

17:29B-4

LEGISLATIVE HISTORY CHECKLIST

NJSA 17:29B-4

Laws of 1975 Chapter 100

Bill No. A1839

Sponsor(s) Barbour & 55 Others

Date Introduced June 13, 1974

Committee: Assembly Banking and Insurance

Senate Labor, Industry & Professions

Amended during passage Yes ~~No~~ Amendments during passage denoted by asterisks

Date of passage: Assembly October 21, 1974

Senate February 27, 1975

Date of approval May 22, 1975

Following statements are attached if available:

Sponsor statement	Yes	No
Committee Statement: Assembly	Yes	No
Senate	Yes	No
Fiscal Note	Yes	No
Veto message	Yes	No
Message on signing	Yes	No
Following were printed:		
Reports	Yes	No
Hearings	Yes	No

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10/4/76

JUN 1977

[OFFICIAL COPY REPRINT]
ASSEMBLY, No. 1839

STATE OF NEW JERSEY

INTRODUCED JUNE 13, 1974

By Assemblymen BARBOUR, BORNHEIMER, HAMILTON, VAN WAGNER, YATES, SWEENEY, Assemblywoman TOTARO, Assemblymen RUANE, BAER, HERMAN, Assemblywoman CROCE, Assemblymen SHELTON, DEVERIN, FLORIO, GEWERTZ, PERSKIE, WORTHINGTON, PERKINS, GALLAGHER, BURSTEIN, HYNES, FROUDE, GLADSTONE, CALL, BROWN, KARCHER, FITZPATRICK, SINSIMER, BATE, JACKMAN, CHINNICI, HICKS, HOLLENBECK, Assemblywoman WILSON, Assemblymen WOODSON, PELLECCIA, MARTIN, NEWMAN, KEEGAN, NERI, GORMAN, SALKIND, OWENS, DOYLE, CONTILLO, MCCARTHY, LEFANTE, McMANIMON, GREGORIO, D'AMBROSA, VISOTCKY, HAWKINS, KOZLOSKI, Assemblywoman BERMAN, Assemblymen OTLOWSKI and ESPOSITO

Referred to Committee on Banking and Insurance

AN ACT to amend "An act concerning insurance, regulating the trade practices in the business of insurance, defining and prohibiting unfair and deceptive acts and practices in the business of insurance, and supplementing subtitle 3 of Title 17 of the Revised Statutes," approved July 3, 1947 (P. L. 1947, c. 379)*, and making an appropriation therefor*.

1 BE IT ENACTED *by the Senate and General Assembly of the State*
2 *of New Jersey:*

1 1. Section 4 of P. L. 1947, c. 379 (C. 17:29B-4) is amended to
2 read as follows:

3 4. The following are hereby defined as unfair methods of compe-
4 tition and unfair and deceptive acts or practices in the business of
5 insurance:

6 (1) Misrepresentations and false advertising of policy contracts.
7 Making, issuing, circulating, or causing to be made, issued or
8 circulated, any estimate, illustration, circular or statement mis-
9 representing the terms of any policy issued or to be issued or

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

10 the benefits or advantages promised thereby or the dividends or
11 share of the surplus to be received thereon, or making any false
12 or misleading statement as to the dividends or share of surplus
13 previously paid on similar policies, or making any misleading
14 representation or any ~~misrepresentation~~ as to the financial condi-
15 tion of any insurer, or as to the legal reserve system upon which
16 any life insurer operates, or using any name or title of any policy
17 or class of policies misrepresenting the true nature thereof, or
18 making any misrepresentation to any policyholder insured in any
19 company for the purpose of inducing or tending to induce such
20 policyholder to lapse, forfeit, or surrender his insurance.

21 (2) False information and advertising generally. Making, pub-
22 lishing, disseminating, circulating, or placing before the public,
23 or causing, directly or indirectly, to be made, published, dissemi-
24 nated, circulated, or placed before the public, in a newspaper,
25 magazine or other publication, or in the form of a notice, circular,
26 pamphlet, letter or poster, or over any radio station, or in any
27 other way, an advertisement, announcement or statement contain-
28 ing any assertion, representation or statement with respect to the
29 business of insurance or with respect to any person in the conduct
30 of his insurance business, which is untrue, deceptive or misleading.

31 (3) Defamation. Making, publishing, disseminating, or circulat-
32 ing, directly or indirectly, or aiding, abetting or encouraging the
33 making, publishing, disseminating or circulating of any oral or
34 written statement or any pamphlet, circular, article or literature
35 which is false, or maliciously critical of or derogatory to the finan-
36 cial condition of an insurer, and which is calculated to injure any
37 person engaged in the business of insurance.

38 (4) Boycott, coercion and intimidation. Entering into any
39 agreement to commit, or by any concerted action committing, any
40 act of boycott, coercion or intimidation resulting in or tending to
41 result in unreasonable restraint of, or monopoly in, the business
42-47 of insurance.

