

ASSEMBLY FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1659

with committee amendments

STATE OF NEW JERSEY

DATED: DECEMBER 13, 2021

The Assembly Financial Institutions and Insurance Committee reports favorably and with committee amendments Assembly Bill No. 1659.

This bill, the “New Jersey Insurance Fair Conduct Act,” establishes a private cause of action for first-party claimants regarding certain unfair or unreasonable practices by their insurer.

The bill defines “first party claimant” to mean an individual, rather than an individual, corporation, association, partnership or other legal entity, injured in a motor vehicle accident and entitled to the uninsured or underinsured motorist coverage of an insurance policy asserting an entitlement to benefits owed directly to or on behalf of an insured under that insurance policy.

The bill also defines “insurer” to mean any individual, corporation, association, partnership or other legal entity which issues, executes, renews or delivers an insurance policy in this State, or which is responsible for determining claims made under the policy. Under the bill, the term “insurer” does not include an insurance producer as defined by P.L.2001, c.210 (C.17:22A-28) or a public entity.

Pursuant to the bill, a claimant may file a civil action in a court of competent jurisdiction against its automobile insurer for:

- (1) an unreasonable delay or unreasonable denial of a claim for payment of benefits under an insurance policy; or
- (2) any violation of the provisions of section 4 of P.L.1947, c.379 (C.17:29B-4).

Section 4 of P.L.1947, c.379 (C.17:29B-4) defines certain activities as unfair methods of competition and unfair and deceptive acts or practices in the business of insurance including, among other things, misrepresentations and false advertising of policy contracts, false information and advertising generally, defamation, unfair discrimination, unfair claim settlement practices and failure to maintain complaint handling procedures.

The bill provides that, in any action filed pursuant to the bill, the claimant shall not be required to prove that the insurer's actions were of such a frequency as to indicate a general business practice.

The bill also provides that no rate increase is to be passed on to the consumer or policyholder as a result of compliance with the bill and that dissemination of inaccurate or misleading information to the policyholders concerning the bill is strictly prohibited.

The bill also provides that, upon establishing that a violation of the provisions of the bill has occurred, the claimant shall be entitled to actual damages caused by the violation, including, but not limited to, actual trial verdicts.

As amended and reported, this bill is identical to Senate Bill No. 1559 (1R) as also amended and reported by the committee.

This bill was pre-filed for introduction in the 2020-2021 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

(1) remove the provision that entitles a claimant that establishes a violation of the provisions of the bill to prejudgment interest, reasonable attorney's fees, and all reasonable litigation expenses;

(2) provide that no rate increase is to be passed on to the consumer or policyholder as a result of compliance with the bill and that dissemination of inaccurate or misleading information to the policyholders concerning the bill is strictly prohibited; and

(3) stipulate that a "first party claimant" is defined to mean an individual, rather than an individual, corporation, association, partnership or other legal entity, injured in a motor vehicle accident and entitled to the uninsured or underinsured motorist coverage of an insurance policy asserting an entitlement to benefits owed directly to or on behalf of an insured under that insurance policy.