

5775

2013-2014 Regular Sessions

I N S E N A T E

June 14, 2013

Introduced by Sens. KLEIN, MARTINS -- 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 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 OTHERWISE
6 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 MAXIMUM
16 AMOUNT THAT THE ADJUSTER MAY CHARGE IN ACCORDANCE WITH THE REGULATIONS
17 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
23 SECTION. IF A PUBLIC ADJUSTER REFERS AN INSURED TO AN INDIVIDUAL WHO IS
24 RELATED TO THE INDIVIDUAL BY BLOOD OR AFFINITY TO THE SECOND DEGREE OF
25 CONSANGUINITY, OR TO AN ENTITY OWNED OR CONTROLLED BY SUCH AN INDIVID-

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

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1 UAL, FOR SERVICES, WORK, OR REPAIRS, RELATING TO ANY INSURANCE CLAIM FOR
2 WHICH THE PUBLIC ADJUSTER REPRESENTS THE INSURED OR HAS NEGOTIATED OR
3 EFFECTED A SETTLEMENT, THEN THE PUBLIC ADJUSTER SHALL DISCLOSE THE
4 RELATIONSHIP TO THE INSURED IN THE WRITTEN MEMORANDUM DESCRIBED IN
5 SUBSECTION (P) OF THIS SECTION.

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

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

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