

[First Reprint]
ASSEMBLY, No. 2052

STATE OF NEW JERSEY

INTRODUCED MAY 30, 1996

By Assemblymen DiGAETANO and DORIA

1 AN ACT concerning unfair practices in the settlement of certain
2 insurance claims, amending P.L.1960, c.39 and supplementing
3 P.L.1947, c.379 (C.17:29B-1 et seq.) and chapter 30 of Title 17B
4 of the New Jersey Statutes.

5

6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:

8

9 1. (New section) The Legislature finds and declares that it is in the
10 best interests of the citizens of this State to be assured prompt and
11 equitable resolution of individual insurance claims. To that end, every
12 insurer shall be under an affirmative obligation to attempt, in good
13 faith, to effectuate prompt, fair and equitable settlement of insurance
14 claims.

15

16 2. (New section) a. As used in this section:

17 "Claimant" means an individual, corporation, association,
18 partnership or other legal entity asserting a right to payment under or
19 arising from an insurance policy.

20 "Commissioner" means the Commissioner of ¹Banking and¹
21 Insurance.

22 "Insurance policy" means an insurance policy or contract issued,
23 executed, renewed, maintained or delivered in this State.

24 "Insurer" means an individual, corporation, association, partnership
25 or other legal entity which issues, executes, renews, maintains or
26 delivers any insurance policy in this State or which is responsible for
27 determining claims made under a policy ¹, but does not mean any
28 entity, or servicing carrier thereof, established to operate pursuant to
29 P.L.1983, c.65 (C.17:30E-1 et seq.) or section 88 of P.L.1990, c.8
30 (C.17:33B-11)¹.

31 b. A claimant may file a civil action in a court of competent

EXPLANATION - Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and intended to be omitted in the law.

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Assembly ACP committee amendments adopted September 19, 1996.

1 jurisdiction regarding the settlement of a claim against an insurer
2 which is subject to the provisions of P.L.1947, c.379 (C.17:29B-1 et
3 seq.), for the violation of any claim settlement practices standard
4 provided in section 4 of P.L.1947, c.379 (C.17:29B-4), or by rule or
5 regulation of the commissioner, whether or not the insurer has violated
6 the standard with such frequency as to indicate a general business
7 practice.

8 c. Damages recoverable shall include benefits properly due the
9 claimant under or arising from the insurance policy at issue plus
10 interest, as prescribed in the Rules Governing the Courts of the State
11 of New Jersey for judgements, awards and orders for the payment of
12 money, from the time payments should, in good faith, have been
13 tendered, and shall include court costs and reasonable attorneys' fees
14 and other damages determined by the trier of fact to be appropriate
15 under the circumstances of the individual case, including damages for
16 consequential loss and punitive damages.

17 d. In addition to any other penalty provided by law, a violation of
18 any claim settlement practice pursuant to the provisions of P.L.1947,
19 c.379 (C.17:29B-1 et seq.) shall be an unlawful practice pursuant to
20 P.L.1960, c.39 (C.56:8-1 et seq.).

21

22 3. (New section) a. As used in this section:

23 "Claimant" means an individual, corporation, association,
24 partnership or other legal entity asserting a right to payment under or
25 arising from an insurance policy.

26 "Commissioner" means the Commissioner of ¹Banking and¹
27 Insurance.

28 "Insurance policy" means an insurance policy or contract issued,
29 executed, renewed, maintained or delivered in this State.

30 "Insurer" means an individual, corporation, association, partnership
31 or other legal entity which issues, executes, renews, maintains or
32 delivers any insurance policy in this State or which is responsible for
33 determining claims made under a policy.

34 b. A claimant may file a civil action in a court of competent
35 jurisdiction regarding the settlement of a claim against an insurer
36 which is subject to the provisions of chapter 30 of Title 17B of the
37 New Jersey Statutes for the violation of any claim settlement practices
38 standard provided in section 1 of P.L.1975, c.101 (C.17B:30-13.1), or
39 by rule or regulation of the commissioner, whether or not the insurer
40 has violated the standard with such frequency as to indicate a general
41 business practice.

