



United Policyholders
381 Bush Street, 8th Floor
San Francisco, CA 94104
415.393.9990
www.uphelp.org

February 28, 2013

Hon. Nia H. Gill
Hon. James Beach
Hon. Gerald Cardinale
Hon. Thomas H. Kean, Jr.
Hon. Raymond J. Lesniak
Hon. Nicholas P. Scutari

Board of Directors

Amy Bach
Executive Director

Alice J. Wolfson
Chair, Board of Directors

David Baria
Mississippi State Senator

Hon. Stanley G. Feldman
Chief Justice (RET)
Arizona Supreme Court

Larry P. Ginsburg, CFP®
Ginsburg Financial Advisors, Inc.

William H. Hedden
Consolidated Adjusting, Inc.

Jim Jones
Industry Ventures

Brian S. Kabateck
Kabateck Brown Kellner LLP

E. Gerard Mannion
Mannion & Lowe

Shirley Roberson
Non-Profit Consultant

Deborah Senn
Insurance Commissioner (1993-2001)
Washington State

William M. Shernoff
Shernoff Bidart Echeverria LLP
Ex Officio

Programs

Advocacy in Action

Roadmap to Preparedness™

Roadmap to Recovery™

Re: Senate Bill 2460 SUPPORT

Dear Commerce Committee Member Senators:

United Policyholders (UP) supports New Jersey's Consumer Protection Act of 2012 (A-3710/S-2460) and encourages your AYE vote on the measure. It creates a much needed private right of action for policyholders and their assignees to bring civil claims against their insurance companies for isolated instances of bad faith conduct and violations of the New Jersey's unfair claims settlement practices act (UCSPA) (subsection (9) of section 4 of P.L.1947, c.379 (C.17:29B-4)). UP is a non-profit voice and information resource for insurance consumers in all 50 states. I have the privilege of working with the New Jersey Insurance Department in my capacity as an official consumer representative to the National Association of Insurance Commissioners.

Now, in Sandy's aftermath and more than ever, New Jersey policyholders need stronger statutory protection that will effectively deter bad practices and allow realistic redress for victims of unfair claims handling. Courts in New Jersey have not extended to policyholders a right to bring a private claim in civil court against their insurance companies for violation of the state's UCSPA. The types of claims allowable for bad faith have little teeth. The Act would extend to policyholders and their assignees what New Jersey law already allows state insurance commissioners to do: Sue insurance companies when they violate the law by breaching their obligations and acting unreasonably toward their policyholders.

Current law does not adequately level the playing field between insurers and policyholders. Insurers have far more leverage than consumers in virtually every aspect of sales and claim transactions. Under current law, insurers know their legal exposure for unfair practices is capped at the policy limits. This makes it easy to bully policyholders into accepting settlements that are unreasonably low, yet high enough to convince the policyholder that the expense and headache of litigation is not worth the difference between the settlement offer and the policy limit they are actually entitled to receive. As things stand now, insurers can underpay and drag out claims with nominal consequences and policyholders often get far less than the full value of the protection they've paid for. The economic consequences to the insured, as we're seeing in Sandy's aftermath...are dire.

The Act also would provide a second-set of teeth to deterring unfair practices by making punitive damages a realistic possibility, and bringing New Jersey law in line with many other states. The Act would allow a policyholder to recover punitive damages when the insurance company's conduct is malicious, or done while willfully and wantonly disregarding knowledge that their conduct could cause a person harm. Under current law, claimants must meet an impossibly high standard of proving that the insurance company's malicious conduct or willful and wanton disregard for harm is part of a larger general business practice.

The time has come for New Jersey to confer on its citizens the necessary protections this bill provides.

We urge your AYE vote on this measure.

Sincerely,

A handwritten signature in black ink that reads "Amy Bach". The signature is written in a cursive style with a long, sweeping underline that extends to the right.

Amy Bach
Executive Director