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I N   S E N A T E

May 12, 2016

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Introduced by Sen. AVELLA -- 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 claims for loss or damage to real property, continuing education for licensed persons and qualifications for independent adjusters

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. CLAIMS FOR LOSS OR DAMAGE TO REAL PROPERTY; REPAIRS. (A) WHEN-  
4     EVER AN INSURED SUFFERS A LOSS OR DAMAGE TO REAL PROPERTY, NO INSURER  
5     PROVIDING COVERAGE THEREFOR SHALL REQUIRE THAT REPAIRS BE COMPLETED BY A  
6     PARTICULAR ENTITY OR INDIVIDUAL.

7     (B) IN PROCESSING ANY SUCH CLAIM, THE INSURER SHALL NOT RECOMMEND OR  
8     SUGGEST REPAIRS BE MADE BY A PARTICULAR ENTITY OR INDIVIDUAL UNLESS  
9     EXPRESSLY REQUESTED BY THE INSURED, IN WHICH CASE THE INSURER SHALL  
10    DISCLOSE TO THE INSURED WHETHER THE INSURER HAS A CONTROLLING OR BUSI-  
11    NESS INTEREST IN ANY ENTITY OR INDIVIDUAL THAT THE INSURER RECOMMENDS OR  
12    SUGGESTS.

13    S 2. Paragraph 1 of subsection (f) of section 2108 of the insurance  
14    law is amended to read as follows:

15    (1) The superintendent shall, in order to determine the trustworthi-  
16    ness and competency to act as an independent adjuster of each individual  
17    applicant for such license, and of each proposed sub-licensee, except in  
18    the case of a renewal license, require every such individual to take and  
19    pass, to the satisfaction of the superintendent, a personal written  
20    examination. AN INDIVIDUAL SHALL NOT BE DEEMED QUALIFIED TO TAKE THE  
21    EXAMINATION WITHOUT HAVING DEMONSTRATED BY EVIDENCE SATISFACTORY TO THE  
22    SUPERINTENDENT THAT: (A) THE INDIVIDUAL POSSESSES A MINIMUM OF  
23    ONE-YEAR'S EXPERIENCE IN THE INSURANCE BUSINESS, WITH INVOLVEMENT IN  
24    SALES, UNDERWRITING, CLAIMS, OR OTHER EXPERIENCE CONSIDERED SUFFICIENT  
25    BY THE SUPERINTENDENT; OR (B) THE INDIVIDUAL SUCCESSFULLY COMPLETED  
26    FORTY HOURS OF FORMAL TRAINING IN A COURSE, PROGRAM OF INSTRUCTION, OR  
27    SEMINARS APPROVED BY THE SUPERINTENDENT. The superintendent may

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

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1 prescribe the types of written examinations according to the kind or  
2 kinds of insurance claims [which] THAT the applicant is to be licensed  
3 to investigate and adjust.

4 S 3. Subsection (r) of section 2108 of the insurance law, as added by  
5 chapter 264 of the laws of 1998, is amended to read as follows:

6 (r) (1) The following continuing education requirements shall apply to  
7 resident and non-resident persons licensed as public OR INDEPENDENT  
8 adjusters.

9 (2) Resident and non-resident persons licensed as public OR INDEPEND-  
10 ENT adjusters and any person previously so licensed whose license was  
11 not in effect on the effective date of this subsection and who has  
12 subsequently been relicensed pursuant to the provisions of this article,  
13 shall biennially satisfactorily complete such courses or programs as may  
14 be approved by the superintendent, as follows:

15 (A) Any person holding a license as a public OR INDEPENDENT adjuster  
16 shall, during each full biennial licensing period, satisfactorily  
17 complete courses or programs of instruction or attend seminars as may be  
18 approved by the superintendent equivalent to fifteen credit hours of  
19 instruction.

20 (B) During the same calendar year biennial licensing period, a licen-  
21 see may use accumulated continuing education credits to meet the  
22 requirements of similar classes of licenses including those authorized  
23 by subsection (b) of section two thousand one hundred three, section two  
24 thousand one hundred four, section two thousand one hundred seven of  
25 this article with respect to general insurance consultants, and THIS  
26 section [two thousand one hundred eight of this article] with respect to  
27 public AND INDEPENDENT adjusters.

28 (C) Excess credit hours accumulated during any biennial licensing  
29 period shall not carry forward to the next biennial licensing period for  
30 that same class of license.

