

2015-2016 Regular Sessions

I N A S S E M B L Y

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Introduced by M. of A. GANTT, ROBINSON, COLTON, GALEF -- Multi-Sponsored
by -- M. of A. DINOWITZ, GLICK, HOOPER, PEOPLES-STOKES, TITONE --
read once and referred to the Committee on Insurance

AN ACT to amend the insurance law, in relation to "the New York residen-
tial insurance providers disclosure act of 2015"

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

1 Section 1. This act shall be known and may be cited as "the New York
2 residential insurance providers disclosure act of 2015".
3 S 2. Subsection (a) of section 2315 of the insurance law, as amended
4 by chapter 398 of the laws of 1990, is amended to read as follows:
5 (a) [Every] WITH RESPECT TO RESIDENTIAL INSURANCE, EVERY AUTHORIZED
6 INSURER SHALL BY MARCH THIRTY-FIRST OF EACH YEAR FILE WITH THE SUPER-
7 INTENDENT, OR WITH SUCH OTHER AGENCY AS THE SUPERINTENDENT MAY APPROVE,
8 A "RESIDENTIAL INSURANCE RATE, EXPERIENCE AND STATISTICAL REPORT" AS
9 DESCRIBED IN SUBSECTION (D) OF THIS SECTION, AND SHALL MAKE AVAILABLE IN
10 AN ELECTRONIC DATABASE FORMAT THE STATISTICAL INFORMATION ON ITS RESI-
11 DENTIAL ACTIVITIES ACCORDING TO THE PROVISIONS OF SUBSECTION (D) OF THIS
12 SECTION. WITH RESPECT TO NON-RESIDENTIAL AND ALL OTHER LINES OF INSUR-
13 ANCE, EVERY authorized insurer shall annually file with the rate service
14 organization of which it is a member or subscriber, or with such other
15 agency as the superintendent may approve, a statistical report showing a
16 classification schedule of its premiums and losses on all kinds or types
17 of insurance business subject to this article, and such other informa-
18 tion as the superintendent may deem necessary or expedient for the
19 administration of the provisions of this article. The superintendent
20 from time to time may prescribe the form of the report including statis-
21 tical data conforming to established classifications. The statistical
22 reports shall be consolidated in accordance with regulations prescribed
23 by the superintendent. Such consolidations shall be made available,

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

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1 subject to reasonable rules promulgated by the superintendent, to insur-
2 ers and rate service organizations. No insurer shall be required to
3 record or report its loss experience on a classification basis that is
4 inconsistent with the rating system filed by it, except that the super-
5 intendent may require each insurer writing private passenger automobile
6 coverages to file annually with the superintendent (or a statistical
7 agent designated by the superintendent for such purpose), in the form
8 prescribed by the superintendent, a statistical report showing a sched-
9 ule of its premiums, losses, and exposures classified by United States
10 postal zip code. [No] EXCEPT AS PROVIDED FOR IN SUBSECTION (D) OF THIS
11 SECTION, NO statistical report shall be issued or otherwise made avail-
12 able to any rate service organization (except in the capacity of desig-
13 nated statistical agent), insurers, or persons other than appropriate
14 governmental entities, except on a consolidated manner, or in such
15 aggregate form as to protect an individual insurer's schedule of premi-
16 ums, losses and exposures for any specific zip code.

17 S 3. Subsections (d) and (e) of section 2315 of the insurance law are
18 relettered (e) and (f) and a new subsection (d) is added to read as
19 follows:

20 (D) (1) BEGINNING JANUARY FIRST, TWO THOUSAND SIXTEEN AND ANNUALLY
21 THEREAFTER, THE SUPERINTENDENT SHALL REQUIRE EACH INSURER AUTHORIZED TO
22 WRITE AND WRITING THE KINDS OF INSURANCE SPECIFIED IN PARAGRAPH FOUR OF
23 SUBSECTION (A) OF SECTION ONE THOUSAND ONE HUNDRED THIRTEEN OF THIS
24 CHAPTER, SUBPARAGRAPH (A) OF PARAGRAPH FIVE OF SUCH SUBSECTION, AND
25 HOMEOWNERS INSURANCE, TO FILE A STATISTICAL REPORT OF ITS EXPERIENCE FOR
26 THE PREVIOUS CALENDAR YEAR, FOR EACH FORM AND RATING CLASSIFICATION, AND
27 TIER IN A MULTI-TIER PROGRAM, WHERE APPLICABLE, CLASSIFIED BY UNITED
28 STATES CENSUS TRACT.

