

# STATE OF NEW YORK

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3866

2019-2020 Regular Sessions

## IN SENATE

February 20, 2019

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Introduced by Sen. LANZA -- 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 creating a homeowners' bill of rights and a consumer guide on insuring against catastrophic loss caused by natural disasters

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 3444-a  
2 to read as follows:

3 § 3444-a. Homeowners' bill of rights. (a) Any insurer that writes  
4 personal lines insurance or commercial lines insurance policies that  
5 cover loss of or damage to real property, personal property, or other  
6 liabilities for loss of or damage to property shall, upon issuance and  
7 renewal of any such policy or contract, provide to an insured or poten-  
8 tial insured written detailed disclosure in a notice prescribed or  
9 approved by the superintendent describing clearly and in plain language  
10 the following:

11 (1) any and all coverage for loss caused by certain occurrences,  
12 including but not limited to fire, wind, windstorm, mudslide, hurricane,  
13 snow, ice, water surge, or flood, coverages provided under the policy,  
14 any limitations on or exclusions from coverage, circumstances that would  
15 invalidate coverage under the policy, any applicable deductibles, and  
16 when such deductibles shall be triggered;

17 (2) all information related to claims investigation and processing,  
18 including but not limited to the process by which the insured may file a  
19 claim, all applicable time frames required by law and regulation, all  
20 necessary proof of loss information and other information the insurer  
21 may require from the insured, the process by which the insured may file  
22 a complaint with the department, and any other information deemed neces-  
23 sary by the superintendent;

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

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1 (3) any and all rights a claimant has under the laws and policy when a  
2 claim is denied or when the claimant rejects a settlement offer from the  
3 insurer, including their right to file a complaint with the department;

4 (4) that the provisions of this policy may be modified or changed  
5 pursuant to state or federal law when a local state of emergency is  
6 declared pursuant to section twenty-four of the executive law, when the  
7 governor declares a disaster emergency pursuant to section twenty-eight  
8 of the executive law, or when the President of the United States issues  
9 a major disaster or emergency declaration pursuant to the Robert T.  
10 Stafford Disaster Relief and Emergency Assistance Act (P.L. 93-288) and  
11 how the insured may obtain information about any such modifications or  
12 changes;

13 (5) information on how the insured may contact the insurer, including  
14 the insurer's business hours, mailing address, phone number, fax number,  
15 website address and email; and

16 (6) information on how the insured can obtain the consumer guide on  
17 insuring against catastrophic losses created by the department pursuant  
18 to section three hundred thirty-eight of this chapter and any other  
19 guides, pamphlets, or other information the department has made publicly  
20 available that would be beneficial to the insured.

21 (b) In the event that a policy subject to subsection (a) of this  
22 section does not include coverage for damage as a result of weather  
23 conditions, natural disasters, or other occurrences, including but not  
24 limited to fire, wind, windstorm, mudslide, hurricane, snow, ice, water  
25 surge, or flood, the insurer or producer shall, upon issuance and  
26 renewal of any such policy or contract, provide to an insured or poten-  
27 tial insured information on any additional coverage options, including  
28 additional policies and riders, the New York Property Insurance Under-  
29 writing Association, the Coastal Market Assistance Program, the National  
30 Flood Insurance Program, and any other options authorized by state or  
31 federal law.

32 § 2. Paragraphs 7 and 8 of subsection (a) of section 2601 of the  
33 insurance law, paragraph 7 as amended and paragraph 8 as added by chap-  
34 ter 458 of the laws of 2018, are amended and a new paragraph 9 is added  
35 to read as follows:

36 (7) submitting reasonably rendered claims to the independent dispute  
37 resolution process established under article six of the financial  
38 services law; ~~or~~

39 (8) artificially deflating or otherwise lowering cost data used for  
40 adjusted claims, or using cost data that is not appropriate for the  
41 region of the state where the loss occurred; this shall include but is  
42 not limited to claims adjusted by a person issued a temporary permit  
43 pursuant to subsection (n) of section two thousand one hundred eight of  
44 this chapter~~[-]~~; or

45 (9) knowingly misrepresenting or failing to provide pertinent facts of  
46 policy provisions to claimants as required by section three thousand  
47 four hundred forty-four-a of this chapter and not complying with such  
48 policy provisions, including established time frames for investigation,  
49 claims processing and settlement, and payment of claims.

50 § 3. The insurance law is amended by adding a new section 338 to read  
51 as follows:

52 § 338. Consumer guide on insuring against catastrophic losses. (a) Six  
53 months after the effective date of this section, the superintendent  
54 shall issue and update, as necessary, a consumer guide on insuring  
55 against catastrophic losses that shall contain comprehensive information

1 written in plain language in a clear and understandable format, includ-  
2 ing the following:

3 (1) the ways in which different types of weather conditions, natural  
4 disasters, or other occurrences can cause catastrophic losses, including  
5 but not limited to damage from fire, wind, windstorm, mudslide, hurri-  
6 cane, snow, ice, extreme cold, water surge, and flood;

7 (2) the types of insurance available that provide coverage against  
8 catastrophic losses for both homeowners and businesses, a listing of  
9 companies that provide such coverage, and recommendations as to how best  
10 to shop for and compare prices, service and quality of insurance cover-  
11 age;

12 (3) a list of the exclusions typically found in such coverage and  
13 information on how a consumer may obtain coverage for such exclusions,  
14 including a listing of companies that provide such coverage and an  
15 explanation of, information on, and the types of coverage available from  
16 the New York Property Insurance Underwriters Association, the Coastal  
17 Market Assistance Program, and the National Flood Insurance Program, and  
18 other options authorized by state or federal law;

19 (4) steps a consumer can take to prepare for a natural disaster or  
20 other catastrophic loss;

21 (5) steps a consumer can take following a catastrophic loss in order  
22 to facilitate the timely processing of the consumer's insurance claim  
23 and an explanation of policyholders' rights as provided in law and regu-  
24 lation; and

25 (6) a department toll free consumer hot-line and website address  
26 through which consumers may initiate complaints, and request general  
27 information about insurance.

28 (b) The requirements set forth in subsection (a) of this section may  
29 be satisfied by separate or supplemental publications and updates.

30 (c) The superintendent shall post the consumer guide on insuring  
31 against catastrophic losses on the department's website.

32 § 4. This act shall take effect immediately.