48 (5) False financial statements. Filing with any supervisory or
49 other public official, or making, publishing, disseminating, circu-
50 lating or delivering to any person, or placing before the public, or
51 causing directly or indirectly, to be made, published, disseminated,
52 circulated, delivered to any person, or placed before the public,
53 any false statement of financial condition of an insurer with intent
54 to deceive.

55 Making any false entry in any book, report or statement of

56 any insurer with intent to deceive any agent or examiner lawfully
57 appointed to examine into its condition or into any of its affairs,
58 or any public official to whom such insurer is required by law to
59 report, or who was authority by law to examine into its condition
60 or into any of its affairs, or, with like intent, willfully omitting to
61 make a true entry of any material fact pertaining to the business
62 of such insurer in any book, report or statement of such insurer.

63 (6) Stock operations and advisory board contracts. Issuing or
64 delivering or permitting agents, officers, or employees to issue or
65 deliver, agency company stock or other capital stock, or benefit
66 certificates or shares in any common-law corporation, or securities
67 or any special or advisory board contracts or other contracts of any
68 kind promising returns and profits as an inducement to insurance.

69 (7) Unfair discrimination. (a) Making or permitting any unfair
70 discrimination between individuals of the same class and equal
71 expectation of life in the rates charged for any contract of life
72 insurance or of life annuity or in the dividends or other benefits
73 payable thereon, or in any other of the terms and conditions of
74 such contract.

75 (b) Making or permitting any unfair discrimination between
76 individuals of the same class and of essentially the same hazard in
77 the amount of premium, policy fees, or rates charged for any policy
78 or contract of accident or health insurance or in the benefits payable
79 thereunder, or in any of the terms or conditions of such contract,
80 or in any other manner whatever.

81 (c) Making or permitting any discrimination against any person
82 or group of persons because of race, creed, color, national origin or
83 ancestry of such person or group of persons in the issuance, with-
84 holding, extension or renewal of any policy of insurance, or in
85 the fixing of the rates, terms or conditions therefor, or in the
86 issuance or acceptance of any application therefor.

87 (d) Making or permitting discrimination in the use of any
88 form of policy of insurance which expresses, directly or indirectly,
89 any limitation or discrimination as to race, creed, color, national
90 origin or ancestry or any intent to make any such limitation or
91 discrimination.

92 (e) Making or permitting any unfair discrimination solely
93 because of age in the issuance, withholding, extension or renewal of
94 any policy or contract of automobile liability insurance or in the
95 fixing of the rates, terms or conditions therefor, or in the issuance
96 or acceptance of any application therefor, provided, that nothing

97 herein shall be construed to interfere with the application of any
98 applicable rate classification filed with and approved by the com-
99 missioner pursuant to P. L. 1944, c. 27 (C. 17:29A-1 to 17:29A-28),
100 or any amendment or supplement thereof, which is in effect with
101 respect to such policy or contract of insurance.

102 (8) Rebates. (a) Except as otherwise expressly provided by
103 law, knowingly permitting or offering to make or making any con-
104 tract of life insurance, life annuity or accident and health insurance,
105 or agreement as to such contract other than as plainly expressed
106 in the contract issued thereon, or paying or allowing, or giving
107 or offering to pay, allow, or give, directly or indirectly, as induce-
108 ment to such insurance, or annuity, any rebate of premiums payable
109 on the contract, or any special favor or advantage in the dividends
110 or other benefits thereon, or any valuable consideration or induce-
111 ment whatever not specified in the contract; or giving, or selling, or
112 purchasing or offering to give, sell, or purchase as inducement to
113 such insurance or annuity or in connection therewith, any stocks,
114 bonds, or other securities of any insurance company or other
115 corporation, association, or partnership, or any dividends or profits
116 accrued thereon, or anything of value whatsoever not specified in
117-119 the contract.

120 (b) Nothing in clause 7 or paragraph (a) of this clause 8 shall
121 be construed as including within the definition of discrimination or
122 rebates any of the following practices (i) in the case of any
123 contract of life insurance or life annuity, paying bonuses to policy-
124 holders or otherwise abating their premiums in whole or in part
125 out of surplus accumulated from nonparticipating insurance; pro-
126 vided, that any such bonuses or abatement of premiums shall be
127 fair and equitable to policyholders and for the best interests of the
128 company and its policyholders; (ii) in the case of life insurance
129 policies issued on the industrial debit plan, making allowance to
130 policyholders who have continuously for a specified period made
131 premium payments directly to an office of the insurer in an amount
132 which fairly represents the saving in collection expense; (iii) read-
133 justment of the rate of premium for a group policy based on the
134 loss or expense experience thereunder, at the end of the first or
135 any subsequent policy year of insurance thereunder, which may be
136 made retroactive only for such policy year.

