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

3045

2013-2014 Regular Sessions

I N S E N A T E

January 29, 2013

Introduced by Sen. LANZA -- 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 creating a homeowners' bill of rights and a consumer guide on insuring against catastrophic loss caused by natural disasters

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

Section 1. The insurance law is amended by adding a new section 3444-a to read as follows:

S 3444-A. HOMEOWNERS' BILL OF RIGHTS. (A) ANY INSURER THAT WRITES PERSONAL LINES INSURANCE OR COMMERCIAL LINES INSURANCE POLICIES THAT COVER LOSS OF OR DAMAGE TO REAL PROPERTY, PERSONAL PROPERTY, OR OTHER LIABILITIES FOR LOSS OF OR DAMAGE TO PROPERTY SHALL, UPON ISSUANCE AND RENEWAL OF ANY SUCH POLICY OR CONTRACT, PROVIDE TO AN INSURED OR POTENTIAL INSURED WRITTEN DETAILED DISCLOSURE IN A NOTICE PRESCRIBED OR APPROVED BY THE SUPERINTENDENT DESCRIBING CLEARLY AND IN PLAIN LANGUAGE THE FOLLOWING:

(1) ANY AND ALL COVERAGE FOR LOSS CAUSED BY CERTAIN OCCURRENCES, INCLUDING BUT NOT LIMITED TO FIRE, WIND, WINDSTORM, MUDSLIDE, HURRICANE, SNOW, ICE, WATER SURGE, OR FLOOD, COVERAGES PROVIDED UNDER THE POLICY, ANY LIMITATIONS ON OR EXCLUSIONS FROM COVERAGE, CIRCUMSTANCES THAT WOULD INVALIDATE COVERAGE UNDER THE POLICY, ANY APPLICABLE DEDUCTIBLES, AND WHEN SUCH DEDUCTIBLES SHALL BE TRIGGERED;

(2) ALL INFORMATION RELATED TO CLAIMS INVESTIGATION AND PROCESSING, INCLUDING BUT NOT LIMITED TO THE PROCESS BY WHICH THE INSURED MAY FILE A CLAIM, ALL APPLICABLE TIME FRAMES REQUIRED BY LAW AND REGULATION, ALL NECESSARY PROOF OF LOSS INFORMATION AND OTHER INFORMATION THE INSURER MAY REQUIRE FROM THE INSURED, THE PROCESS BY WHICH THE INSURED MAY FILE A COMPLAINT WITH THE DEPARTMENT, AND ANY OTHER INFORMATION DEEMED NECESSARY BY THE SUPERINTENDENT;

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

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(3) ANY AND ALL RIGHTS A CLAIMANT HAS UNDER THE LAWS AND POLICY WHEN A CLAIM IS DENIED OR WHEN THE CLAIMANT REJECTS A SETTLEMENT OFFER FROM THE INSURER, INCLUDING THEIR RIGHT TO FILE A COMPLAINT WITH THE DEPARTMENT;

(4) THAT THE PROVISIONS OF THIS POLICY MAY BE MODIFIED OR CHANGED PURSUANT TO STATE OR FEDERAL LAW WHEN A LOCAL STATE OF EMERGENCY IS DECLARED PURSUANT TO SECTION TWENTY-FOUR OF THE EXECUTIVE LAW, WHEN THE GOVERNOR DECLARES A DISASTER EMERGENCY PURSUANT TO SECTION TWENTY-EIGHT OF THE EXECUTIVE LAW, OR WHEN THE PRESIDENT OF THE UNITED STATES ISSUES A MAJOR DISASTER OR EMERGENCY DECLARATION PURSUANT TO THE ROBERT T. STAFFORD DISASTER RELIEF AND EMERGENCY ASSISTANCE ACT (P.L. 93-288) AND HOW THE INSURED MAY OBTAIN INFORMATION ABOUT ANY SUCH MODIFICATIONS OR CHANGES;

(5) INFORMATION ON HOW THE INSURED MAY CONTACT THE INSURER, INCLUDING THE INSURER'S BUSINESS HOURS, MAILING ADDRESS, PHONE NUMBER, FAX NUMBER, WEBSITE ADDRESS AND EMAIL; AND

(6) INFORMATION ON HOW THE INSURED CAN OBTAIN THE CONSUMERS GUIDE ON INSURING AGAINST CATASTROPHIC LOSSES CREATED BY THE DEPARTMENT PURSUANT TO SECTION THREE HUNDRED THIRTY-EIGHT OF THIS CHAPTER AND ANY OTHER GUIDES, PAMPHLETS, OR OTHER INFORMATION THE DEPARTMENT HAS MADE PUBLICLY AVAILABLE THAT WOULD BE BENEFICIAL TO THE INSURED.