31 (3) (A) The courses or programs of instruction successfully completed,  
32 which shall be deemed to meet the superintendent's standards for contin-  
33 uing education shall be:

34 (i) Courses, programs of instruction or seminars, approved as to meth-  
35 od and content by the superintendent, covering portions of the principal  
36 branches of insurance related to the kinds of insurance covered by the  
37 public OR INDEPENDENT adjusting license, and given by a degree confer-  
38 ring college or university whose curriculum is registered with the state  
39 education department at the time the person takes the course, whether  
40 such course be given as part of such curriculum or separately, or by any  
41 other institution, association, trade association or insurer, which  
42 maintains equivalent standards of instruction and which shall have been  
43 approved for such purpose by the superintendent.

44 (ii) Continuing education as required by the state in which a non-re-  
45 sident licensee resides and maintains an office, provided the super-  
46 intendent deems them equivalent to New York continuing education  
47 requirements. If the state in which the non-resident licensee resides  
48 and maintains an office has no continuing education requirements, or the  
49 superintendent does not deem them equivalent, the licensee must satisfy  
50 New York continuing education requirements.

51 (B) The number of credit hours assigned to each of the courses or  
52 programs of instruction set forth in paragraph one of this subsection  
53 shall be determined by the superintendent.

54 (4) A person who teaches any approved course of instruction or who  
55 lectures at any approved seminar, and who is subject to these continuing  
56 education requirements shall be granted the same number of credit hours

1 as would be granted to a person taking and successfully completing such  
2 course, seminar or program, provided that such credit hours shall be  
3 credited only once per approved course during any biennial licensing  
4 period.

5 (5) Every person subject to these continuing education requirements  
6 shall furnish, in a form satisfactory to the superintendent, written  
7 certification attesting to the course or programs of instruction taken  
8 and successfully completed by such person, and executed by the sponsor-  
9 ing organization or its authorizing representative.

10 (6) (A) Any person failing to meet applicable continuing education  
11 requirements shall not be eligible to renew the license.

12 (B) Any person whose license was not renewed shall not be eligible to  
13 become relicensed during the next biennial licensing period until that  
14 person has demonstrated to the satisfaction of the superintendent that  
15 continuing education requirements for the last biennial licensing period  
16 were met.

17 (C) Any person whose license was not renewed pursuant to subparagraph  
18 (A) of this paragraph, who accumulates sufficient credit hours for the  
19 prior licensing period to qualify for relicensing in the biennial period  
20 following such non-renewal, may not apply those same credit hours toward  
21 the continuing education requirements for the current biennial licensing  
22 period.

23 (7) (A) Any entity eligible to provide continuing education courses,  
24 programs of instruction, or seminars shall file for approval by the  
25 superintendent on a biennial basis, to conform with its areas of  
26 instruction, a provider organization application and a course submission  
27 application for each course, program, and seminar.

28 (B) The provider organization application shall include the names of  
29 all instructors to be used during the contract period, and instructors  
30 may be added during the period by notifying the superintendent and  
31 paying the appropriate filing fee.

32 (C) The completed applications shall be returned in a timely manner,  
33 as specified by the superintendent with a non-refundable filing fee of  
34 two hundred dollars per organization, fifty dollars per course, program,  
35 and seminar, and fifty dollars per instructor.

36 (D) Approval of the application shall be at the discretion of the  
37 superintendent.

38 (8) Each licensee shall pay a biennial fee of ten dollars per license,  
39 for continuing education certificate filing and recording charges, to  
40 the superintendent, or, at the direction of the superintendent, directly  
41 to an organization under contract to provide continuing education admin-  
42 istrative services.

43 S 4. The opening paragraph of subsection (a) of section 2110 of the  
44 insurance law, as amended by chapter 499 of the laws of 2009, is amended  
45 to read as follows:

46 The superintendent may refuse to renew, revoke, or may suspend for a  
47 period the superintendent determines the license of any insurance  
48 producer, insurance consultant, PUBLIC OR INDEPENDENT adjuster or life  
49 settlement broker, if, after notice and hearing, the superintendent  
50 determines that the licensee or any sub-licensee has:

51 S 5. Paragraph 2 of subsection (c) of section 2132 of the insurance  
52 law, as amended by chapter 264 of the laws of 1998, is amended to read  
53 as follows:

54 (2) During the same calendar year biennial licensing period, a licen-  
55 see may use accumulated continuing education credits to meet the  
56 requirements of similar classes of licenses, as follows: (A) subsection

1 (a) of section two thousand one hundred three and section two thousand  
2 one hundred seven of this article with respect to life insurance  
3 consultants; or (B) subsection (b) of section two thousand one hundred  
4 three, section two thousand one hundred four, section two thousand one  
5 hundred seven of this article with respect to general insurance consult-  
6 ants, and section two thousand one hundred eight of this article with  
7 respect to public AND INDEPENDENT adjusters.  
8 S 6. This act shall take effect on the first of January next succeed-  
9 ing the date on which it shall have become a law.