

6786--B

2013-2014 Regular Sessions

I N   A S S E M B L Y

April 18, 2013

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Introduced by M. of A. WEPRIN -- read once and referred to the Committee on Insurance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the insurance law, in relation to public adjusters and payment of property/casualty claims

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

1     Section 1. Section 2108 of the insurance law is amended by adding a  
2     new subsection (s) to read as follows:  
3     (S) (1) EVERY PUBLIC ADJUSTER SHALL HAVE AN AFFIRMATIVE DUTY TO ACT ON  
4     BEHALF AND IN THE BEST INTERESTS OF THE INSURED WHEN NEGOTIATING FOR OR  
5     EFFECTING THE SETTLEMENT OF AN INSURANCE CLAIM FOR THE INSURED OR OTHER-  
6     WISE ACTING AS A PUBLIC ADJUSTER.  
7     (2) (A) NO PUBLIC ADJUSTER SHALL RECEIVE ANY COMPENSATION, EITHER  
8     DIRECTLY OR INDIRECTLY, FOR A REFERRAL OF THE INSURED TO AN INDIVIDUAL  
9     OR ENTITY FOR SERVICES, WORK OR REPAIRS, RELATING TO ANY INSURANCE CLAIM  
10    FOR WHICH THE PUBLIC ADJUSTER REPRESENTS THE INSURED OR HAS NEGOTIATED  
11    OR EFFECTED A SETTLEMENT, UNLESS THE COMPENSATION IS PROMINENTLY AND  
12    CLEARLY DISCLOSED TO THE INSURED IN THE WRITTEN MEMORANDUM DESCRIBED IN  
13    SUBSECTION (P) OF THIS SECTION. ANY SUCH COMPENSATION RECEIVED SHALL BE  
14    DEEMED TO BE COMPENSATION FROM THE INSURED AND, IN COMBINATION WITH ANY  
15    OTHER COMPENSATION RECEIVED FROM THE INSURED, SHALL NOT EXCEED THE MAXI-  
16    MUM AMOUNT THAT THE ADJUSTER MAY CHARGE IN ACCORDANCE WITH THE REGU-  
17    LATIONS REQUIRED PURSUANT TO SUBSECTION (P) OF THIS SECTION.  
18    (B) NO PUBLIC ADJUSTER WHO HAS A FINANCIAL OR OWNERSHIP INTEREST IN  
19    THE INDIVIDUAL OR ENTITY THAT PERFORMS THE SERVICES, WORK, OR REPAIRS,  
20    SHALL REFER THE INSURED TO THE INDIVIDUAL OR ENTITY UNLESS THE FINANCIAL  
21    OR OWNERSHIP INTEREST IS PROMINENTLY AND CLEARLY DISCLOSED TO THE  
22    INSURED IN THE WRITTEN MEMORANDUM DESCRIBED IN SUBSECTION (P) OF THIS

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

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1 SECTION. IF A PUBLIC ADJUSTER REFERS AN INSURED TO AN INDIVIDUAL WHO IS  
2 RELATED TO THE INDIVIDUAL BY BLOOD OR AFFINITY TO THE SECOND DEGREE OF  
3 CONSANGUINITY, OR TO AN ENTITY OWNED OR CONTROLLED BY SUCH AN INDIVID-  
4 UAL, FOR SERVICES, WORK, OR REPAIRS, RELATING TO ANY INSURANCE CLAIM FOR  
5 WHICH THE PUBLIC ADJUSTER REPRESENTS THE INSURED OR HAS NEGOTIATED OR  
6 EFFECTED A SETTLEMENT, THEN THE PUBLIC ADJUSTER SHALL DISCLOSE THE  
7 RELATIONSHIP TO THE INSURED IN THE WRITTEN MEMORANDUM DESCRIBED IN  
8 SUBSECTION (P) OF THIS SECTION.

9 S 2. Paragraphs 15 and 16 of subsection (a) of section 2110 of the  
10 insurance law are renumbered paragraphs 16 and 17 and a new paragraph 15  
11 is added to read as follows:

12 (15) WHILE ACTING AS A PUBLIC ADJUSTER, THE LICENSEE HAS FAILED TO ACT  
13 ON BEHALF AND IN THE BEST INTERESTS OF THE INSURED WHEN NEGOTIATING FOR  
14 OR EFFECTING THE SETTLEMENT OF AN INSURANCE CLAIM FOR SUCH INSURED OR  
15 OTHERWISE ACTING AS A PUBLIC ADJUSTER, OR HAS FAILED TO MAKE THE DISCLO-  
16 SURES REQUIRED BY PARAGRAPH TWO OF SUBSECTION (S) OF SECTION TWO THOU-  
17 SAND ONE HUNDRED EIGHT OF THIS ARTICLE;

18 S 3. This act shall take effect on the first of January next succeed-  
19 ing the date on which it shall have become a law.