

Amendment to SB 429-FN

1 Amend the title of the bill by replacing it with the following:

2
3 AN ACT establishing a consumer services program within the insurance department.
4

5 Amend the bill by replacing all after the enacting clause with the following:
6

7 1 New Section; Consumer Services Program. Amend RSA 400-A by inserting after section 15-d
8 the following new section:

9 400-A:15-e Consumer Services Program.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

28 IV. In coordination with the consumer services program, the commissioner shall provide for
29 the education of, and dissemination of information to, members of the general public concerning
30 insurance matters. The commissioner may in person or through employees of the department meet
31 with individuals, organizations, and associations interested in insurance for the purpose of securing
32 cooperation in the enforcement of the insurance laws of this state and may disseminate information
33 concerning the insurance laws of this state for the assistance and information of the public. In
34 addition, the commissioner shall arrange for public service announcements, website information,
35 social media statements, and other outreach efforts reasonably designed to inform consumers of the
36 availability of the department's consumer assistance program and how to register a complaint or
37 make an inquiry to the department.

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

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

21 2 Effective Date. This act shall take effect upon its passage.

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AMENDED ANALYSIS

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