

## **2022 NJSBA Annual Meeting**

### **The New Jersey Insurance Fair Conduct Act – What You Must Know About this New Law**

Moderator/Speaker:

Gerald H. Baker, Esq.

*Javerbaum Wurgaft Hicks Kahn Wikstrom & Sinins, Springfield*

Speakers:

Senator Nicholas P. Scutari (District 22)

*Senate President*

Eric G. Kahn, Esq.

*Javerbaum Wurgaft Hicks Kahn Wikstrom & Sinins, Springfield*

Michael J. Marone, Esq.

*McElroy Deutsch Mulvaney & Carpenter, LLP, Morristown*

Daniel J. Pomeroy, Esq.

*Pomeroy Heller & Ley, LLC, New Providence*

**SENATE, No. 1559**

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**STATE OF NEW JERSEY**

**219th LEGISLATURE**

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INTRODUCED FEBRUARY 13, 2020

**Sponsored by:**

**Senator NICHOLAS P. SCUTARI**

**District 22 (Middlesex, Somerset and Union)**

**SYNOPSIS**

“New Jersey Insurance Fair Conduct Act.”

**CURRENT VERSION OF TEXT**

As introduced.



S1559 SCUTARI

2

1 AN ACT concerning certain unreasonable practices in the business  
2 of insurance and supplementing Title 17 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. This act shall be known and may be cited as the “New Jersey  
8 Insurance Fair Conduct Act.”

9

10 2. As used in this act:

11 "First-party claimant" or "claimant" means an individual injured  
12 in a motor vehicle accident and entitled to the uninsured or  
13 underinsured motorist coverage of an insurance policy asserting an  
14 entitlement to benefits owed directly to or on behalf of an insured  
15 under that insurance policy.

16 "Insurer" means any individual, corporation, association,  
17 partnership or other legal entity which issues, executes, renews or  
18 delivers an insurance policy in this State, or which is responsible  
19 for determining claims made under the policy. "Insurer" shall not  
20 include an insurance producer as defined in section 3 of  
21 P.L.2001, c.210 (C.17:22A-28) or a public entity.

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

26

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

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

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

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

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

42 (1) actual damages caused by the violation of this act which  
43 shall include, but need not be limited to, actual trial verdicts; and

44 (2) prejudgment interest, reasonable attorney's fees, and all  
45 reasonable litigation expenses.

46

47 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.

A final party claimant means an individual injured in a motor vehicle accident and entitled to the uninsured or underinsured motorist coverage of an insurance policy asserting an entitlement to benefits owed directly to or on behalf of an insured under that policy.

Pursuant to the bill, a claimant may file a civil action in a court of competent jurisdiction against its automobile 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, 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 including, but not limited to, actual trial verdicts; and
- (2) prejudgment interest, reasonable attorney’s fees, and all reasonable litigation expenses.

# SENATE COMMERCE COMMITTEE

## STATEMENT TO

### **SENATE, No. 1559**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: JANUARY 21, 2021

The Senate Commerce Committee reports favorably and with committee amendments Senate Bill No. 1559.

As amended, 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.

A final party claimant means an individual injured in a motor vehicle accident and entitled to the uninsured or underinsured motorist coverage of an insurance policy asserting an entitlement to benefits owed directly to or on behalf of an insured under that policy.

Pursuant to the bill, a claimant may file a civil action in a court of competent jurisdiction against its automobile 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, 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 actual damages caused by the violation including, but not limited to, actual trial verdicts.

COMMITTEE AMENDMENTS:

The committee amended the bill to remove the provision that entitles a claimant that establishes a violation of the provisions of the bill to prejudgment interest, reasonable attorney's fees, and all reasonable litigation expenses.

