STATE OF NEW YORK

166--A

2025-2026 Regular Sessions

IN SENATE

(Prefiled)

January 8, 2025

Introduced by Sens. RAMOS, COMRIE, HARCKHAM, HOYLMAN-SIGAL, KRUEGER, PALUMBO, RIVERA, SALAZAR, SERRANO, STAVISKY -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the insurance law, in relation to unfair claim settlement practices

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

Section 1. This act shall be known and may be cited as the "fair insurance settlement practice act (FISPA)".

§ 2. The insurance law is amended by adding a new section 2601-a to read as follows:

§ 2601-a. Unfair claim settlement practices. (a) Unfair claim settlement practices. For the purposes of this section, an unfair claims settlement practice shall consist of any of the following acts or omissions:

(1) misrepresenting or omitting pertinent facts or insurance policy provisions relating to the coverage at issue, including but not limited to, in connection with litigation, failing to disclose all available coverage amounts in compliance with subdivision (f) of section thirty one hundred one of the civil practice law and rules;

(2) failing to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies;

(3) failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies;

(4) refusing to pay claims without conducting a reasonable investigation based upon all available information;

(5) failing to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed;

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

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(6) failing to effectuate prompt, fair and equitable settlements of claims in which liability has become reasonably clear;

(7) compelling insureds to institute litigation to recover amounts due under an insurance policy by offering substantially less than the amounts ultimately recovered in actions brought by such insureds;

(8) attempting to settle a claim for less than the amount to which a reasonable person would have believed they were entitled by reference to written or printed advertising material accompanying or made part of an application;

(9) attempting to settle claims on the basis of an application which was altered without notice to, or knowledge or consent of, the insured;

(10) making claims payments to insured or beneficiaries not accompanied by a statement setting forth the coverage under which payments are being made;

(11) making known to insured or claimants a policy of appealing from arbitration awards in favor of insureds or claimants for the purpose of compelling them to accept settlements of compromises less than the amount awarded in arbitration;

(12) delaying the investigation or payment of claims by requiring that an insured or claimant, or the physician of either, submit a preliminary claim report and then requiring the subsequent submission of formal proof of loss forms, both of which submissions contain substantially the same information;

(13) failing to settle claims promptly, where liability has become reasonably clear, under one portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage; or

(14) failing to promptly provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement.

(b) Enforcement. (1) Any person who has been injured or whose rights are affected by the use or employment by an insurer of any method, act or practice declared to be unlawful by this section, may, in addition to any other cause of action authorized by law, bring an action in supreme court for damages and equitable relief, including an injunction, or any other remedy as the court deems to be necessary and proper. Such action may also be filed or maintained by a representative of such person.

(2) At least thirty days prior to the filing of any such action pursuant to paragraph one of this subsection, a written demand for relief, identifying the claimant and reasonably describing the unfair or deceptive act or practice relied upon and the injury suffered, shall be mailed or delivered by the claimant to the appropriate person at an applicable insurer. An insurer receiving such a demand for relief who, within thirty days of the delivery of the demand, makes a written tender of settlement which is rejected by the claimant may, in any subsequent action, file such written tender and an affidavit concerning the rejection of such written tender and thereby limit any recovery to the relief tendered if the court finds that the relief tendered was reasonable in relation to the injury actually suffered by the petitioner.

(3) If the court finds that any practice deemed unlawful by this section has been committed willfully and with intent to defraud any person then the court shall award two times the damages sustained by such person, plus costs and attorneys' fees to the person bringing an action under this section.

(4) No contract for insurance issued or delivered in the state may require an insured to waive the right to a jury trial to adjudicate a dispute arising from a violation of this section.

§ 3. Section 3425 of the insurance law is amended by adding a new subsection (t) to read as follows:

(t) No insurer shall refuse to issue or renew a covered policy solely on the grounds that the policyholder has brought an action pursuant to section two thousand six hundred one-a of this chapter.

§ 4. This act shall take effect on the ninetieth day after it shall have become a law and shall apply to all acts and omissions by insurers occurring on or after such effective date; provided, however, that paragraph (4) of subsection b of section 2601-a of the insurance law as added by section one of this act shall only apply to insurance contracts entered into after such effective date.