STATE OF NEW YORK

8518

IN ASSEMBLY

January 5, 2024

Introduced by M. of A. STERN -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law, in relation to standards for prompt investigation and settlement of claims; and to amend a chapter of the laws of 2023 amending the insurance law relating to standards for prompt investigation and settlement of claims arising from states of emergency, as proposed in legislative bills numbers S. 5201 and A. 2078, in relation to the effectiveness thereof

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

Section 1. Section 2618 of the insurance law, as added by a chapter of the laws of 2023 amending the insurance law relating to standards for prompt investigation and settlement of claims arising from states of emergency, as proposed in legislative bills numbers S. 5201 and A. 2078, is amended to read as follows:

§ 2618. Standards for prompt investigation and settlement of claims. (a) **(1) For the purpose of this section, "natural disaster" means the occurrence of widespread catastrophic or severe damage, injury, or loss of life or property resulting from any natural cause, including fire, flood, earthquake, hurricane, tornado, high water, landslide, mudslide, wind, storm, wave action, and ice storm.**

(2) This section shall apply to every insurer who writes policies that cover loss of or damage to real property, personal property or other liabilities for loss of, damage to, or injury to persons or property when**:**

(A) a local state of emergency is declared pursuant to section twenty-four of the executive law, when the governor declares a disaster emergency pursuant to section twenty-eight of the executive law, or when the President issues a major disaster or emergency declaration pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act (P.L. 93-288)[~~, for claims arising from such emergency~~]**;**

(B) the disaster is a natural disaster or a disaster caused by an act of terrorism; and

(C) the claims are a result of such disaster.

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

LBD02303-02-4

[~~(1)~~](3) An insurer shall acknowledge the receipt of all claims in writing to the claimant or the claimant's authorized representative in accordance with regulations promulgated by the superintendent;

[~~(2)~~] (4) If the insurer wishes its investigation to include an inspection of damaged or destroyed property, the inspection, whether performed by the insurer, an independent adjuster, or other representative of the insurer, shall occur in accordance with regulations promulgated by the superintendent. Furthermore, where necessary to protect [~~the~~] health and safety [~~of the claimant~~], immediate repairs to windows, exterior walls, exterior doors, roofs, heating systems, water systems and electrical systems may be made and alternative proof of loss such as photographs, video recordings, inventories and all receipts for repairs or replacement property shall satisfy policy requirements;

[~~(3)~~](5) A claim filed with an agent of an insurer shall be deemed to have been filed with the insurer unless, consistent with law or contract, the agent notifies the person filing the claim that the agent is not authorized to receive notices of claim; and

[~~(4)~~](6) An insurer shall furnish to such claimant, or the claimant's authorized representative, a notification of all items, statements and forms, if any, which the insurer reasonably believes will be required of the claimant in order to investigate such claim in accordance with regulations promulgated by the superintendent.

(b)(1) An insurer shall, within fifteen business days of receipt of a properly executed proof of loss and receipt of all items, statements and forms requested under this section from the claimant, or the claimant's authorized representative, advise the claimant in writing whether the insurer has accepted or rejected the non-commercial claim. When the insurer suspects that the non-commercial claim involves arson, the foregoing fifteen business days shall be read as thirty business days.

(2) An insurer shall be granted a one-time extension of fifteen business days to determine whether a non-commercial claim should be accepted or rejected. If the insurer elects to utilize this extension, it shall so notify the claimant, or the claimant's authorized representative, in writing. Such notification shall include the reasons additional time is needed for the investigation.

(3) (i) If the insurer needs more time to determine whether the non-commercial claim should be accepted or rejected because the insurer is prohibited from accessing the property to investigate the claim, the insurer shall be granted one additional extension of fifteen business days. If the insurer elects to utilize this extension, it shall so notify the claimant, or the claimant's authorized representative, in writing, setting forth the reasons additional time is needed for the investigation.

(ii) If the insurer needs more time to be able to physically access the property because the insurer is prohibited from accessing it, the insurer shall so notify the claimant, or the claimant's authorized representative, every fifteen business days, in writing, setting forth the reasons additional time is needed for the investigation. When the insurer is no longer prohibited from accessing the property, and the property can be accessed, the insurer shall have no more than fifteen days to adjudicate the claim.

(c) (1) An insurer shall, within fifteen business days of receipt of a properly executed proof of loss and receipt of all items, statements and forms requested under this section from the claimant, or the claimant's authorized representative, advise the claimant in writing whether the insurer has accepted or rejected the commercial claim.

(2) An insurer shall be granted a one-time extension of thirty business days to determine whether a commercial claim should be accepted or rejected. If the insurer elects to utilize this extension, it shall so notify the claimant, or the claimant's authorized representative, in writing, setting forth the reasons additional time is needed for the investigation.

(3) If succeeding the one-time extension of thirty business days the insurer needs more time to determine whether the commercial claim should be accepted or rejected, the insurer shall so notify the claimant, or the claimant's authorized representative, every thirty business days, in writing, setting forth the reasons additional time is needed for the investigation.

(4) Once the claim is accepted by the insurer, the insurer shall advise the claimant, or the claimant's authorized representative, in writing of the amount the insurer is offering to settle the claim. The insurer shall also provide to the claimant, or the claimant's authorized representative, in writing, of all applicable policy provisions regarding the claimant's right to reject [~~and appeal~~] the offer and request an appraisal.

[~~(4)~~](5) In any case where the claim is rejected by the insurer, the insurer shall notify the claimant, or the claimant's authorized representative, in writing, of all applicable policy provisions [~~regarding the claimant's right to appeal the decision~~] and deadlines by which a claimant may sue the insurer. Any notice rejecting any element of a claim involving personal property insurance shall contain the identity and the claims processing address of the insurer, the insured's policy number, the claim number, and information regarding how to file a complaint with the department in accordance with regulations promulgated by the superintendent.

[~~(c) An~~] (d) Every insurer shall pay [~~the~~] any amount finally agreed upon in settlement of all or part of any claim not later than [~~three~~] four business days from the [~~settlement of the claim~~] receipt of such agreement by the insurer, or from the date of the performance by the claimant of any condition set by such agreement, whichever is later, except as provided in section three hundred thirty-one of this chapter with respect to liens by tax districts on fire insurance proceeds.

[~~(d)~~](e) The superintendent may promulgate any rules or regulations necessary to implement the provisions of this section.

§ 2. Section 2 of a chapter of the laws of 2023 amending the insurance law relating to standards for prompt investigation and settlement of claims arising from states of emergency, as proposed in legislative bills numbers S. 5201 and A. 2078, is amended to read as follows:

§ 2. This act shall take effect [~~immediately~~] on the thirtieth day after it shall have become a law.

§ 3. This act shall take effect immediately; provided, however, section one of this act shall take effect on the same date and in the same manner as a chapter of the laws of 2023 amending the insurance law relating to standards for prompt investigation and settlement of claims arising from states of emergency, as proposed in legislative bills numbers S. 5201 and A. 2078, takes effect.