[First Reprint]

**SENATE, No. 1559**

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**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

---

INTRODUCED FEBRUARY 13, 2020

**Sponsored by:**

**Senator NICHOLAS P. SCUTARI**

**District 22 (Middlesex, Somerset and Union)**

**Senator PATRICK J. DIEGNAN, JR.**

**District 18 (Middlesex)**

**Co-Sponsored by:**

**Senator Ruiz**

**SYNOPSIS**

“New Jersey Insurance Fair Conduct Act.”

**CURRENT VERSION OF TEXT**

As reported by the Senate Commerce Committee on January 21, 2021, with amendments.



**(Sponsorship Updated As Of: 1/28/2021)**

1 AN ACT concerning certain unreasonable practices in the business  
2 of insurance and supplementing Title 17 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. This act shall be known and may be cited as the “New Jersey  
8 Insurance Fair Conduct Act.”

9

10 2. As used in this act:

11 "First-party claimant" or "claimant" means an individual injured  
12 in a motor vehicle accident and entitled to the uninsured or  
13 underinsured motorist coverage of an insurance policy asserting an  
14 entitlement to benefits owed directly to or on behalf of an insured  
15 under that insurance policy.

16 "Insurer" means any individual, corporation, association,  
17 partnership or other legal entity which issues, executes, renews or  
18 delivers an insurance policy in this State, or which is responsible  
19 for determining claims made under the policy. "Insurer" shall not  
20 include an insurance producer as defined in section 3 of  
21 P.L.2001, c.210 (C.17:22A-28) or a public entity.

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

26

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

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

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

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

39 c. Upon establishing that a violation of the provisions of this act  
40 has occurred, the plaintiff shall be entitled to <sup>1</sup>]:

41 (1) <sup>1</sup>] actual damages caused by the violation of this act which shall  
42 include, but need not be limited to, actual trial verdicts <sup>1</sup>]; and

43 (2) prejudgment interest, reasonable attorney's fees, and all  
44 reasonable litigation expenses<sup>1</sup>.

45

46 4. This act shall take effect immediately.

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate SCM committee amendments adopted January 21, 2021.

ASSEMBLY FINANCIAL INSTITUTIONS AND INSURANCE  
COMMITTEE

STATEMENT TO

[First Reprint]

**SENATE, No. 1559**

with committee amendments

**STATE OF NEW JERSEY**

DATED: DECEMBER 13, 2021

The Assembly Financial Institutions and Insurance Committee reports favorably and with committee amendments Senate Bill No. 1559 (1R).

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.

A final party claimant means an individual injured in a motor vehicle accident and entitled to the uninsured or underinsured motorist coverage of an insurance policy asserting an entitlement to benefits owed directly to or on behalf of an insured under that policy.

Pursuant to the bill, a claimant may file a civil action in a court of competent jurisdiction against its automobile 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, 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 actual damages caused by the violation including, but not limited to, actual trial verdicts.

The bill additionally provides that no rate increase is to be passed on to the consumer or policyholder as a result of compliance with the bill and that dissemination of inaccurate or misleading information to the policyholders concerning the bill is strictly prohibited.

As amended and reported, this bill is identical to Assembly Bill No. 1659 as also amended and reported by the committee.

COMMITTEE AMENDMENTS:

The committee amended the bill to:

- (1) remove the provision that entitles a claimant that establishes a violation of the provisions of the bill to prejudgment interest, reasonable attorney's fees, and all reasonable litigation expenses; and
- (2) provide that no rate increase is to be passed on to the consumer or policyholder as a result of compliance with the bill and that dissemination of inaccurate or misleading information to the policyholders concerning the bill is strictly prohibited.

[Second Reprint]

**SENATE, No. 1559**

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**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

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INTRODUCED FEBRUARY 13, 2020

**Sponsored by:**

**Senator NICHOLAS P. SCUTARI**

**District 22 (Middlesex, Somerset and Union)**

**Senator PATRICK J. DIEGNAN, JR.**

**District 18 (Middlesex)**

**Co-Sponsored by:**

**Senator Ruiz**

**SYNOPSIS**

“New Jersey Insurance Fair Conduct Act.”

