S T A T E O F N E W Y O R K

6448

I N S E N A T E

January 12, 2010

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:

Section 1. Subsection (a) of section 5106 of the insurance law is amended to read as follows:

(a) Payments of first party benefits and additional first party benefits shall be made as the loss is incurred. Such benefits are overdue if not paid within thirty days after the claimant supplies proof of the fact and amount of loss sustained. If proof is not supplied as to the entire claim, the amount which is supported by proof is overdue if not paid within thirty days after such proof is supplied. All overdue payments shall bear interest at the rate of two percent per month. If a valid claim or portion was overdue, the claimant shall also be entitled to recover his attorney's reasonable fee, for services necessarily performed in connection with securing payment of the overdue claim, subject to limitations promulgated by the superintendent in regulations. PAYMENT OF THE INTEREST PENALTY AND REASONABLE ATTORNEY FEES TO A CLAIMANT WHEN PAYMENT OF A CLAIM IS OVERDUE SHALL BE THE EXCLUSIVE REMEDY WHEN AN INSURER FAILS TO MAKE TIMELY PAYMENT. THE FAILURE OF AN INSURER TO MAKE TIMELY PAYMENT OR ISSUE A DENIAL WITHIN THIRTY DAYS AFTER PROOF OF CLAIM HAS BEEN SUBMITTED TO AN INSURER SHALL NOT PRECLUDE SUCH INSURER FROM ISSUING A DENIAL OR ASSERTING A DEFENSE AFTER THE THIRTY DAY PERIOD HAS ELAPSED.

S 2. This act shall take effect on the sixtieth day after it shall have become a law.

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

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