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

330

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:

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

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

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

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

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

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

(D) THE NUMBER OF CLAIMS FILED BY POLICY HOLDERS AND THE PERCENT OF SUCH CLAIMS APPROVED AND THE PERCENT OF SUCH CLAIMS DENIED BY THE INSURER;

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

(G) INFORMATION PERTAINING TO RATES CHARGED BY THE INSURER AND SUCH ADDITIONAL INFORMATION AS THE SUPERINTENDENT SHALL DEEM NECESSARY JUSTIFYING OR SUPPORTING SUCH RATES.

(F) THE SUPERINTENDENT SHALL, BY JULY FIRST OF EACH YEAR, MAKE THE TEXT OF THE REPORTS AVAILABLE TO THE PUBLIC IN PRINTED AND ELECTRONIC FORMAT AT NO OR NOMINAL COST AND INSURERS SHALL FILE WITH THE SUPERINTENDENT AND MAKE AVAILABLE TO THE PUBLIC, IN ADDITION TO THE CUMULATIVE DATA REQUIRED, INDIVIDUAL RECORD DATA FROM WHICH THE REPORT SUMMARIES WERE TABULATED.

(G)(1) ANY INSURER FAILING TO FILE, WHEN DUE, A COMPLETED RESIDENTIAL INSURANCE RATE, EXPERIENCE AND STATISTICAL REPORT PURSUANT TO SUBSECTION (A-ONE) OF THIS SECTION SHALL BE SUBJECT TO A PENALTY NOT TO EXCEED ONE THOUSAND DOLLARS PER DAY FOR EACH DAY BEYOND THE DATE THE REPORT OR INFORMATION IS REQUIRED TO BE FILED, BUT IN NO EVENT SHALL SUCH PENALTY EXCEED FIFTEEN THOUSAND DOLLARS IN THE AGGREGATE; PROVIDED, HOWEVER THAT THE SUPERINTENDENT MAY WAIVE SUCH A PENALTY UPON A WRITTEN FINDING THAT THE REPORT OR OTHER INFORMATION SUBMITTED BY SUCH INSURER ON THE DATE REQUIRED WAS SUBSTANTIALLY COMPLETE, AND THE INSURER HAS CORRECTED ANY DEFICIENCIES WITHIN A DATE SET BY THE SUPERINTENDENT. AN INSURER REQUIRED BY THIS SUBSECTION TO SUBMIT A STATISTICAL REPORT OR OTHER INFORMATION WHO REFUSES OR WILLFULLY FAILS TO FILE SUCH STATISTICAL REPORT OR OTHER INFORMATION SHALL, IN ADDITION TO ANY OTHER PENALTIES PROVIDED FOR BY THIS CHAPTER, UPON NOTICE AND AN OPPORTUNITY TO BE HEARD, BE SUBJECT TO AN ADDITIONAL PENALTY OF UP TO FIVE HUNDRED DOLLARS PER DAY OF DELAY, NOT TO EXCEED FIFTY THOUSAND DOLLARS IN THE AGGREGATE.

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

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

S 3. This act shall take effect immediately.