**CURRENT VERSION OF TEXT**

As reported by the Assembly Financial Institutions and Insurance Committee on December 13, 2021, with amendments.



**(Sponsorship Updated As Of: 1/28/2021)**

1 AN ACT concerning certain unreasonable practices in the business  
2 of insurance and supplementing Title 17 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. This act shall be known and may be cited as the “New Jersey  
8 Insurance Fair Conduct Act.”

9

10 2. As used in this act:

11 "First-party claimant" or "claimant" means an individual injured  
12 in a motor vehicle accident and entitled to the uninsured or  
13 underinsured motorist coverage of an insurance policy asserting an  
14 entitlement to benefits owed directly to or on behalf of an insured  
15 under that insurance policy.

16 "Insurer" means any individual, corporation, association,  
17 partnership or other legal entity which issues, executes, renews or  
18 delivers an insurance policy in this State, or which is responsible  
19 for determining claims made under the policy. "Insurer" shall not  
20 include an insurance producer as defined in section 3 of  
21 P.L.2001, c.210 (C.17:22A-28) or a public entity.

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

26

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

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

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

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

40 c. <sup>2</sup>No rate increase shall be passed on to the consumer or  
41 policyholder as a result of compliance with P.L. , c. (C. )  
42 (pending before the Legislature as this bill) and dissemination of  
43 inaccurate or misleading information to policyholders or consumers  
44 concerning P.L. , c. (C. ) (pending before the Legislature as  
45 this bill) shall be strictly prohibited.

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate SCM committee amendments adopted January 21, 2021.

<sup>2</sup>Assembly AFI committee amendments adopted December 13, 2021.

1        d.<sup>2</sup> Upon establishing that a violation of the provisions of this  
2 act has occurred, the plaintiff shall be entitled to <sup>1</sup>]:

3        (1)]<sup>1</sup> actual damages caused by the violation of this act which  
4 shall include, but need not be limited to, actual trial verdicts <sup>1</sup>]; and

5        (2) prejudgment interest, reasonable attorney's fees, and all  
6 reasonable litigation expenses]<sup>1</sup>.

7

8        4. This act shall take effect immediately.

STATEMENT TO  
[Second Reprint]  
**SENATE, No. 1559**

with Assembly Floor Amendments  
(Proposed by Assemblywoman QUIJANO)

ADOPTED: DECEMBER 20, 2021

These floor amendments provide that:

(1) a claimant who is unreasonably denied a claim for coverage or payment of benefits, or who experiences an unreasonable delay for coverage or payment of benefits, under an uninsured or underinsured motorist policy by an insurer may, regardless of any action by the commissioner, file a civil action in a court of competent jurisdiction against its automobile insurer;

(2) the commissioner may determine whether an insurer's rates are constitutionally adequate pursuant to the provisions of this bill and, if the commissioner determines that rate relief is necessary, the commissioner will be required to determine an appropriate rate adjustment;

(3) upon establishing that a violation of the provisions of the bill has occurred, the claimant will be entitled to actual damages caused by the violation, including, but not limited to, actual trial verdicts not exceeding three times the applicable coverage amount, and pre- and post-judgment interest, reasonable attorney's fees, and reasonable litigation expenses; and

(4) if any portion of the bill is determined to be invalid, the remaining portion of the bill is to remain in full force.

