

SENATE, No. 2144

STATE OF NEW JERSEY
218th LEGISLATURE

INTRODUCED MARCH 5, 2018

Sponsored by:

Senator NICHOLAS P. SCUTARI

District 22 (Middlesex, Somerset and Union)

Senator VIN GOPAL

District 11 (Monmouth)

SYNOPSIS

“New Jersey Insurance Fair Conduct Act.”

CURRENT VERSION OF TEXT

As introduced.



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.

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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.

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39 4. This act shall take effect immediately.

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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.