

4223

2015-2016 Regular Sessions

I N   S E N A T E

March 11, 2015

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Introduced by Sen. SEWARD -- 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 establishing a private right of action for unfair claim settlement practices by an insurer

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

1     Section 1. Subsection (c) of section 2601 of the insurance law is  
2     amended and a new subsection (d) is added to read as follows:  
3     (c) If it is found, after notice and an opportunity to be heard, that  
4     an insurer has violated this section, each instance of noncompliance  
5     with subsection (a) [hereof] OF THIS SECTION may be treated as a separate  
6     violation of this section for purposes of ordering a monetary  
7     penalty pursuant to subsection (b) of section one hundred nine of this  
8     chapter. A violation of this section shall not be a misdemeanor.  
9     (D) WHERE THE GOVERNOR HAS DECLARED A DISASTER EMERGENCY PURSUANT TO  
10    SECTION TWENTY-EIGHT OF THE EXECUTIVE LAW, IN ADDITION TO THE RIGHT OF  
11    ACTION GRANTED TO THE DEPARTMENT PURSUANT TO THIS SECTION, ANY PERSON  
12    WHO HAS SUFFERED LOSS OR INJURY BY REASON OF ANY VIOLATION OF THIS  
13    SECTION RELATING TO AN INSURANCE CLAIM FOR PROPERTY DAMAGE IN AN  
14    AFFECTED AREA ENCOMPASSED BY THE EXECUTIVE ORDER DECLARING THE DISASTER  
15    EMERGENCY MAY BRING AN ACTION IN HIS OR HER OWN NAME AS A PLAINTIFF TO  
16    ENJOIN SUCH UNLAWFUL ACT OR PRACTICE AND AN ACTION TO RECOVER HIS OR HER  
17    ACTUAL DAMAGES. THE COURT MAY, IN ITS DISCRETION, AWARD PUNITIVE  
18    DAMAGES, IF THE COURT FINDS THAT THE DEFENDANT INSURER WILLFULLY OR  
19    KNOWINGLY VIOLATED THIS SECTION. THE COURT MAY AWARD REASONABLE ATTOR-  
20    NEY'S FEES TO A PREVAILING PLAINTIFF.  
21    S 2. This act shall take effect immediately.

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

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