[Third Reprint]

**SENATE, No. 1559**

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**STATE OF NEW JERSEY**  
**219th LEGISLATURE**

---

INTRODUCED FEBRUARY 13, 2020

**Sponsored by:**

**Senator NICHOLAS P. SCUTARI**

**District 22 (Middlesex, Somerset and Union)**

**Senator PATRICK J. DIEGNAN, JR.**

**District 18 (Middlesex)**

**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:**

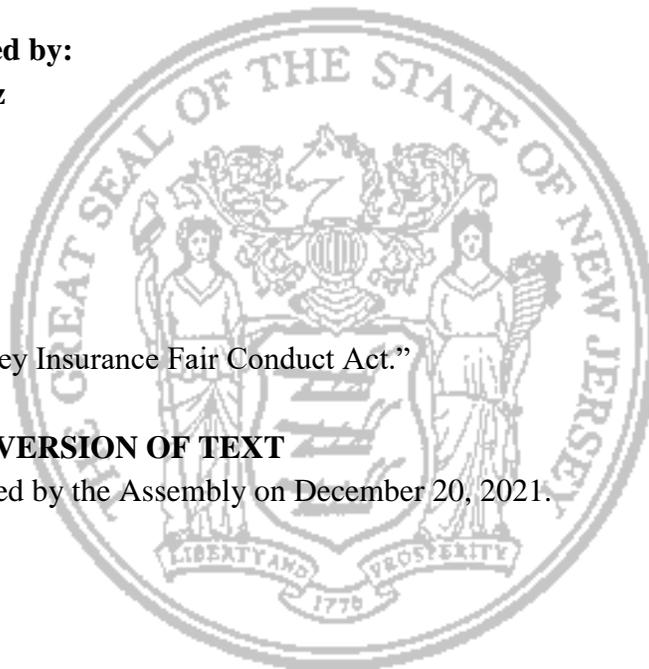
**Senator Ruiz**

**SYNOPSIS**

“New Jersey Insurance Fair Conduct Act.”

**CURRENT VERSION OF TEXT**

As amended by the Assembly on December 20, 2021.



(Sponsorship Updated As Of: 1/10/2022)

1 AN ACT concerning certain unreasonable practices in the business  
2 of insurance and supplementing Title 17 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. This act shall be known and may be cited as the “New Jersey  
8 Insurance Fair Conduct Act.”

9

10 2. As used in this act:

11 "First-party claimant" or "claimant" means an individual injured  
12 in a motor vehicle accident and entitled to the uninsured or  
13 underinsured motorist coverage of an insurance policy asserting an  
14 entitlement to benefits owed directly to or on behalf of an insured  
15 under that insurance policy.

16 "Insurer" means any individual, corporation, association,  
17 partnership or other legal entity which issues, executes, renews or  
18 delivers an insurance policy in this State, or which is responsible  
19 for determining claims made under the policy. "Insurer" shall not  
20 include an insurance producer as defined in section 3 of  
21 P.L.2001, c.210 (C.17:22A-28) or a public entity.

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

26

27 3. a. In addition to the enforcement authority provided to the  
28 Commissioner of Banking and Insurance pursuant to the provisions  
29 of P.L.1947, c.379 (C.17:29B-1 et seq.) or any other law, a  
30 claimant <sup>3</sup>, who is unreasonably denied a claim for coverage or  
31 payment of benefits, or who experiences an unreasonable delay for  
32 coverage or payment of benefits, under an uninsured or  
33 underinsured motorist policy by an insurer<sup>3</sup> may, regardless of any  
34 action by the commissioner, file a civil action in a court of  
35 competent jurisdiction against its automobile insurer for:

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

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

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

43 c. <sup>2</sup>No rate increase shall be passed on to the consumer or  
44 policyholder as a result of compliance with P.L. , c. (C. )  
45 (pending before the Legislature as this bill) and dissemination of

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate SCM committee amendments adopted January 21, 2021.

<sup>2</sup>Assembly AFI committee amendments adopted December 13, 2021.

<sup>3</sup>Assembly floor amendments adopted December 20, 2021.

1 inaccurate or misleading information to policyholders or consumers  
2 concerning P.L. , c. (C. ) (pending before the Legislature as  
3 this bill) shall be strictly prohibited.

