

1092--A

2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. SKOUFIS, SILVER, TITONE, CUSICK, WEISENBERG, GOLDFEDER, WEINSTEIN, MORELLE, BROOK-KRASNY, CYMBROWITZ, HENNESSEY, COLTON, NOLAN, MAISEL, SOLAGES, SANTABARBARA, PERRY, RAMOS, LUPARDO -- Multi-Sponsored by -- M. of A. ABINANTI, BRENNAN, BUCHWALD, ENGLEBRIGHT, GALEF, GLICK, GUNTHER, JAFFEE, LAVINE, MARKEY, McDONOUGH, PAULIN, RABBITT, SWEENEY, THIELE, TITUS -- read once and referred to the Committee on Insurance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the insurance law, in relation to standards for prompt investigation and settlement of claims arising from states of emergency

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

1 Section 1. The insurance law is amended by adding a new section 2616  
2 to read as follows:  
3 S 2616. STANDARDS FOR PROMPT INVESTIGATION AND SETTLEMENT OF CLAIMS.  
4 (A) THIS SECTION SHALL APPLY TO EVERY INSURER WHO WRITES POLICIES THAT  
5 COVER LOSS OF OR DAMAGE TO REAL PROPERTY, PERSONAL PROPERTY OR OTHER  
6 LIABILITIES FOR LOSS OF, DAMAGE TO, OR INJURY TO PERSONS OR PROPERTY  
7 WHEN A LOCAL STATE OF EMERGENCY IS DECLARED PURSUANT TO SECTION TWENTY-  
8 FOUR OF THE EXECUTIVE LAW, WHEN THE GOVERNOR DECLARES A DISASTER EMER-  
9 GENCY PURSUANT TO SECTION TWENTY-EIGHT OF THE EXECUTIVE LAW, OR WHEN THE  
10 PRESIDENT ISSUES A MAJOR DISASTER OR EMERGENCY DECLARATION PURSUANT TO  
11 THE ROBERT T. STAFFORD DISASTER RELIEF AND EMERGENCY ASSISTANCE ACT  
12 (P.L. 93-288), FOR CLAIMS ARISING FROM SUCH EMERGENCY.  
13 (1) AN INSURER SHALL ACKNOWLEDGE THE RECEIPT OF ALL CLAIMS IN WRITING  
14 TO THE CLAIMANT OR THE CLAIMANT'S AUTHORIZED REPRESENTATIVE IN ACCORD-  
15 ANCE WITH REGULATIONS PROMULGATED BY THE SUPERINTENDENT;  
16 (2) IF THE INSURER WISHES ITS INVESTIGATION TO INCLUDE AN INSPECTION  
17 OF DAMAGED OR DESTROYED PROPERTY, THE INSPECTION, WHETHER PERFORMED BY

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

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1 THE INSURER, AN INDEPENDENT ADJUSTER, OR OTHER REPRESENTATIVE OF THE  
2 INSURER, SHALL OCCUR IN ACCORDANCE WITH REGULATIONS PROMULGATED BY THE  
3 SUPERINTENDENT. FURTHERMORE, WHERE NECESSARY TO PROTECT THE HEALTH AND  
4 SAFETY OF THE CLAIMANT, IMMEDIATE REPAIRS TO WINDOWS, EXTERIOR WALLS,  
5 EXTERIOR DOORS, ROOFS, HEATING SYSTEMS, WATER SYSTEMS AND ELECTRICAL  
6 SYSTEMS MAY BE MADE AND ALTERNATIVE PROOF OF LOSS SUCH AS PHOTOGRAPHS,  
7 VIDEO RECORDINGS, INVENTORIES AND ALL RECEIPTS FOR REPAIRS OR REPLACE-  
8 MENT PROPERTY SHALL SATISFY POLICY REQUIREMENTS;

9 (3) A CLAIM FILED WITH AN AGENT OF AN INSURER SHALL BE DEEMED TO HAVE  
10 BEEN FILED WITH THE INSURER UNLESS, CONSISTENT WITH LAW OR CONTRACT, THE  
11 AGENT NOTIFIES THE PERSON FILING THE CLAIM THAT THE AGENT IS NOT AUTHOR-  
12 IZED TO RECEIVE NOTICES OF CLAIM; AND

13 (4) AN INSURER SHALL FURNISH TO SUCH CLAIMANT, OR CLAIMANT'S AUTHOR-  
14 IZED REPRESENTATIVE, A NOTIFICATION OF ALL ITEMS, STATEMENTS AND FORMS,  
15 IF ANY, WHICH THE INSURER REASONABLY BELIEVES WILL BE REQUIRED OF THE  
16 CLAIMANT IN ORDER TO INVESTIGATE SUCH CLAIM IN ACCORDANCE WITH REGU-  
17 LATIONS PROMULGATED BY THE SUPERINTENDENT.

18 (B)(1) AN INSURER SHALL, WITHIN FIFTEEN BUSINESS DAYS OF RECEIPT OF  
19 ALL ITEMS, STATEMENTS AND FORMS REQUESTED UNDER THIS SECTION FROM THE  
20 CLAIMANT, OR THE CLAIMANT'S AUTHORIZED REPRESENTATIVE, ADVISE THE CLAIM-  
21 ANT IN WRITING WHETHER THE INSURER HAS ACCEPTED OR REJECTED THE CLAIM.

22 (2) AN INSURER SHALL BE GRANTED A ONE-TIME EXTENSION OF FIFTEEN BUSI-  
23 NESS DAYS TO DETERMINE WHETHER A CLAIM SHOULD BE ACCEPTED OR REJECTED.  
24 IF THE INSURER ELECTS TO UTILIZE THIS EXTENSION, IT SHALL SO NOTIFY THE  
25 CLAIMANT, OR THE CLAIMANT'S AUTHORIZED REPRESENTATIVE, IN WRITING. SUCH  
26 NOTIFICATION SHALL INCLUDE THE REASONS ADDITIONAL TIME IS NEEDED FOR THE  
27 INVESTIGATION.

28 (3) ONCE THE CLAIM IS ACCEPTED BY THE INSURER, THE INSURER SHALL  
29 ADVISE THE CLAIMANT, OR THE CLAIMANT'S AUTHORIZED REPRESENTATIVE, IN  
30 WRITING OF THE AMOUNT THE INSURER IS OFFERING TO SETTLE THE CLAIM. THE  
31 INSURER SHALL ALSO PROVIDE TO THE CLAIMANT, OR THE CLAIMANT'S AUTHORIZED  
32 REPRESENTATIVE, IN WRITING, OF ALL APPLICABLE POLICY PROVISIONS REGARD-  
33 ING THE CLAIMANT'S RIGHT TO REJECT AND APPEAL THE OFFER.

34 (4) IN ANY CASE WHERE THE CLAIM IS REJECTED BY THE INSURER, THE INSUR-  
35 ER SHALL NOTIFY THE CLAIMANT, OR THE CLAIMANT'S AUTHORIZED REPRESENTATIVE,  
36 IN WRITING, OF ALL APPLICABLE POLICY PROVISIONS REGARDING THE  
37 CLAIMANT'S RIGHT TO APPEAL THE DECISION.

38 (C) AN INSURER SHALL PAY THE CLAIM NOT LATER THAN THREE BUSINESS DAYS  
39 FROM THE SETTLEMENT OF THE CLAIM.

40 (D) THE SUPERINTENDENT MAY PROMULGATE ANY RULES OR REGULATIONS NECES-  
41 SARY TO IMPLEMENT THE PROVISIONS OF THIS SECTION.

42 S 2. This act shall take effect immediately.