CHAPTER 134
SB 429-FN - FINAL VERSION

02/01/2018 0279s
04/26/2018 1819EBA

2018 SESSION

18-2898
03/01

SENATE BILL ***429-FN***

AN ACT **establishing a consumer services program within the insurance department.**

SPONSORS: **Sen. French, Dist 7**

COMMITTEE: **Commerce**

AMENDED ANALYSIS

This bill establishes within the insurance department a consumer services program to investigate complaints and respond to inquiries.

Explanation: **Matter added to current law appears in *bold italics.***
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

CHAPTER 134
SB 429-FN - FINAL VERSION

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Eighteen

AN ACT **establishing a consumer services program within the insurance department.**

Be it Enacted by the Senate and House of Representatives in General Court convened:

134:1 New Section; Consumer Services Program. Amend RSA 400-A by inserting after section 15-d the following new section:

400-A:15-e Consumer Services Program.

I. The commissioner shall maintain a program to investigate complaints and respond to inquiries received, and, when warranted, refer matters for enforcement, further investigation, or examination against insurers, producers, or any other entity subject to the regulatory authority of the commissioner. The program shall include, but not be limited to, the following:

(a) A toll-free telephone number dedicated to the handling of complaints and inquiries.

(b) A standardized complaint form designed to assure that complaints will be properly registered and tracked.

(c) Maintenance of a comprehensive database of complaints and inquiries adequate to promote efficient case handling and to allow department analysts to discern potential issues with regulated entities and market trends that require follow up and potential regulatory action.

(d) The commissioner shall, if deemed appropriate, notify insurers, producers, or other regulated entities against whom the complaint is made of the nature of the complaint, may request appropriate relief for the complainant, and may meet and confer with the complainant and the regulated entity in order to mediate the complaint. This section shall not be construed to give the commissioner power to adjudicate claims.

(e) Retention of records on complaints and inquiries consistent with the insurance department's general record retention policy.

(f) Sharing of complaint information, pursuant to RSA 21-U, with other state agencies regulating financial services.

(g) Referral of complaints not within the department's jurisdiction to appropriate public and private agencies.

(h) Complaint handling goals that can be tested against consumer satisfaction surveys carried out pursuant to paragraph V.

(i) Inclusion in the department's annual report to the governor and council, required under RSA 400-A:26, detailed information regarding the program required by this section, that shall include, but not be limited to: a description of the operation of the complaint handling process, listing the number of complaints and inquiries received; enforcement actions taken pursuant to complaints received; the amount of staffing resources devoted to the handling and resolution of complaints; and the amount of recoveries made on behalf of consumers.

II. The commissioner may establish a secure, online complaint response system to distribute and receive complaint information from insurers and other regulated entities. Insurers or other regulated entities shall be required to submit and receive complaint information, including, but not limited to, requested claim files, underwriting files, correspondence, and other supporting documents, using any system established by the commissioner pursuant to this paragraph.

III.(a) In receiving complaints and inquiries, investigating complaints, and responding to complaints and inquiries by members of the public concerning the handling of insurance claims by insurers or producers, or alleged misconduct by insurers or producers, the commissioner shall not decline to investigate complaints for any of the following reasons:

(1) The insured is represented by an attorney in a dispute with an insurer, or is in mediation or arbitration.

(2) The insured has a civil action against an insurer.

(3) The complaint is from an attorney, if the complaint is based upon evidence or reasonable beliefs about violations of law known to an attorney because of a civil action.

(b) Consistent with the principles of res judicata and administration and judicial economy, the commissioner may defer any mediation effort or enforcement proceeding related to a complaint until the finality of a dispute, mediation, arbitration, or civil action involving the claim is known.

(c) Nothing in this section shall be construed to waive the confidential and privileged nature of all documents, materials, or other information in possession of the department pursuant to an investigation of a complaint as provided in RSA 400-A:16.

IV. In coordination with the consumer services program, the commissioner shall provide for the education of, and dissemination of information to, members of the general public concerning insurance matters. The commissioner may in person or through employees of the department meet with individuals, organizations, and associations interested in insurance for the purpose of securing cooperation in the enforcement of the insurance laws of this state and may disseminate information

concerning the insurance laws of this state for the assistance and information of the public. In addition, the commissioner shall arrange for public service announcements, website information, social media statements, and other outreach efforts reasonably designed to inform consumers of the availability of the department's consumer assistance program and how to register a complaint or make an inquiry to the department.

V. The department shall include, with each notification of final action to a complainant, or, at a minimum, with a number of randomly selected notifications of final action sufficient to assure the validity of results, a complaint handling consumer satisfaction evaluation form. This form shall clearly and concisely seek an evaluation of the department's performance in handling the complainant's grievance. The areas of evaluation shall include, but not be limited to: whether the complaint was handled in a fair and reasonable manner, evaluated thoroughly and without bias; the time required for resolution of the complaint; whether the complaint was referred and, if so, whether it was referred within a satisfactory time; whether the staff involved in handling the complaint demonstrated an adequate knowledge of the issues involved in the complaint; whether the complainant was satisfied with the result of the department's intervention; and whether the complainant would recommend the department's complaint handling services to others.

VI. The commissioner shall ascertain patterns of complaints by insurer, geographic area, insurance line, type of violation, and any other valid basis the commissioner may deem appropriate for further investigation, and periodically evaluate the complaint patterns to determine additional examination, investigative, or enforcement actions which may be taken by the commissioner, and report on all actions taken with respect to those patterns of complaints in his or her annual report to the governor and council pursuant to RSA 400-A:26, and to the public. For the purposes of this paragraph, complaints mean those written complaints received by the commissioner under paragraph I, and written complaints received by the commissioner from any other sources, alleging misconduct or unlawful acts by insurers or production agencies.

134:2 Contingency. If HB 1379 of the 2018 regular legislative session becomes law, then RSA 400-A:15-e, as inserted by section 1 of HB 1379, shall be renumbered as RSA 400-A:15-f.

134:3 Effective Date. This act shall take effect upon its passage.

Approved: May 30, 2018
Effective Date: May 30, 2018