29 FOR THE PURPOSES OF THIS SECTION, "HOMEOWNERS INSURANCE," INCLUDES
30 MULTI-TIER INSURANCE PROGRAMS, AND MEANS A CONTRACT OF INSURANCE INSUR-
31 ING AGAINST THE CONTINGENCIES DESCRIBED IN SUBPARAGRAPHS (A), (B) AND
32 (C), OR (B) AND (C) OF PARAGRAPH TWO OF SUBSECTION (A) OF SECTION THREE
33 THOUSAND FOUR HUNDRED TWENTY-FIVE OF THIS CHAPTER AND WHICH IS A
34 "COVERED POLICY" OF PERSONAL LINES INSURANCE AS DEFINED IN SUCH PARA-
35 GRAPH; PROVIDED, HOWEVER, THAT THE COVERAGES PROVIDED UNDER SUCH SUBPAR-
36 AGRAPHS (B) AND (C) SHALL NOT APPLY WHERE A NATURAL PERSON DOES NOT HAVE
37 AN INSURABLE INTEREST IN THE REAL PROPERTY, OR A PORTION THEREOF, OR THE
38 RESIDENTIAL UNIT IN WHICH SUCH PERSON RESIDES.

39 (2) SUCH STATISTICAL REPORT SHALL BE IN A FORM PRESCRIBED BY THE
40 SUPERINTENDENT AS IN EFFECT AT THE COMMENCEMENT OF THE CALENDAR YEAR
41 REPORTED UPON, AND SHALL INCLUDE, BUT NOT BE LIMITED TO, THE FOLLOWING
42 INFORMATION:

43 (A) THE NUMBER OF POLICIES IN EFFECT, OR OTHER EXPOSURES INSURED. FOR
44 THE PURPOSES OF THIS SUBSECTION, "POLICIES IN EFFECT" SHALL MEAN THE
45 NUMBER OF POLICIES WRITTEN IN THE REPORTING YEAR, AND "OTHER EXPOSURES,"
46 IF ANY, SHALL MEAN ANY COVERAGE EXTENDED OTHER THAN POLICIES WRITTEN,
47 AND SHALL BE DESCRIBED IN THE REPORT IN SUFFICIENT DETAIL TO IDENTIFY
48 THE COVERAGE PROVIDED;

49 (B) THE NUMBER OF APPLICATIONS FOR COVERAGE;

50 (C) THE NUMBER OF APPLICATIONS FOR WHICH COVERAGE WAS NOT PROVIDED,
51 CLASSIFIED ACCORDING TO APPLICATIONS WITHDRAWN, APPLICATIONS DENIED, AND
52 APPLICATIONS STILL IN PROCESS;

53 (D) THE NUMBER OF POLICIES NOT RENEWED;

54 (E) THE NUMBER OF POLICIES CANCELLED OR TERMINATED;

55 (F) THE NUMBER OF CLAIMS FILED;

56 (G) THE NUMBER OF CLAIMS APPROVED, IN WHOLE OR IN PART;

1 (H) THE NUMBER OF CLAIMS DENIED, IN WHOLE OR IN PART;

2 (I) THE AMOUNTS OF THE LOSSES INCURRED;

3 (J) THE AMOUNTS OF THE LOSSES PAID;

4 (K) FOR INSURERS DISTRIBUTING THROUGH DIRECT SOLICITATION, THE NUMBER
5 OF DIRECT MAIL OR TELEPHONE SOLICITATIONS;

6 (L) THE NUMBER OF AGENTS APPOINTED BY THE INSURER;

7 (M) THE STREET ADDRESSES OF ALL OFFICES ISSUING OR SERVICING POLICIES;

8 (N) LANGUAGES SPOKEN, OTHER THAN ENGLISH, WITH SUFFICIENT FLUENCY TO
9 CONDUCT BUSINESS IN THAT LANGUAGE BY PERSONNEL WITHIN EACH OFFICE;

10 (O) WHETHER THE INSURER ISSUES POLICIES IN A LANGUAGE OTHER THAN
11 ENGLISH, AND IF SO, IDENTIFYING THE LANGUAGES IN WHICH POLICIES ARE
12 ISSUED AND THE NUMBER OF POLICIES ISSUED IN EACH LANGUAGE;

13 (P) FOR EACH OF THE CATEGORIES OF INFORMATION DESCRIBED IN SUBPARA-
14 GRAPHS (A) THROUGH (J) OF THIS PARAGRAPH, FURTHER CLASSIFICATIONS
15 ACCORDING TO RACE, NATIONAL ORIGIN, ETHNICITY, HOUSEHOLD INCOME, AND
16 GENDER OF THE INSURED OR APPLICANTS, PURSUANT TO CODES ESTABLISHED BY
17 THE SUPERINTENDENT, IN ADDITION, WHERE AN INSURER APPLIES ANY OTHER
18 CLASSIFICATION WHICH AFFECTS THE PREMIUM RATE AT WHICH THE POLICY IS
19 ISSUED, THE INSURER SHALL PROVIDE TOTALS BY RACE, NATIONAL ORIGIN,
20 ETHNICITY, HOUSEHOLD INCOME AND GENDER FOR EACH SUCH CLASSIFICATION;

