

2009-2010 Regular Sessions

I N S E N A T E

(PREFILED)

January 7, 2009

Introduced by Sen. BRESLIN -- 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 requiring insurers to report annually on the types of coverage written, premiums charged, losses incurred, and policy non-renewals and cancellations

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

1 Section 1. Short title. This act shall be known and may be cited as
2 the "Residential Insurance Market Relief Act of 2009".

3 S 2. Section 2315 of the insurance law is amended by adding four new
4 subsections (a-1), (f), (g) and (h) to read as follows:

5 (A-1) (1) EACH RESIDENTIAL PROPERTY INSURER SHALL, BY MARCH
6 THIRTY-FIRST OF EACH YEAR, FILE WITH THE RATE SERVICE ORGANIZATION OF
7 WHICH IT IS A MEMBER OR SUBSCRIBER, OR WITH SUCH OTHER AGENCY AS THE
8 SUPERINTENDENT MAY APPROVE, A RESIDENTIAL INSURANCE RATE, EXPERIENCE AND
9 STATISTICAL REPORT, IN SUCH FORM AS THE SUPERINTENDENT SHALL APPROVE,
10 BUT INCLUDING, AT A MINIMUM, INFORMATION SPECIFYING, AS SUCH INFORMATION
11 RELATES TO THE PREVIOUS CALENDAR YEAR AND FOR EACH FORM, RATING CLASSI-
12 FICATION AND TIER, WHERE APPLICABLE, WITH THE INFORMATION CLASSIFIED
13 ACCORDING TO UNITED STATES CENSUS TRACT, THE FOLLOWING:

14 (A) THE NUMBER OF POLICIES ISSUED BY THE INSURER IN EFFECT;

15 (B) THE NUMBER OF APPLICATIONS ACCEPTED AND THE NUMBER OF APPLICATIONS
16 DENIED BY THE INSURER;

17 (C) THE NUMBER OF NON-RENEWALS, CANCELLATIONS AND TERMINATIONS OF
18 POLICIES ISSUED BY THE INSURER;

19 (D) THE NUMBER OF CLAIMS FILED BY POLICY HOLDERS AND THE PERCENT OF
20 SUCH CLAIMS APPROVED AND THE PERCENT OF SUCH CLAIMS DENIED BY THE INSUR-
21 ER;

22 (E) THE AMOUNT OF LOSSES INCURRED;

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

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1 (F) INFORMATION ON THE RACE, NATIONAL ORIGIN, ETHNICITY, HOUSEHOLD
2 INCOME AND GENDER OF INSUREDS OR APPLICANTS; AND

3 (G) INFORMATION PERTAINING TO RATES CHARGED BY THE INSURER AND SUCH
4 ADDITIONAL INFORMATION AS THE SUPERINTENDENT SHALL DEEM NECESSARY JUSTI-
5 FYING OR SUPPORTING SUCH RATES.

6 (F) THE SUPERINTENDENT SHALL, BY JULY FIRST OF EACH YEAR, MAKE THE
7 TEXT OF THE REPORTS AVAILABLE TO THE PUBLIC IN PRINTED AND ELECTRONIC
8 FORMAT AT NO OR NOMINAL COST AND INSURERS SHALL FILE WITH THE SUPER-
9 INTENDENT AND MAKE AVAILABLE TO THE PUBLIC, IN ADDITION TO THE CUMULA-
10 TIVE DATA REQUIRED, INDIVIDUAL RECORD DATA FROM WHICH THE REPORT SUMMA-
11 RIES WERE TABULATED.

12 (G)(1) ANY INSURER FAILING TO FILE, WHEN DUE, A COMPLETED RESIDENTIAL
13 INSURANCE RATE, EXPERIENCE AND STATISTICAL REPORT PURSUANT TO
14 SUBSECTION (A-ONE) OF THIS SECTION SHALL BE SUBJECT TO A PENALTY NOT TO
15 EXCEED ONE THOUSAND DOLLARS PER DAY FOR EACH DAY BEYOND THE DATE THE
16 REPORT OR INFORMATION IS REQUIRED TO BE FILED, BUT IN NO EVENT SHALL
17 SUCH PENALTY EXCEED FIFTEEN THOUSAND DOLLARS IN THE AGGREGATE; PROVIDED,
18 HOWEVER THAT THE SUPERINTENDENT MAY WAIVE SUCH A PENALTY UPON A WRITTEN
19 FINDING THAT THE REPORT OR OTHER INFORMATION SUBMITTED BY SUCH INSURER
20 ON THE DATE REQUIRED WAS SUBSTANTIALLY COMPLETE, AND THE INSURER HAS
21 CORRECTED ANY DEFICIENCIES WITHIN A DATE SET BY THE SUPERINTENDENT. AN
22 INSURER REQUIRED BY THIS SUBSECTION TO SUBMIT A STATISTICAL REPORT OR
23 OTHER INFORMATION WHO REFUSES OR WILLFULLY FAILS TO FILE SUCH STATIS-
24 TICAL REPORT OR OTHER INFORMATION SHALL, IN ADDITION TO ANY OTHER PENAL-
25 TIES PROVIDED FOR BY THIS CHAPTER, UPON NOTICE AND AN OPPORTUNITY TO BE
26 HEARD, BE SUBJECT TO AN ADDITIONAL PENALTY OF UP TO FIVE HUNDRED DOLLARS
27 PER DAY OF DELAY, NOT TO EXCEED FIFTY THOUSAND DOLLARS IN THE AGGRE-
28 GATE.

29 (2) WHERE AN INSURER HAS FAILED TO COMPLY WITH THE REQUIREMENTS OF
30 SUBSECTION (A-ONE) OF THIS SECTION, AN AGGRIEVED INDIVIDUAL, INCLUDING
31 ANY PERSON OR AGENCY ATTEMPTING TO ANALYZE THE PERFORMANCE OF ANY INSUR-
32 ER SUBJECT TO THIS SECTION, SHALL HAVE A CAUSE OF ACTION IN ANY COURT OF
33 COMPETENT JURISDICTION FOR DECLARATORY AND INJUNCTIVE RELIEF. IN ANY
34 ACTION OR PROCEEDING BROUGHT PURSUANT TO THIS SECTION, THE COURT, IN ITS
35 DISCRETION, MAY AWARD COSTS AND REASONABLE ATTORNEY FEES TO THE SUCCESS-
36 FUL PARTY.

37 (H) UPON APPLICATION BY AN INSURER REQUIRED BY SUBSECTION (A-ONE) OF
38 THIS SECTION TO SUBMIT A STATISTICAL REPORT OR OTHER INFORMATION FOR THE
39 CALENDAR YEAR TWO THOUSAND NINE, THE SUPERINTENDENT MAY PERMIT SUCH
40 INSURER TO CLASSIFY THE DATA BY UNITED STATES POSTAL ZIP CODE, RATHER
41 THAN CENSUS TRACT DESIGNATION, FOR THE REPORT DUE IN CALENDAR YEAR TWO
42 THOUSAND TEN.

43 S 3. This act shall take effect immediately.