

# 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.

LBD01062-01-7

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.