137 (9) *Unfair claim settlement practices. Committing or perform-*
138 *ing with such frequency as to indicate a general business practice*
139 *any of the following:*

- 140 (a) *Misrepresenting pertinent facts or insurance policy provi-*
141 *sions relating to coverages at issue;*
- 142 (b) *Failing to acknowledge and act reasonably promptly upon*
143 *communications with respect to claims arising under insurance*
144 *policies;*
- 145 (c) *Failing to adopt and implement reasonable standards for*
146 *the prompt investigation of claims arising under insurance policies;*
- 147 (d) *Refusing to pay claims without conducting a reasonable*
148 *investigation based upon all available information;*
- 149 (e) *Failing to affirm or deny coverage of claims within a reason-*
150 *able time after proof of loss statements have been completed;*
- 151 (f) *Not attempting in good faith to effectuate prompt, fair and*
152 *equitable settlements of claims in which liability has become rea-*
153 *sonably clear;*
- 154 (g) *Compelling insureds to institute litigation to recover amounts*
155 *due under an insurance policy by offering substantially less than*
156 *the amounts ultimately recovered in actions brought by such*
157 *insureds;*
- 158 (h) *Attempting to settle a claim for less than the amount to*
159 *which a reasonable man would have believed he was entitled by*
160 *reference to written or printed advertising material accompanying*
161 *or made part of an application;*
- 162 (i) *Attempting to settle claims on the basis of an application*
163 *which was altered without notice to, or knowledge or consent of the*
164 *insured;*
- 165 (j) *Making claims payments to insureds or beneficiaries not*
166 *accompanied by statement setting forth the coverage under which*
167 *the payments are being made;*
- 168 (k) *Making known to insureds or claimants a policy of appealing*
169 *from arbitration awards in favor of insureds or claimants for the*
170 *purpose of compelling them to accept settlements or compromises*
171 *less than the amount awarded in arbitration;*
- 172 (l) *Delaying the investigation or payment of claims by requiring*
173 *an insured, claimant or the physician of either to submit a prelim-*
174 *inary claim report and then requiring the subsequent submission of*
175 *formal proof of loss forms, both of which submissions contain sub-*
176 *stantially the same information.*
- 177 (m) *Failing to promptly settle claims, where liability has become*
178 *reasonably clear, under one portion of the insurance policy cover-*
179 *age in order to influence settlements under other portions of the*
180 *insurance policy coverage;*

181 (n) *Failing to promptly provide a reasonable explanation of the*
 182 *basis in the insurance policy in relation to the facts or applicable*
 183 *law for denial of a claim or for the offer of a compromise settlement.*

184 (10) *Failure to maintain complaint handling procedures. Failure*
 185 *of any person to maintain a complete record of all the complaints*
 186 *which it has received since the date of its last examination. This*
 187 *record shall indicate the total number of complaints, their classi-*
 188 *fication by line of insurance, the nature of each complaint, the*
 189 *disposition of these complaints, and the time it took to process*
 190 *each complaint. For purposes of this subsection, "complaint"*
 191 *shall mean any written communication primarily expressing a*
 192 *grievance.*

193 **[(9)]** (11) The enumeration of this act of specific unfair
 194 methods of competition and unfair or deceptive acts and practices
 195 in the business of insurance is not exclusive or restrictive or
 196 intended to limit the powers of the commissioner or any court of
 197 review under the provisions of section 9 of this act.

1 *2. (New section) *The sum of \$12,500.00 is hereby appropriated*
 2 *to the Department of Insurance for the fiscal year ending June 30,*
 3 *1975 in order to effectuate the purposes of this act.**

1 ***[2.]*** *3.* This act shall take effect on the sixtieth day after
 2 enactment.

A1839 (1974)

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197 *review under the provisions of section 9 of this act.*

1 2. This act shall take effect on the sixtieth day after enactment.

Sponsor's STATEMENT

This bill amends P. L. 1947, c. 379 (C. 17:29B-4) for the purpose of prohibiting unfair claims settlement practices and listing the claims settlement practices that are declared to be unfair.

FROM THE OFFICE OF THE GOVERNOR

MAY 22, 1975

DICK CAMPBELL

FOR IMMEDIATE RELEASE

FOR FURTHER INFORMATION

Governor Brendan Byrne signed into law Thursday two bills designed to provide greater consumer protection in insurance claims settlements.

One bill, A 1839, sponsored by Assemblyman George H. Barbour, D-Burlington, prohibits unfair claims settlement practices in the area of property and liability insurance.

A companion measure, A 1840, also sponsored by Assemblyman Barbour, provides similar prohibitions in the area of life and health insurance.

The legislation specifies several practices which are prohibited. They include:

- Misrepresenting policy provisions relating to coverage.
- Failing to act reasonably and promptly in the investigation and settlement of claims.
- Compelling the insured to initiate court proceedings to recover monies lost through unreasonably low settlement offers.
- Failure to explain promptly and reasonably the basis for the denial of a claim or for the offer of a compromise settlement.

The measures also require that complete records be kept of each claim, its nature and disposition.

The State Department of Insurance has the power to enforce the provision of the new laws.

NEW JERSEY SECRETARY

1975

185 W. State Street
Trenton, N.J.