21 (Q) APPLICABLE RATES, WITHIN TERRITORIES SERVED BY AN INSURER, FOR
22 EACH FORM AND RATING CLASSIFICATION, INCLUDING RATES BY TIER IN
23 MULTI-TIER PROGRAMS, AND DIFFERENTIATING BETWEEN POLICIES WITH VARYING
24 TYPES OF BENEFITS, INCLUDING BUT NOT LIMITED TO GUARANTEED REPLACEMENT
25 COST, STANDARD OR LIMITED REPLACEMENT COST, MARKET VALUE OR ACTUAL CASH
26 VALUE, AND DIFFERENTIATING AMONG POLICIES ISSUED FOR SINGLE-FAMILY
27 HOMES, MULTI-FAMILY HOMES, CONDOMINIUM OR COOPERATIVE UNITS AND RENTERS;
28 AND

29 (R) ALL OF THE INFORMATION UPON WHICH AN INSURER, RATE SERVICE ORGAN-
30 IZATION, GROUP OF INSURERS FILED WITH THE SUPERINTENDENT IN SUPPORT OF
31 THE RATES AS REQUIRED TO BE FILED WITH THE SUPERINTENDENT BY SUBSECTION
32 (B) OF SECTION TWO THOUSAND THREE HUNDRED FOUR AND SUBSECTION (C) OF
33 SECTION TWO THOUSAND THREE HUNDRED FIVE OF THIS ARTICLE. AN INSURER OR
34 GROUP OF INSURERS WHICH ARE MEMBERS OR SUBSCRIBERS OF A RATE SERVICE
35 ORGANIZATION WHICH MAKES OR FILES RATES ON ITS BEHALF SHALL BE RESPONSIB-
36 LE FOR FILING OF THE INFORMATION AS PART OF THE REPORT REQUIRED BY THIS
37 SUBSECTION. IN LIEU OF INCLUDING THE INFORMATION REQUIRED BY THIS PARA-
38 GRAPH AS PART OF THE STATISTICAL REPORT, AN INSURER OR GROUP OF INSURERS
39 MAY POST THE INFORMATION ON A WEBSITE MAINTAINED BY THE INSURER OR
40 PROVIDE IT TO THE PUBLIC WITHOUT CHARGE WITHIN FIFTEEN DAYS OF RECEIPT
41 OF A WRITTEN REQUEST FOR SUCH INFORMATION.

42 (3) THE SUPERINTENDENT MAY APPOINT ONE OR MORE STATISTICAL AGENTS TO
43 ASSIST IN THE COLLECTION AND ORGANIZATION OF SUCH REPORT, AND MAY
44 APPROVE ONE OR MORE STATISTICAL AGENTS UPON APPLICATION BY AN INSURER TO
45 ASSIST IN OR MAKE THE FILING OF THE REPORT REQUIRED BY THIS SUBSECTION.

46 (4) NOTWITHSTANDING THE PROVISIONS OF ANY OTHER LAW, THE SUPERINTEN-
47 DENT SHALL BY JULY FIRST OF EACH YEAR MAKE AVAILABLE TO THE PUBLIC ON
48 REQUEST, AS WELL AS MAKING AVAILABLE FOR INSPECTION AT THE OFFICE OF THE
49 SUPERINTENDENT, THE FULL TEXT OF THE REPORTS FILED UNDER THIS
50 SUBSECTION. SUCH REPORTS SHALL BE MADE AVAILABLE IN BOTH PRINTED AND
51 ELECTRONIC FORMAT, INCLUDING ACCESS THROUGH THE WEBSITE OF THE DEPART-
52 MENT, AT NO CHARGE TO THE REQUESTING PARTY, EXCEPT THAT WITH RESPECT TO
53 PRINTED COPIES OR PHOTOCOPIES SUCH REPORTS SHALL BE AVAILABLE FOR A
54 REASONABLE FEE, NOT TO EXCEED FIVE CENTS PER PAGE OR THE ACTUAL COST OF
55 DUPLICATION, WHICHEVER IS LESS. DATA PRESENTED IN ELECTRONIC FORMAT

