

SENATE COMMERCE COMMITTEE

STATEMENT TO

SENATE, No. 1296

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 20, 1996

The Senate Commerce Committee reports favorably and with committee amendments Senate Bill No. 1296.

This bill establishes the Office of the Insurance Claims Ombudsman within the Department of Insurance. The ombudsman would be appointed by the Governor with the advice and consent of the Senate and serve at the pleasure of the Governor during the Governor's term of office. The ombudsman must have at least a baccalaureate degree and at least seven years' of experience in property and casualty insurance.

Any person may file an application with the ombudsman for a review of a property-casualty insurance claim settlement if that person has reasonable cause to believe that an insurer has failed or refuses to settle a claim in accordance with the provisions of the insurance contract and has previously filed with the insurer's internal adjudication procedure established pursuant to section 9 of the bill. The ombudsman need not investigate a complaint if he determines the complaint is trivial or frivolous; the complaint is stale; the resources available are insufficient for an adequate investigation; or the matter is not within his jurisdiction. After investigating the claims settlement and making his determination as to the appropriate disposition of the claim, the ombudsman shall notify the insurer and the claimant of his decision. The decision is admissible in any court action or any other proceeding which is instituted to determine final disposition of the claim.

The ombudsman is required to make recommendations to the Commissioner of Insurance as he deems necessary, including recommendations that: policy forms or endorsements that he finds unfairly discriminatory, misleading or contrary to public policy be modified; specific rule and regulations be modified or repealed; claims settlement practices of a specific insurer or insurers be further investigated by the commissioner; or the commissioner impose penalties or other sanctions against an insurer or insurers as a result of the insurer's claims settlement practices.

The bill requires every insurer writing property and casualty

insurance in this State to establish an internal appeals procedure for the adjudication of disputed claims. The adjudication would be conducted by a panel of the insurer's non-claims settlement employees and conducted within 10 business days.

Any person who willfully hinders the lawful actions of the ombudsman or willfully refuses to comply with his lawful demands would be subject to a penalty of not more than \$5,000.

The committee amended the bill to specify that the provisions of the bill apply only to claims involving contracts of direct property-casualty insurance.