

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:

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

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

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

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

15 (2) (A) No public adjuster shall receive any compensation, either
16 directly or indirectly, for a referral of the insured to an individual
17 or entity for services, work or repairs, relating to any insurance claim
18 for which the public adjuster represents the insured or has negotiated
19 or effected a settlement, unless the compensation is prominently and
20 clearly disclosed to the insured in the written memorandum described in
21 subsection (p) of this section. Any such compensation received shall be
22 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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1 other compensation received from the insured, shall not exceed the maxi-
2 mum amount that the adjuster may charge in accordance with the regu-
3 lations required pursuant to subsection (p) of this section.

4 (B) No public adjuster who has a financial or ownership interest in
5 the individual or entity that performs the services, work, or repairs,
6 shall refer the insured to the individual or entity [~~unless the finan-
7 cial or ownership interest is prominently and clearly disclosed to the
8 insured in the written memorandum described in subsection (p) of this
9 section~~]. If a public adjuster refers an insured to an individual who
10 is related to the individual by blood or affinity to the second degree
11 of consanguinity, or to an entity owned or controlled by such an indi-
12 vidual, for services, work, or repairs, relating to any insurance claim
13 for which the public adjuster represents the insured or has negotiated
14 or effected a settlement, then the public adjuster shall disclose the
15 relationship to the insured in the written memorandum described in
16 subsection (p) of this section.

17 (C) No individual or entity that performs services, work, or repairs
18 may perform the services, work, or repairs relating to any insurance
19 claim for which a public adjuster represents the insured or has negoti-
20 ated or effected a settlement where such public adjuster has a financial
21 or ownership interest in such individual or entity that performs the
22 services, work, or repairs.

23 § 2. This act shall take effect on the first of January next succeed-
24 ing the date on which it shall have become a law.