

SENATE, No. 1559

STATE OF NEW JERSEY
219th LEGISLATURE

INTRODUCED FEBRUARY 13, 2020

Sponsored by:

Senator NICHOLAS P. SCUTARI

District 22 (Middlesex, Somerset and Union)

SYNOPSIS

“New Jersey Insurance Fair Conduct Act.”

CURRENT VERSION OF TEXT

As introduced.



S1559 SCUTARI

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1 AN ACT concerning certain unreasonable practices in the business
2 of insurance and supplementing Title 17 of the Revised Statutes.

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4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

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7 1. This act shall be known and may be cited as the “New Jersey
8 Insurance Fair Conduct Act.”

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10 2. As used in this act:

11 "First-party claimant" or "claimant" means an individual injured
12 in a motor vehicle accident and entitled to the uninsured or
13 underinsured motorist coverage of an insurance policy asserting an
14 entitlement to benefits owed directly to or on behalf of an insured
15 under that insurance policy.

16 "Insurer" means any individual, corporation, association,
17 partnership or other legal entity which issues, executes, renews or
18 delivers an insurance policy in this State, or which is responsible
19 for determining claims made under the policy. "Insurer" shall not
20 include an insurance producer as defined in section 3 of
21 P.L.2001, c.210 (C.17:22A-28) or a public entity.

22 "Public entity" means the State, any county, municipality,
23 district, public authority, public agency and any other political
24 subdivision or public body in the State, including a joint insurance
25 fund of a public entity.

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27 3. a. In addition to the enforcement authority provided to the
28 Commissioner of Banking and Insurance pursuant to the provisions
29 of P.L.1947, c.379 (C.17:29B-1 et seq.) or any other law, a claimant
30 may, regardless of any action by the commissioner, file a civil
31 action in a court of competent jurisdiction against its automobile
32 insurer for:

33 (1) an unreasonable delay or unreasonable denial of a claim for
34 payment of benefits under an insurance policy; or

35 (2) any violation of the provisions of section 4 of
36 P.L.1947, c.379 (C.17:29B-4).

37 b. In any action filed pursuant to this act, the claimant shall not
38 be required to prove that the insurer's actions were of such a
39 frequency as to indicate a general business practice.

40 c. Upon establishing that a violation of the provisions of this
41 act has occurred, the plaintiff shall be entitled to:

42 (1) actual damages caused by the violation of this act which
43 shall include, but need not be limited to, actual trial verdicts; and

44 (2) prejudgment interest, reasonable attorney's fees, and all
45 reasonable litigation expenses.

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47 4. This act shall take effect immediately.

STATEMENT

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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 “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.

A final party claimant means an individual 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 policy.

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, 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, upon establishing that a violation of the provisions of the bill has occurred, the claimant shall be entitled to:

- (1) actual damages caused by the violation including, but not limited to, actual trial verdicts; and
- (2) prejudgment interest, reasonable attorney’s fees, and all reasonable litigation expenses.