4 <sup>3</sup>The commissioner may determine whether an insurer's rates are  
5 constitutionally adequate pursuant to the provisions of P.L. ,  
6 c. (C. ) (pending before the Legislature as this bill). If the  
7 commissioner determines that rate relief is necessary, the  
8 commissioner shall determine an appropriate rate adjustment.<sup>3</sup>

9 d.<sup>2</sup> Upon establishing that a violation of the provisions of this  
10 act has occurred, the plaintiff shall be entitled to <sup>3,3</sup> <sup>1</sup> [:

11 (1) <sup>1</sup> <sup>3</sup>(1)<sup>3</sup> actual damages caused by the violation of this act  
12 which shall include, but need not be limited to, actual trial verdicts  
13 <sup>3</sup>that shall not exceed three times the applicable coverage amount;  
14 and<sup>3</sup> <sup>1</sup> [; and

15 (2) prejudgment interest, reasonable attorney's fees, and all  
16 reasonable litigation expenses]<sup>1</sup>

17 <sup>3</sup>(2) pre- and post-judgment interest, reasonable attorney's fees,  
18 and reasonable litigation expenses.

19 e. If any portion of P.L. , c. (C. ) (pending before the  
20 Legislature as this bill) is determined to be invalid, the remaining  
21 portion of P.L. , c. (C. ) (pending before the Legislature as  
22 this bill) shall remain in full force<sup>3</sup>.

23

24 4. This act shall take effect immediately.

Title 17.  
Subtitle 3.  
Part 1.  
Chapter 29BB.  
(New)  
Unreasonable  
Practices;  
Liability  
§§1-3  
C.17:29BB-1 to  
17:29BB-3

**(CORRECTED COPY)**

P.L. 2021, CHAPTER 388, *approved January 18, 2022*  
Senate, No. 1559 (*Third Reprint*)

1 **AN ACT** concerning certain unreasonable practices in the business of  
2 insurance and supplementing Title 17 of the Revised Statutes.

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

6

7 1. This act shall be known and may be cited as the “New Jersey  
8 Insurance Fair Conduct Act.”

9

10 2. As used in this act:

11 "First-party claimant" or "claimant" means an individual injured  
12 in a motor vehicle accident and entitled to the uninsured or  
13 underinsured motorist coverage of an insurance policy asserting an  
14 entitlement to benefits owed directly to or on behalf of an insured  
15 under that insurance policy.

16 "Insurer" means any individual, corporation, association,  
17 partnership or other legal entity which issues, executes, renews or  
18 delivers an insurance policy in this State, or which is responsible for  
19 determining claims made under the policy. "Insurer" shall not include  
20 an insurance producer as defined in section 3 of  
21 P.L.2001, c.210 (C.17:22A-28) or a public entity.

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

26

27 3. a. In addition to the enforcement authority provided to the  
28 Commissioner of Banking and Insurance pursuant to the provisions  
29 of P.L.1947, c.379 (C.17:29B-1 et seq.) or any other law, a  
30 claimant<sup>3</sup>, who is unreasonably denied a claim for coverage or  
31 payment of benefits, or who experiences an unreasonable delay for

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

<sup>1</sup>Senate SCM committee amendments adopted January 21, 2021.

<sup>2</sup>Assembly AFI committee amendments adopted December 13, 2021.

<sup>3</sup>Assembly floor amendments adopted December 20, 2021.

1 coverage or payment of benefits, under an uninsured or underinsured  
2 motorist policy by an insurer<sup>3</sup> may, regardless of any action by the  
3 commissioner, file a civil action in a court of competent jurisdiction  
4 against its automobile insurer for:

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

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

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

12 c. <sup>2</sup>No rate increase shall be passed on to the consumer or  
13 policyholder as a result of compliance with P.L. , c. (C. )  
14 (pending before the Legislature as this bill) and dissemination of  
15 inaccurate or misleading information to policyholders or consumers  
16 concerning P.L. , c. (C. ) (pending before the Legislature as  
17 this bill) shall be strictly prohibited.

