

1686

2011-2012 Regular Sessions

I N   S E N A T E

January 11, 2011

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Introduced by Sen. SEWARD -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance

AN ACT to amend the insurance law, in relation to payment of interest penalty and attorney fees to a claimant when a claim is overdue and the ability of an insurer to assert a defense or deny a claim if timely payment is not made within thirty days after proof of claim has been submitted

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1     Section 1. Subsection (a) of section 5106 of the insurance law is  
2 amended to read as follows:  
3     (a) Payments of first party benefits and additional first party bene-  
4 fits shall be made as the loss is incurred. Such benefits are overdue if  
5 not paid within thirty days after the claimant supplies proof of the  
6 fact and amount of loss sustained. If proof is not supplied as to the  
7 entire claim, the amount which is supported by proof is overdue if not  
8 paid within thirty days after such proof is supplied. All overdue  
9 payments shall bear interest at the rate of two percent per month. If a  
10 valid claim or portion was overdue, the claimant shall also be entitled  
11 to recover his attorney's reasonable fee, for services necessarily  
12 performed in connection with securing payment of the overdue claim,  
13 subject to limitations promulgated by the superintendent in regulations.  
14 PAYMENT OF THE INTEREST PENALTY AND REASONABLE ATTORNEY FEES TO A CLAIM-  
15 ANT WHEN PAYMENT OF A CLAIM IS OVERDUE SHALL BE THE EXCLUSIVE REMEDY  
16 WHEN AN INSURER FAILS TO MAKE TIMELY PAYMENT. THE FAILURE OF AN INSURER  
17 TO MAKE TIMELY PAYMENT OR ISSUE A DENIAL WITHIN THIRTY DAYS AFTER PROOF  
18 OF CLAIM HAS BEEN SUBMITTED TO AN INSURER SHALL NOT PRECLUDE SUCH INSUR-  
19 ER FROM ISSUING A DENIAL OR ASSERTING A DEFENSE AFTER THE THIRTY DAY  
20 PERIOD HAS ELAPSED.  
21     S 2. This act shall take effect on the sixtieth day after it shall  
22 have become a law.

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [ ] is old law to be omitted.

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