

TEXAS BAD FAITH STATUTES

Section 541.060 of the Texas Insurance Code provides a laundry list of Unfair Settlement Practices that support a finding of bad faith in first-party cases:

1. Misrepresenting a material fact or policy provision relating to coverage at issue.
2. Failing to attempt in good faith to effectuate a prompt, fair, and equitable settlement of:
 - a) a claim with respect to which the insurer's liability has become reasonably clear; or
 - b) a claim under one portion of a policy to which the insurer's liability has become reasonably clear to influence the claimant to settle a claim under another portion of the policy . . .
3. Failing to provide a prompt and reasonable explanation of the basis in the policy, in relation to the facts or applicable law, for the insurer's denial of a claim or offer of a compromised settlement.
4. Failing within a reasonable time to:
 - a) affirm or deny coverage of a claim to a policyholder; or
 - b) submit a reservation of rights to a policyholder.
5. Refusing, failing, or unreasonably delaying a settlement offer under policy on the basis that other coverage may be available or that third parties are responsible.
6. Undertaking to enforce a full and final release of a claim from a policyholder when only a partial payment has been made, unless the payment is a compromise settlement of a disputed claim.
7. Refusing to pay a claim without conducting a reasonable investigation.
8. With respect to a Texas personal automobile insurance policy, delaying or refusing settlement of a claim solely because there is other insurance of a different kind available to satisfy all or part of the loss forming basis of that claim; or
9. Requiring, as a condition of settlement, the production of claimant's federal income tax returns unless:
 - a) a court orders the claimant to produce those tax returns;
 - b) the claim involves a fire loss; or
 - c) the claim involves lost profits or income.

Under Section 541.152 of the Texas Insurance Code, if a claimant that can establish a violation of any of the above-referenced items, the claimant may recover:

- a) **Actual damages**, plus court costs and reasonable and necessary attorneys' fees;
- b) An order enjoining the act or failure to act complained of; or
- c) Any other relief the court determines is proper.

If the claimant can prove the insurance carrier **knowingly** committed the act complained of, the claimant may recover an amount not to exceed **three times** the amount of actual damages.