42 c. Damages recoverable shall include benefits properly due the
43 claimant under or arising from the insurance policy at issue plus
44 interest, as prescribed in the Rules Governing the Courts of the State
45 of New Jersey for judgements, awards and orders for the payment of
46 money, from the time payments should, in good faith, have been

1 tendered, and shall include court costs and reasonable attorneys' fees
2 and other damages determined by the trier of fact to be appropriate
3 under the circumstances of the individual case, including damages for
4 consequential loss and punitive damages.

5 d. In addition to any other penalty provided by law, a violation of
6 any claim settlement practice pursuant to the provisions of P.L.1975,
7 c.101 (C.17B:30-13.1 et seq.) shall be an unlawful practice pursuant
8 to P.L.1960, c.39 (C.56:8-1 et seq.).

9
10 4. Section 1 of P.L.1960, c.39 (C.56:8-1) is amended to read as
11 follows:

12 1. (a) The term "advertisement" shall include the attempt directly
13 or indirectly by publication, dissemination, solicitation, indorsement or
14 circulation or in any other way to induce directly or indirectly any
15 person to enter or not enter into any obligation or acquire any title or
16 interest in any merchandise or to increase the consumption thereof or
17 to make any loan;

18 (b) The term "Attorney General" shall mean the Attorney General
19 of the State of New Jersey or any person acting on his behalf;

20 (c) The term "merchandise" shall include any objects, wares,
21 goods, commodities, services, an insurance contract or policy or
22 anything offered, directly or indirectly to the public for sale;

23 (d) The term "person" as used in this act shall include any natural
24 person or his legal representative, partnership, corporation, company,
25 trust, business entity or association, and any agent, employee,
26 salesman, partner, officer, director, member, stockholder, associate,
27 trustee or cestuis que trustent thereof;

28 (e) The term "sale" shall include any sale, rental or distribution,
29 offer for sale, rental or distribution or attempt directly or indirectly to
30 sell, rent or distribute.

31 (cf: P.L.1967, c.301, s.1)

32
33 5. Section 2 of P.L.1960, c.39 (C.56:8-2) is amended to read as
34 follows:

35 2. The act, use or employment by any person of any
36 unconscionable commercial practice, deception, fraud, false pretense,
37 false promise, misrepresentation, or the knowing[.] concealment,
38 suppression, or omission of any material fact with intent that others
39 rely upon such concealment, suppression or omission, in connection
40 with the sale or advertisement of any merchandise or real estate or any
41 matter involving a claim under an insurance contract or policy which
42 is subject to the provisions of P.L.1947, c.379 (C.17:29B-1 et seq.)
43 for the violation of any claim settlement practice standard provided in
44 section 4 of P.L.1947, c.379 (C.17:29B-4) or to the provisions of
45 chapter 30 of Title 17B of the New Jersey Statutes for the violation of
46 any claim settlement practice standard provided in section 1 of

1 P.L.1975, c.101 (C.17B:30-13.1), or by rule or regulation of the
2 Commissioner of ¹Banking and¹ Insurance, whether or not the insurer
3 has violated the standard with such frequency as to indicate a general
4 business practice, or with the subsequent performance of such person
5 as aforesaid, whether or not any person has in fact been misled,
6 deceived or damaged thereby, is declared to be an unlawful practice;
7 provided, however, that nothing herein contained shall apply to the
8 owner or publisher of newspapers, magazines, publications or printed
9 matter wherein such advertisement appears, or to the owner or
10 operator of a radio or television station which disseminates such
11 advertisement when the owner, publisher, or operator has no
12 knowledge of the intent, design or purpose of the advertiser.

13 (cf: P.L.1975, c.294, s.1)

14

15 6. This act shall take effect immediately and shall apply to all
16 claims filed or pending on or after the effective date.

17

18

19

20

21 Provides individual cause of action for unfair practices in the
22 settlement of insurance claims and makes unfair practices subject to
23 consumer fraud law.