1 SHALL BE MADE AVAILABLE IN A DATABASE FILE FORMAT OF THE TYPE IN GENERAL
2 USAGE BY THE PUBLIC.

3 (5) IN ADDITION TO CUMULATIVE DATA REQUIRED TO BE REPORTED UNDER THIS
4 SUBSECTION, EACH INSURER SHALL FILE WITH THE SUPERINTENDENT, AND MAKE
5 AVAILABLE TO THE PUBLIC, THE INDIVIDUAL RECORD DATA FROM WHICH THE
6 REPORT SUMMARIES WERE TABULATED. SUCH DATA SHALL BE PROVIDED IN AN
7 ELECTRONIC DATABASE FORMAT PRESCRIBED BY THE SUPERINTENDENT, AND THE
8 SUPERINTENDENT SHALL MAKE SUCH DATABASE FILES AVAILABLE DIRECTLY TO THE
9 PUBLIC IN ACCORDANCE WITH THE PROCEDURES AND TIME REQUIREMENTS SET FORTH
10 IN PARAGRAPH FOUR OF THIS SUBSECTION. THE SUPERINTENDENT SHALL REQUIRE
11 THAT ALL INFORMATION WHICH WOULD PERSONALLY IDENTIFY ANY INDIVIDUAL
12 APPLICANT OR POLICYHOLDER BE DELETED. THE CATEGORIES OF DATA TO BE MADE
13 AVAILABLE FOR EACH INDIVIDUAL RECORD SHALL INCLUDE ALL OF THE SAME CATE-
14 GORIES OF INFORMATION CONTAINED IN THE CUMULATIVE REPORT AND SHALL BE
15 PRESENTED IN ACCORDANCE WITH STANDARDIZED CLASSIFICATION CODES TO BE
16 ESTABLISHED BY THE SUPERINTENDENT.

17 (6) AN INSURER WHO DOES NOT SUBMIT THE STATISTICAL REPORT OR OTHER
18 INFORMATION REQUIRED BY THIS SUBSECTION AS OF THE DATE REQUIRED SHALL,
19 UPON NOTICE AND OPPORTUNITY TO BE HEARD, BE SUBJECT TO A PENALTY NOT TO
20 EXCEED ONE THOUSAND DOLLARS PER DAY FOR EACH DAY BEYOND THE DATE THE
21 REPORT OR INFORMATION IS REQUIRED, BUT IN NO EVENT SHALL SUCH PENALTY
22 EXCEED FIFTEEN THOUSAND DOLLARS IN THE AGGREGATE; PROVIDED, HOWEVER,
23 THAT THE SUPERINTENDENT MAY WAIVE SUCH A PENALTY UPON A WRITTEN FINDING
24 THAT THE REPORT OR OTHER INFORMATION SUBMITTED BY SUCH INSURER ON THE
25 DATE REQUIRED WAS SUBSTANTIALLY COMPLETE, AND THE INSURER HAS CORRECTED
26 ANY DEFICIENCIES WITHIN A DATE SET BY THE SUPERINTENDENT. AN INSURER
27 REQUIRED BY THIS SUBSECTION TO SUBMIT A STATISTICAL REPORT OR OTHER
28 INFORMATION WHO WILLFULLY FAILS TO FILE SUCH STATISTICAL REPORT OR OTHER
29 INFORMATION SHALL, IN ADDITION TO ANY OTHER PENALTIES PROVIDED FOR BY
30 THIS CHAPTER, UPON NOTICE AND AN OPPORTUNITY TO BE HEARD, BE SUBJECT TO
31 A PENALTY OF UP TO FIVE HUNDRED DOLLARS PER DAY OF DELAY, NOT TO EXCEED
32 FIFTY THOUSAND DOLLARS IN THE AGGREGATE. WHERE AN INSURER HAS FAILED TO
33 COMPLY WITH THE REQUIREMENTS OF THIS SECTION, AN AGGRIEVED INDIVIDUAL,
34 INCLUDING ANY PERSON OR AGENCY ATTEMPTING TO ANALYZE THE PERFORMANCE OF
35 ANY INSURER SUBJECT TO THIS SECTION, SHALL HAVE A CAUSE OF ACTION IN ANY
36 COURT OF COMPETENT JURISDICTION FOR DECLARATORY AND INJUNCTIVE RELIEF.
37 IN ANY ACTION OR PROCEEDING BROUGHT PURSUANT TO THIS SECTION, COSTS AND
38 REASONABLE ATTORNEY FEES MAY BE AWARDED BY THE COURT, IN ITS DISCRETION,
39 TO THE SUCCESSFUL PARTY.

40 (7) UPON AN APPLICATION BY AN INSURER REQUIRED BY THIS SUBSECTION TO
41 SUBMIT A STATISTICAL REPORT OR OTHER INFORMATION FOR THE CALENDAR YEAR
42 TWO THOUSAND FIFTEEN, THE SUPERINTENDENT MAY PERMIT SUCH INSURER TO
43 CLASSIFY THE DATA BY UNITED STATES POSTAL ZIP CODE, RATHER THAN CENSUS
44 TRACT DESIGNATION, FOR THE REPORT DUE IN CALENDAR YEAR TWO THOUSAND
45 SIXTEEN.

46 S 4. This act shall take effect immediately.