

STATE OF NEW YORK

4294

2021-2022 Regular Sessions

IN SENATE

February 3, 2021

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 submission by an insured of vehicle photographs for purposes of the issuance or renewal of a policy of automobile physical damage 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 or 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 or 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

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

LBD05770-01-1

1 insured, and a copy of such form shall be made available to the insured
2 upon request.

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

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

11 (3) The self-inspection option available pursuant to this subsection
12 shall not apply to vehicles insured by the New York Automobile Insurance
13 Plan.

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

17 (i) digital photographs of the insured vehicle; and
18 (ii) the signed, completed inspection form referenced in subsection
19 (h) of this section.

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

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

27 (7) Each digital photograph submitted by the insured shall be in .jpeg
28 format, the resolution must be no less than 2048 x 1536 pixels, and the
29 file size per photo must be no less than two hundred kilobytes nor
30 greater than five gigabytes.

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

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

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

47 (11) The insurer and/or its authorized representative shall take
48 reasonable, appropriate steps necessary to ensure the security and
49 integrity of data that the insured submits pursuant to this subsection.

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

54 (13) The insurer and/or its authorized representative shall establish
55 reasonable, appropriate procedures necessary to ensure that once
56 inspection forms are signed and submitted, they are, at minimum, stored

1 electronically, in a secure fashion, and are retained by the insurer
2 and/or its authorized representative for a minimum period of time to be
3 determined by the superintendent.

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

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

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

31 (17) The superintendent may promulgate additional regulations specific
32 to this subsection.

33 (18) Unless the superintendent promulgates additional regulations
34 specific to this subsection, in addition to satisfying the requirements
35 of this subsection, the insurer and the insured shall also comply with
36 the applicable inspection standards prescribed pursuant to part sixty-
37 seven of title eleven of the New York codes, rules and regulations
38 except that

39 (i) the insured must only submit photographs to the insurer or its
40 authorized representative electronically using digital media; and

41 (ii) if the insured electronically transmits the signed, completed
42 inspection report to the insurer or its authorized representative, the
43 insured must use an electronic signature.

44 § 2. This act shall take effect on the sixtieth day after it shall
45 have become a law.