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New Jersey Insurance Fair Conduct Act, Establishing Private Cause of Action for Bad Faith, Passes Legislature

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On January 10, 2022, the New Jersey Insurance Fair Conduct Act (Senate Bill 1559) passed in both the state Assembly (44 – 27 – 5) and state Senate (22 – 13). The bill establishes a private cause of action for first-party claimants regarding certain unfair or unreasonable practices by their insurer.

Under the bill, a claimant can file suit 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)." The term "unreasonable" is not defined in the bill and is thus open to interpretation by the courts.

The bill defines first-party claimants as "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."

The Insurance Fair Conduct Act now awaits consideration from Governor Phil Murphy. Traub Lieberman will issue an update upon Governor Murphy's veto or signature.

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