

STATE OF NEW YORK

146

2017-2018 Regular Sessions

IN ASSEMBLY

(Prefiled)

January 4, 2017

Introduced by M. of A. GANTT -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law, in relation to "the New York residential insurance providers disclosure act of 2017"

The People of the State of New York, represented in Senate and Assembly, 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 2017".

3 § 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,
24 subject to reasonable rules promulgated by the superintendent, to insur-

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

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ers and rate service organizations. No insurer shall be required to record or report its loss experience on a classification basis that is inconsistent with the rating system filed by it, except that the superintendent may require each insurer writing private passenger automobile coverages to file annually with the superintendent (or a statistical agent designated by the superintendent for such purpose), in the form prescribed by the superintendent, a statistical report showing a schedule of its premiums, losses, and exposures classified by United States postal zip code. ~~[No]~~ Except as provided for in subsection (d) of this section, no statistical report shall be issued or otherwise made available to any rate service organization (except in the capacity of designated statistical agent), insurers, or persons other than appropriate governmental entities, except on a consolidated manner, or in such aggregate form as to protect an individual insurer's schedule of premiums, losses and exposures for any specific zip code.

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

(d) (1) Beginning January first, two thousand eighteen and annually thereafter, the superintendent shall require each insurer authorized to write and writing the kinds of insurance specified in paragraph four of subsection (a) of section one thousand one hundred thirteen of this chapter, subparagraph (A) of paragraph five of such subsection, and homeowners insurance, to file a statistical report of its experience for the previous calendar year, for each form and rating classification, and tier in a multi-tier program, where applicable, classified by United States census tract.

For the purposes of this section, "homeowners insurance," includes multi-tier insurance programs, and means a contract of insurance insuring against the contingencies described in subparagraphs (A), (B) and (C), or (B) and (C) of paragraph two of subsection (a) of section three thousand four hundred twenty-five of this chapter and which is a "covered policy" of personal lines insurance as defined in such paragraph; provided, however, that the coverages provided under such subparagraphs (B) and (C) shall not apply where a natural person does not have an insurable interest in the real property, or a portion thereof, or the residential unit in which such person resides.

(2) Such statistical report shall be in a form prescribed by the superintendent as in effect at the commencement of the calendar year reported upon, and shall include, but not be limited to, the following information:

(A) the number of policies in effect, or other exposures insured. For the purposes of this subsection, "policies in effect" shall mean the number of policies written in the reporting year, and "other exposures," if any, shall mean any coverage extended other than policies written, and shall be described in the report in sufficient detail to identify the coverage provided;

(B) the number of applications for coverage;

(C) the number of applications for which coverage was not provided, classified according to applications withdrawn, applications denied, and applications still in process;

(D) the number of policies not renewed;

(E) the number of policies cancelled or terminated;

(F) the number of claims filed;

(G) the number of claims approved, in whole or in part;

(H) the number of claims denied, in whole or in part;