(B) IN THE EVENT THAT A POLICY SUBJECT TO SUBSECTION (A) OF THIS SECTION DOES NOT INCLUDE COVERAGE FOR DAMAGE AS A RESULT OF WEATHER CONDITIONS, NATURAL DISASTERS, OR OTHER OCCURRENCES, INCLUDING BUT NOT LIMITED TO FIRE, WIND, WINDSTORM, MUDSLIDE, HURRICANE, SNOW, ICE, WATER SURGE, OR FLOOD, THE INSURER OR PRODUCER SHALL, UPON ISSUANCE AND RENEWAL OF ANY SUCH POLICY OR CONTRACT, PROVIDE TO AN INSURED OR POTENTIAL INSURED INFORMATION ON ANY ADDITIONAL COVERAGE OPTIONS, INCLUDING ADDITIONAL POLICIES AND RIDERS, THE NEW YORK PROPERTY INSURANCE UNDERWRITING ASSOCIATION, THE COASTAL MARKET ASSISTANCE PROGRAM, THE NATIONAL FLOOD INSURANCE PROGRAM, AND ANY OTHER OPTIONS AUTHORIZED BY STATE OR FEDERAL LAW.

S 2. Paragraph 6 of subsection (a) of section 2601 of the insurance law, as amended by chapter 388 of the laws of 2008, is amended and a new paragraph 7 is added to read as follows:

(6) failing to promptly disclose coverage pursuant to subsection (d) or subparagraph (A) of paragraph two of subsection (f) of section three thousand four hundred twenty of this chapter[.]; OR

(7) KNOWINGLY MISREPRESENTING OR FAILING TO PROVIDE PERTINENT FACTS OF POLICY PROVISIONS TO CLAIMANTS AS REQUIRED BY SECTION THREE THOUSAND FOUR HUNDRED FORTY-FOUR-A OF THIS CHAPTER AND NOT COMPLYING WITH SUCH POLICY PROVISIONS, INCLUDING ESTABLISHED TIME FRAMES FOR INVESTIGATION, CLAIMS PROCESSING AND SETTLEMENT, AND PAYMENT OF CLAIMS.

S 3. The insurance law is amended by adding a new section 338 to read as follows:

S 338. CONSUMER GUIDE ON INSURING AGAINST CATASTROPHIC LOSSES. (A) SIX MONTHS AFTER THE EFFECTIVE DATE OF THIS SECTION, THE SUPERINTENDENT SHALL ISSUE AND UPDATE, AS NECESSARY, A CONSUMER GUIDE ON INSURING AGAINST CATASTROPHIC LOSSES THAT SHALL CONTAIN COMPREHENSIVE INFORMATION WRITTEN IN PLAIN LANGUAGE IN A CLEAR AND UNDERSTANDABLE FORMAT, INCLUDING THE FOLLOWING:

(1) THE WAYS IN WHICH DIFFERENT TYPES OF WEATHER CONDITIONS, NATURAL DISASTERS, OR OTHER OCCURRENCES CAN CAUSE CATASTROPHIC LOSSES, INCLUDING BUT NOT LIMITED TO DAMAGE FROM FIRE, WIND, WINDSTORM, MUDSLIDE, HURRICANE, SNOW, ICE, EXTREME COLD, WATER SURGE, AND FLOOD;

(2) THE TYPES OF INSURANCE AVAILABLE THAT PROVIDE COVERAGE AGAINST CATASTROPHIC LOSSES FOR BOTH HOMEOWNERS AND BUSINESSES, A LISTING OF

COMPANIES THAT PROVIDE SUCH COVERAGE, AND RECOMMENDATIONS AS TO HOW BEST TO SHOP FOR AND COMPARE PRICES, SERVICE AND QUALITY OF INSURANCE COVERAGE;

(3) A LIST OF THE EXCLUSIONS TYPICALLY FOUND IN SUCH COVERAGE AND INFORMATION ON HOW A CONSUMER MAY OBTAIN COVERAGE FOR SUCH EXCLUSIONS, INCLUDING A LISTING OF COMPANIES THAT PROVIDE SUCH COVERAGE AND AN EXPLANATION OF, INFORMATION ON, AND THE TYPES OF COVERAGE AVAILABLE FROM THE NEW YORK PROPERTY INSURANCE UNDERWRITERS ASSOCIATION, THE COASTAL MARKET ASSISTANCE PROGRAM, AND THE NATIONAL FLOOD INSURANCE PROGRAM, AND OTHER OPTIONS AUTHORIZED BY STATE OR FEDERAL LAW;

(4) STEPS A CONSUMER CAN TAKE TO PREPARE FOR A NATURAL DISASTER OR OTHER CATASTROPHIC LOSS;

(5) STEPS A CONSUMER CAN TAKE FOLLOWING A CATASTROPHIC LOSS IN ORDER TO FACILITATE THE TIMELY PROCESSING OF THE CONSUMER'S INSURANCE CLAIM AND AN EXPLANATION OF POLICYHOLDERS' RIGHTS AS PROVIDED IN LAW AND REGULATION; AND

(6) A DEPARTMENT TOLL FREE CONSUMER HOT-LINE AND WEBSITE ADDRESS THROUGH WHICH CONSUMERS MAY INITIATE COMPLAINTS, AND REQUEST GENERAL INFORMATION ABOUT INSURANCE.

(B) THE REQUIREMENTS SET FORTH IN SUBSECTION (A) OF THIS SECTION MAY BE SATISFIED BY SEPARATE OR SUPPLEMENTAL PUBLICATIONS AND UPDATES.

(C) THE SUPERINTENDENT SHALL POST THE CONSUMER GUIDE ON INSURING AGAINST CATASTROPHIC LOSSES ON THE DEPARTMENT'S WEBSITE.

S 4. This act shall take effect immediately.