18 <sup>3</sup>The commissioner may determine whether an insurer's rates are  
19 constitutionally adequate pursuant to the provisions of P.L. ,  
20 c. (C. ) (pending before the Legislature as this bill). If the  
21 commissioner determines that rate relief is necessary, the  
22 commissioner shall determine an appropriate rate adjustment.<sup>3</sup>

23 d.<sup>2</sup> Upon establishing that a violation of the provisions of this act  
24 has occurred, the plaintiff shall be entitled to <sup>3,3</sup> <sup>1</sup>]:

25 (1) <sup>1</sup> <sup>3</sup>(1)<sup>3</sup> actual damages caused by the violation of this act  
26 which shall include, but need not be limited to, actual trial verdicts  
27 <sup>3</sup>that shall not exceed three times the applicable coverage amount;  
28 and<sup>3</sup> <sup>1</sup>]; and

29 (2) prejudgment interest, reasonable attorney's fees, and all  
30 reasonable litigation expenses<sup>1</sup>

31 <sup>3</sup>(2) pre- and post-judgment interest, reasonable attorney's fees,  
32 and reasonable litigation expenses.

33 e. If any portion of P.L. , c. (C. ) (pending before the  
34 Legislature as this bill) is determined to be invalid, the remaining  
35 portion of P.L. , c. (C. ) (pending before the Legislature as  
36 this bill) shall remain in full force<sup>3</sup>.

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38 4. This act shall take effect immediately.

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43 "New Jersey Insurance Fair Conduct Act."

## CHAPTER 388

**AN ACT** concerning certain unreasonable practices in the business of insurance and supplementing Title 17 of the Revised Statutes.

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

C.17:29BB-1 Short title.

1. This act shall be known and may be cited as the “New Jersey Insurance Fair Conduct Act.”

C.17:29BB-2 Definitions.

2. As used in this act:

"First-party claimant" or "claimant" means an individual injured in a motor vehicle accident and entitled to the uninsured or underinsured motorist coverage of an insurance policy asserting an entitlement to benefits owed directly to or on behalf of an insured under that insurance policy.

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

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

C.17:29BB-3 Claimant's rights, civil action; unreasonable delay, denial.

3. a. In addition to the enforcement authority provided to the Commissioner of Banking and Insurance pursuant to the provisions of P.L.1947, c.379 (C.17:29B-1 et seq.) or any other law, a claimant, who is unreasonably denied a claim for coverage or payment of benefits, or who experiences an unreasonable delay for coverage or payment of benefits, under an uninsured or underinsured motorist policy by an insurer may, regardless of any action by the commissioner, file a civil action in a court of competent jurisdiction against its automobile 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).

b. In any action filed pursuant to this act, 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.

c. No rate increase shall be passed on to the consumer or policyholder as a result of compliance with P.L.2021, c.388 (C.17:29BB-1 et seq.) and dissemination of inaccurate or misleading information to policyholders or consumers concerning P.L.2021, c.388 (C.17:29BB-1 et seq.) shall be strictly prohibited.

The commissioner may determine whether an insurer's rates are constitutionally adequate pursuant to the provisions of P.L.2021, c.388 (C.17:29BB-1 et seq.). If the commissioner determines that rate relief is necessary, the commissioner shall determine an appropriate rate adjustment.

d. Upon establishing that a violation of the provisions of this act has occurred, the plaintiff shall be entitled to: (1) actual damages caused by the violation of this act which shall include, but need not be limited to, actual trial verdicts that shall not exceed three times the applicable coverage amount; and

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(2) pre- and post-judgment interest, reasonable attorney's fees, and reasonable litigation expenses.

e. If any portion of P.L.2021, c.388 (C.17:29BB-1 et seq.) is determined to be invalid, the remaining portion of P.L.2021, c.388 (C.17:29BB-1 et seq.) shall remain in full force.

4. This act shall take effect immediately.

Approved January 18, 2022.