ASSEMBLY, No. 3850

STATE OF NEW JERSEY

218th LEGISLATURE

INTRODUCED APRIL 12, 2018

Sponsored by:
Assemblywoman ANNETTE QUIJANO
District 20 (Union)
Assemblyman JON M. BRAMNICK
District 21 (Morris, Somerset and Union)
Assemblyman RAJ MUKHERJI
District 33 (Hudson)
Assemblywoman SHAVONDA E. SUMTER
District 35 (Bergen and Passaic)
Assemblywoman JOANN DOWNEY
District 11 (Monmouth)

Co-Sponsored by:
Assemblyman Dancer

SYNOPSIS
   "New Jersey Insurance Fair Conduct Act."

CURRENT VERSION OF TEXT
   As introduced.

(Sponsorship Updated As Of: 6/15/2018)

1   AN ACT concerning certain unreasonable practices in the business
2   of insurance and supplementing Title 17 of the Revised Statutes
3
4   BE IT ENACTED *by the Senate and General Assembly of the State*
5   *of New Jersey:*
6
7   1.   This act shall be known and may be cited as the "New Jersey
8   Insurance Fair Conduct Act."
9
10   2.   As used in this act:
11   "First-party claimant" or "claimant" means an individual,
12   corporation, association, partnership or other legal entity asserting
13   an entitlement to benefits owed directly to or on behalf of an
14   insured under an insurance policy.
15   "Insurer" means any individual, corporation, association,
16   partnership or other legal entity which issues, executes, renews or
17   delivers an insurance policy in this State, or which is responsible
18   for determining claims made under the policy.
19
20   3.   a.   In addition to the enforcement authority provided to the
21   Commissioner of Banking and Insurance pursuant to the provisions
22   of P.L.1947, c.379 (C.17:29B-1 et seq.) or any other law, a claimant
23   may, regardless of any action by the commissioner, file a civil
24   action in a court of competent jurisdiction against its insurer for:
25   (1)   an unreasonable delay or unreasonable denial of a claim for
26   payment of benefits under an insurance policy; or
27   (2)   any violation of the provisions of section 4 of P.L.1947,
28   c.379 (C.17:29B-4).
29   b.   In any action filed pursuant to this act, the claimant shall not
30   be required to prove that the insurer's actions were of such a
31   frequency as to indicate a general business practice.
32   c.   Upon establishing that a violation of the provisions of this
33   act has occurred, the plaintiff shall be entitled to:
34   (1)   actual damages caused by the violation of this act;
35   (2)   prejudgment interest, reasonable attorney's fees, and all
36   reasonable litigation expenses; and
37   (3)   treble damages.
38
39   4.   This act shall take effect immediately.
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41
42   STATEMENT
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44   This bill, the "New Jersey Insurance Fair Conduct Act,"
45   establishes a private cause of action for first-party claimants
46   regarding certain unfair or unreasonable practices by their insurer.
47   Under the bill, a claimant may file a civil action in a court of
48   competent jurisdiction against its insurer for:

1   (1) an unreasonable delay or unreasonable denial of a claim for
2 payment of benefits under an insurance policy; or
3   (2) any violation of the provisions of section 4 of P.L.1947,
4 c.379 (C.17:29B-4).
5   Section 4 of P.L.1947, c.379 (C.17:29B-4) defines certain
6 activities as unfair methods of competition and unfair and deceptive
7 acts or practices in the business of insurance including, among other
8 things, misrepresentations and false advertising of policy contracts,
9 false information and advertising generally, defamation, unfair
10 discrimination, unfair claim settlement practices and failure to
11 maintain complaint handling procedures.
12   The bill provides that, in any action filed pursuant to the bill, the
13 claimant shall not be required to prove that the insurer's actions
14 were of such a frequency as to indicate a general business practice.
15   The bill also provides that, upon establishing that a violation of
16 the provisions of the bill has occurred, the claimant shall be entitled
17 to:
18   (1) actual damages caused by the violation;
19   (2) prejudgment interest, reasonable attorney's fees, and all
20 reasonable litigation expenses; and
21   (3) treble damages.