STATE OF NEW YORK

8539--A

2021-2022 Regular Sessions

IN ASSEMBLY

December 13, 2021

Introduced by M. of A. DILAN, GLICK, SIMON, STECK, DeSTEFANO -- read once and referred to the Committee on Insurance -- recommitted to the Committee on Insurance in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the insurance law, in relation to public adjuster disclosures and financial or ownership interests

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

Section 1. Subsection (s) of section 2108 of the insurance law, as added by chapter 546 of the laws of 2013, is amended to read as follows:

(s) (1) **(A)** Every public adjuster shall have an affirmative duty to act on behalf and in the best interests of the insured when negotiating for or effecting the settlement of an insurance claim for the insured or otherwise acting as a public adjuster.

(B) In the event of a claim, an adjuster working on behalf of an insurance company must disclose in its initial written and verbal communication with the insured the following statement:

"I am an insurance company adjuster working on behalf of the insurance company. I do not represent your interests, I represent theirs. You have the right to hire your own licensed Public Adjuster who would represent your interests exclusively, for a fee, and who owes you, their client, a fiduciary responsibility."

(2) (A) No public adjuster shall receive any compensation, either directly or indirectly, for a referral of the insured to an individual or entity for services, work or repairs, relating to any insurance claim for which the public adjuster represents the insured or has negotiated or effected a settlement, unless the compensation is prominently and clearly disclosed to the insured in the written memorandum described in subsection (p) of this section. Any such compensation received shall be deemed to be compensation from the insured and, in combination with any

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

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other compensation received from the insured, shall not exceed the maximum amount that the adjuster may charge in accordance with the regulations required pursuant to subsection (p) of this section.

(B) No public adjuster who has a financial or ownership interest in the individual or entity that performs the services, work, or repairs, shall refer the insured to the individual or entity [~~unless the financial or ownership interest is prominently and clearly disclosed to the insured in the written memorandum described in subsection (p) of this section~~]. If a public adjuster refers an insured to an individual who is related to the individual by blood or affinity to the second degree of consanguinity, or to an entity owned or controlled by such an individual, for services, work, or repairs, relating to any insurance claim for which the public adjuster represents the insured or has negotiated or effected a settlement, then the public adjuster shall disclose the relationship to the insured in the written memorandum described in subsection (p) of this section.

(C) No individual or entity that performs services, work, or repairs may perform the services, work, or repairs relating to any insurance claim for which a public adjuster represents the insured or has negotiated or effected a settlement where such public adjuster has a financial or ownership interest in such individual or entity that performs the services, work, or repairs.

§ 2. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.