

# STATE OF NEW YORK

5388

2019-2020 Regular Sessions

## IN SENATE

April 29, 2019

Introduced by Sen. COMRIE -- 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 self-submission for automobile insurance

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

1 Section 1. Subsections (e), (f) and (h) of section 3411 of the insurance law, subsections (e) and (f) as added by chapter 805 of the laws of 1984, are amended and a new subsection (o) is added to read as follows:

2 (e) For a renewal of a policy referred to in subsection (d) of this section, an insurer may require, as a condition of such renewal, that the automobile be made available for inspection by the insurer, the insurer's authorized representative, or by the insured pursuant to subsection (o) of this section.

3 (f) If an insurer requests an inspection pursuant to subsection (e) of this section, the insured shall make the automobile available for inspection by the insurer or the insurer's authorized representative, upon reasonable notice. The insurer may also, upon reasonable notice, allow the insured to complete the automobile inspection pursuant to subsection (o) of this section. If the insured, upon reasonable notice, fails to make the automobile available for inspection by the insurer, the insurer's authorized representative, or by completing the inspection pursuant to subsection (o) of this section, the insurer may refuse to continue such physical damage coverage.

4 (h) Where an inspection is made pursuant to this section, it shall be conducted by the insurer [~~or its~~], the insurer's authorized representative, or by the insured pursuant to subsection (o) of this section, and shall be recorded on a form prescribed by the superintendent. Such form shall be retained by the insurer with its policy records for such insured, and a copy of such form shall be made available to the insured upon request.

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

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1 (o) (1) An insurer may, at its option, comply with subsections (d) and  
2 (e) of this section by allowing the insured to self-inspect the insured  
3 vehicle and self-submit documentation establishing the inspection,  
4 consistent with the requirements of this subsection. An insurer is not  
5 required to comply with subsections (d) and (e) of this section by  
6 allowing the insured to self-inspect the insured vehicle.

7 (2) The self-inspection option available pursuant to this subsection  
8 shall only apply to vehicles insured by personal lines insurance.

9 (3) The self-inspection option available pursuant to this subsection  
10 shall not apply to vehicles insured by the New York automobile insurance  
11 plan.

12 (4) To perform an automobile inspection pursuant to this subsection,  
13 the insured must, at minimum, submit the following documents to the  
14 insurer or the insurer's authorized representative:

15 (a) digital photographs of the insured vehicle; and

16 (b) the signed, completed inspection form referenced in subsection (h)  
17 of this section.

18 (5) An automobile inspection performed pursuant to this subsection is  
19 deemed complete only when the insurer or its authorized representative  
20 has received both the signed, completed inspection form and the required  
21 digital photographs.

22 (6) Each digital photograph submitted by the insured must be in color,  
23 clear, and must include metadata that indicates the date and time that  
24 the photograph was taken.

25 (7) Each digital photograph submitted by the insured must be in .jpeg  
26 format, the resolution must be no less than 2048 x 1536 pixels, and the  
27 file size per photo must be no less than 200KB but no greater than 5MB.

28 (8) Each digital photograph submitted by the insured must be taken no  
29 more than ten calendar days prior to the date written on the inspection  
30 form, and no more than fourteen calendar days after the date written on  
31 the inspection form. The included metadata must confirm that each  
32 digital photograph was taken no more than ten calendar days prior to the  
33 date written on the inspection form, and no more than fourteen calendar  
34 days after the date written on the inspection form.

35 (9) The insured must certify the accuracy and completeness of the  
36 information recorded on the inspection form prescribed by the super-  
37 intendent, under penalty of perjury. Any knowing misrepresentation shall  
38 constitute a "fraudulent insurance act" as that term is defined in  
39 subsection (a) of section four hundred three of this chapter.

40 (10) The insured must certify the authenticity of the signature on the  
41 inspection report prescribed by the superintendent, under penalty of  
42 perjury. In accordance with section three hundred four of the state  
43 technology law, an electronic signature is permissible.

44 (11) The insurer and/or its authorized representative must take  
45 reasonable, appropriate steps necessary to ensure the security and  
46 integrity of data that the insured submits pursuant to this subsection.

47 (12) If the insured chooses to sign the inspection form with an elec-  
48 tronic signature, the insurer and/or its authorized representative must  
49 take reasonable, appropriate steps necessary to ensure the security of  
50 the electronic signature and verify its authenticity.

51 (13) The insurer and/or its authorized representative must establish  
52 reasonable, appropriate procedures necessary to ensure that once  
53 inspection forms are signed and submitted, they are, at minimum, stored  
54 electronically, in a secure fashion, and are retained by the insurer  
55 and/or its authorized representative for a minimum period of time to be  
56 determined by the superintendent.

1 (14) If, upon inspection of the insured's digital photographs, the  
2 insurer finds that the insured has failed to comply with the photograph  
3 submission requirements provided in this subsection or in the applicable  
4 regulations, the insurer must request further inspection of the vehicle  
5 by the insurer or its authorized representative. Further self-inspection  
6 of the vehicle pursuant to this subsection is not permitted, and any  
7 subsequent inspection or inspections still must be completed no more  
8 than fourteen calendar days after the effective date of coverage. The  
9 insurer shall have the right to refuse to continue physical damage  
10 coverage until the insured completes the subsequent inspection or  
11 inspections.

12 (15) If, upon inspection of the insured's digital photographs, the  
13 insurer identifies inaccuracies or errors in the information recorded on  
14 the inspection form, the insurer must request further inspection of the  
15 automobile by the insurer or its authorized representative. Further  
16 self-inspection of the vehicle pursuant to this subsection is not  
17 permitted. The insurer shall have the right to refuse to continue phys-  
18 ical damage coverage until the insured completes the subsequent  
19 inspection or inspections.

20 (16) If, upon inspection of the insured's digital photographs and/or  
21 review of the inspection form prescribed by the superintendent, the  
22 insurer identifies evidence of a fraudulent insurance act, the insurer  
23 may cancel or rescind the insured's physical damage coverage, and may  
24 report such evidence of a fraudulent insurance act to law enforcement  
25 authorities. In connection with providing the inspection form, the  
26 insurer must also issue a notice to the insured containing the language  
27 prescribed in subsection (e) of section four hundred three of the insur-  
28 ance law.

29 (17) The superintendent may promulgate additional regulations specific  
30 to this subsection.

31 (18) Unless the superintendent promulgates additional regulations  
32 specific to this subsection, in addition to satisfying the requirements  
33 of this subsection, the insurer and the insured must also comply with  
34 the applicable inspection standards prescribed pursuant to 11 NYCRR § 67  
35 except that:

36 a. The insured must only submit photographs to the insurer or its  
37 authorized representative electronically using digital media; and

38 b. If the insured electronically transmits the signed, completed  
39 inspection report to the insurer or its authorized representative, the  
40 insured must use an electronic signature.

41 § 2. This act shall take effect on the sixtieth day after it shall  
42 have become a law. Effective immediately, the addition, amendment and/or  
43 repeal of any rule or regulation necessary for the implementation of  
44 this act on its effective date are authorized to be made and completed  
45 on or before such effective date.