

ASSEMBLY, No. 4293

STATE OF NEW JERSEY 218th LEGISLATURE

INTRODUCED JUNE 27, 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)

Assemblyman RONALD S. DANCER

District 12 (Burlington, Middlesex, Monmouth and Ocean)

Co-Sponsored by:

Assemblyman Peterson

SYNOPSIS

“New Jersey Insurance Fair Conduct Act.”

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/26/2019)

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,
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. "Insurer" shall not
19 include an insurance producer as defined in section 3 of P.L.2001,
20 c.210 (C.17:22A-28) or a public entity.

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

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

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

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

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

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

40 (1) actual damages caused by the violation of this act;

41 (2) prejudgment interest, reasonable attorney's fees, and all
42 reasonable litigation expenses; and

43 (3) treble damages.

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45 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.

Pursuant to the bill, a claimant may file a civil action in a court of competent jurisdiction against its 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, 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;
- (2) prejudgment interest, reasonable attorney’s fees, and all reasonable litigation expenses; and
- (3) treble damages.