58-33- 66 and 58-33-67, shall consider all pertinent facts and circumstances to determine the severity and appropriateness of action to be taken in regard to any violation of §§ 58-33-66 to 58-33-69, inclusive, including but not limited to, the following:

(1) The magnitude of the harm to the claimant or insured;

(2) Any actions by the insured, claimant, or insurer that mitigate or exacerbate the impact of the violation;

(3) Actions of the claimant or insured which impeded the insurer in processing or settling the claim;

(4) Actions of the insurer which increase the detriment to the claimant or insured. The director need not show a general business practice in taking administrative action for these violations.

However, no administrative action may be taken by the director for a violation of this section unless the insurer has been notified of the violation and refuses to take corrective action to remedy the situation.

Any administrative action taken by the director shall be pursuant to the provisions of chapter 1- 26.

Source: SL 1986, ch 422, § 3.