1 (I) the amounts of the losses incurred;
2 (J) the amounts of the losses paid;
3 (K) for insurers distributing through direct solicitation, the number
4 of direct mail or telephone solicitations;
5 (L) the number of agents appointed by the insurer;
6 (M) the street addresses of all offices issuing or servicing policies;
7 (N) languages spoken, other than English, with sufficient fluency to
8 conduct business in that language by personnel within each office;
9 (O) whether the insurer issues policies in a language other than
10 English, and if so, identifying the languages in which policies are
11 issued and the number of policies issued in each language;
12 (P) for each of the categories of information described in subpara-
13 graphs (A) through (J) of this paragraph, further classifications
14 according to race, national origin, ethnicity, household income, and
15 gender of the insureds or applicants, pursuant to codes established by
16 the superintendent, in addition, where an insurer applies any other
17 classification which affects the premium rate at which the policy is
18 issued, the insurer shall provide totals by race, national origin,
19 ethnicity, household income and gender for each such classification;
20 (Q) applicable rates, within territories served by an insurer, for
21 each form and rating classification, including rates by tier in multi-
22 tier programs, and differentiating between policies with varying types
23 of benefits, including but not limited to guaranteed replacement cost,
24 standard or limited replacement cost, market value or actual cash value,
25 and differentiating among policies issued for single-family homes,
26 multi-family homes, condominium or cooperative units and renters; and
27 (R) all of the information upon which an insurer, rate service organ-
28 ization, group of insurers filed with the superintendent in support of
29 the rates as required to be filed with the superintendent by subsection
30 (b) of section two thousand three hundred four and subsection (c) of
31 section two thousand three hundred five of this article. An insurer or
32 group of insurers which are members or subscribers of a rate service
33 organization which makes or files rates on its behalf shall be responsi-
34 ble for filing of the information as part of the report required by this
35 subsection. In lieu of including the information required by this para-
36 graph as part of the statistical report, an insurer or group of insurers
37 may post the information on a website maintained by the insurer or
38 provide it to the public without charge within fifteen days of receipt
39 of a written request for such information.
40 (3) The superintendent may appoint one or more statistical agents to
41 assist in the collection and organization of such report, and may
42 approve one or more statistical agents upon application by an insurer to
43 assist in or make the filing of the report required by this subsection.
44 (4) Notwithstanding the provisions of any other law, the superinten-
45 dent shall by July first of each year make available to the public on
46 request, as well as making available for inspection at the office of the
47 superintendent, the full text of the reports filed under this
48 subsection. Such reports shall be made available in both printed and
49 electronic format, including access through the website of the depart-
50 ment, at no charge to the requesting party, except that with respect to
51 printed copies or photocopies such reports shall be available for a
52 reasonable fee, not to exceed five cents per page or the actual cost of
53 duplication, whichever is less. Data presented in electronic format
54 shall be made available in a database file format of the type in general
55 usage by the public.

1 (5) In addition to cumulative data required to be reported under this
2 subsection, each insurer shall file with the superintendent, and make
3 available to the public, the individual record data from which the
4 report summaries were tabulated. Such data shall be provided in an
5 electronic database format prescribed by the superintendent, and the
6 superintendent shall make such database files available directly to the
7 public in accordance with the procedures and time requirements set forth
8 in paragraph four of this subsection. The superintendent shall require
9 that all information which would personally identify any individual
10 applicant or policyholder be deleted. The categories of data to be made
11 available for each individual record shall include all of the same cate-
12 gories of information contained in the cumulative report and shall be
13 presented in accordance with standardized classification codes to be
14 established by the superintendent.

15 (6) An insurer who does not submit the statistical report or other
16 information required by this subsection as of the date required shall,
17 upon notice and opportunity to be heard, be subject to a penalty not to
18 exceed one thousand dollars per day for each day beyond the date the
19 report or information is required, but in no event shall such penalty
20 exceed fifteen thousand dollars in the aggregate; provided, however,
21 that the superintendent may waive such a penalty upon a written finding
22 that the report or other information submitted by such insurer on the
23 date required was substantially complete, and the insurer has corrected
24 any deficiencies within a date set by the superintendent. An insurer
25 required by this subsection to submit a statistical report or other
26 information who willfully fails to file such statistical report or other
27 information shall, in addition to any other penalties provided for by
28 this chapter, upon notice and an opportunity to be heard, be subject to
29 a penalty of up to five hundred dollars per day of delay, not to exceed
30 fifty thousand dollars in the aggregate. Where an insurer has failed to
31 comply with the requirements of this section, an aggrieved individual,
32 including any person or agency attempting to analyze the performance of
33 any insurer subject to this section, shall have a cause of action in any
34 court of competent jurisdiction for declaratory and injunctive relief.
35 In any action or proceeding brought pursuant to this section, costs and
36 reasonable attorney fees may be awarded by the court, in its discretion,
37 to the successful party.

38 (7) Upon an application by an insurer required by this subsection to
39 submit a statistical report or other information for the calendar year
40 two thousand seventeen, the superintendent may permit such insurer to
41 classify the data by United States postal zip code, rather than census
42 tract designation, for the report due in calendar year two thousand
43 eighteen.

44 § 4. This act shall take effect immediately.