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

1398

2015-2016 Regular Sessions

I N S E N A T E

January 12, 2015

Introduced by Sen. CARLUCCI -- 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 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:

Section 1. The insurance law is amended by adding a new section 2616 to read as follows:

S 2616. STANDARDS FOR PROMPT INVESTIGATION AND SETTLEMENT OF CLAIMS. (A) THIS SECTION SHALL APPLY TO EVERY INSURER WHO WRITES POLICIES THAT COVER LOSS OF OR DAMAGE TO REAL PROPERTY, PERSONAL PROPERTY OR OTHER LIABILITIES FOR LOSS OF, DAMAGE TO, OR INJURY TO PERSONS OR PROPERTY 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 ISSUES A MAJOR DISASTER OR EMERGENCY DECLARATION PURSUANT TO THE ROBERT T. STAFFORD DISASTER RELIEF AND EMERGENCY ASSISTANCE ACT (P.L. 93-288), FOR CLAIMS ARISING FROM SUCH EMERGENCY.

(1) AN INSURER SHALL ACKNOWLEDGE THE RECEIPT OF ALL CLAIMS IN WRITING TO THE CLAIMANT OR THE CLAIMANT'S AUTHORIZED REPRESENTATIVE IN ACCORDANCE WITH REGULATIONS PROMULGATED BY THE SUPERINTENDENT;

(2) IF THE INSURER WISHES ITS INVESTIGATION TO INCLUDE AN INSPECTION OF DAMAGED OR DESTROYED PROPERTY, THE INSPECTION, WHETHER PERFORMED BY THE INSURER, AN INDEPENDENT ADJUSTER, OR OTHER REPRESENTATIVE OF THE INSURER, SHALL OCCUR IN ACCORDANCE WITH REGULATIONS PROMULGATED BY THE SUPERINTENDENT. FURTHERMORE, WHERE NECESSARY TO PROTECT THE HEALTH AND SAFETY OF THE CLAIMANT, IMMEDIATE REPAIRS TO WINDOWS, EXTERIOR WALLS, EXTERIOR DOORS, ROOFS, HEATING SYSTEMS, WATER SYSTEMS AND ELECTRICAL SYSTEMS MAY BE MADE AND ALTERNATIVE PROOF OF LOSS SUCH AS PHOTOGRAPHS,

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

LBD03167-02-5

VIDEO RECORDINGS, INVENTORIES AND ALL RECEIPTS FOR REPAIRS OR REPLACEMENT PROPERTY SHALL SATISFY POLICY REQUIREMENTS;

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

(4) AN INSURER SHALL FURNISH TO SUCH CLAIMANT, OR CLAIMANT'S AUTHORIZED REPRESENTATIVE, A NOTIFICATION OF ALL ITEMS, STATEMENTS AND FORMS, IF ANY, WHICH THE INSURER REASONABLY BELIEVES WILL BE REQUIRED OF THE CLAIMANT IN ORDER TO INVESTIGATE SUCH CLAIM IN ACCORDANCE WITH REGULATIONS PROMULGATED BY THE SUPERINTENDENT.

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

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

(3) ONCE THE CLAIM IS ACCEPTED BY THE INSURER, THE INSURER SHALL ADVISE THE CLAIMANT, OR THE CLAIMANT'S AUTHORIZED REPRESENTATIVE, IN WRITING OF THE AMOUNT THE INSURER IS OFFERING TO SETTLE THE CLAIM. THE INSURER SHALL ALSO PROVIDE TO THE CLAIMANT, OR THE CLAIMANT'S AUTHORIZED REPRESENTATIVE, IN WRITING, OF ALL APPLICABLE POLICY PROVISIONS REGARDING THE CLAIMANT'S RIGHT TO REJECT AND APPEAL THE OFFER.

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

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

(D) THE SUPERINTENDENT MAY PROMULGATE ANY RULES OR REGULATIONS NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS SECTION.

S 2. This act shall take effect immediately.