STATE OF NEW YORK

2808

2017-2018 Regular Sessions

IN SENATE

January 17, 2017

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:

Section 1. Subsection (c) of section 2601 of the insurance law is amended and a new subsection (d) is added to read as follows:

(c) If it is found, after notice and an opportunity to be heard, that an insurer has violated this section, each instance of noncompliance with subsection (a) [~~hereof~~] **of this section** may be treated as a separate violation of this section for purposes of ordering a monetary penalty pursuant to subsection (b) of section one hundred nine of this chapter. A violation of this section shall not be a misdemeanor.

(d) Where the governor has declared a disaster emergency pursuant to section twenty-eight of the executive law, in addition to the right of action granted to the department pursuant to this section, any person who has suffered loss or injury by reason of any violation of this section relating to an insurance claim for property damage in an affected area encompassed by the executive order declaring the disaster emergency may bring an action in his or her own name as a plaintiff to enjoin such unlawful act or practice and an action to recover his or her actual damages. The court may, in its discretion, award punitive damages, if the court finds that the defendant insurer willfully or knowingly violated this section. The court may award reasonable attorney's fees to a prevailing plaintiff.

§ 2. This act shall take effect immediately.

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

LBD02852-01-7