STATE OF NEW YORK

3634--B

2019-2020 Regular Sessions

IN SENATE

February 11, 2019

Introduced by Sens. BRESLIN, SEWARD, FELDER, GAUGHRAN -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the insurance law, in relation to maintaining an action against a liability insurer seeking compensatory damages in excess of the policy limits where such insurer failed to engage in prompt and fair settlement of the claim

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Section 3420 of the insurance law is amended by adding a new subsection (b-1) to read as follows:

(b-1) An action may also be maintained by the persons identified in paragraphs one, two and three of subsection (b) of this section against the insurer to recover damages including compensatory damages and interest measured from the time of failure to offer a fair and reasonable settlement in accordance with this section, from such insurer to the full extent of the judgment against the insured, not limited to the policy limits and not subject to the limitations and conditions of paragraph two of subsection (a) of this section, where a preponderance of the evidence establishes that the insurer failed to effectuate a prompt and fair settlement of a claim or any portion thereof, and where under the totality of the facts and circumstances related to the claim, the insurer failed to reasonably accord at least equal or more favorable consideration to its insured's interests as it did to its own interests, and thereby exposed the insured to a judgment in excess of the policy limits.

§ 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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