



# Insurance Bad Faith Bill Passes New Jersey State Senate

## Publication:

Riker Danzig Insurance Alert June 8, 2018

On June 7, 2018, the New Jersey State Senate passed the “New Jersey Insurance Fair Conduct Act” by a 21-14 margin. The legislation is significant because, if enacted, it would for the first time establish a private, statutory bad faith cause of action against insurers in New Jersey. Prior attempts to introduce similar bills, for close to a decade, have all died in the Senate. While the bill still has a long way to go to become law, its progress should be monitored closely.

The legislation appears focused on “first party claimants,” creating exposure with regard to, among other things, claims for property damage, personal injury protection (“PIP”) claims, and claims for uninsured motorist (“UM”) or underinsured motorist (“UIM”) benefits. If enacted into law, it would expose insurers to legal liability for either (1) an “unreasonable delay” or “unreasonable denial” of a claim for the payment of benefits under an insurance policy; or (2) any violations of the provisions of the New Jersey Unfair Claims Settlement Practices Act, N.J.S.A. 17:29B-4. Notably, the proposed legislation does not provide any guidance as to what would constitute an “unreasonable delay” or “unreasonable denial” in the claim handling process.

Moreover, the bill seeks to create a private right of action for violations of the existing Unfair Claims Settlement Practices Act and establish so-called “super penalties” against insurers. These penalties include mandatory treble damages, prejudgment interest, reasonable attorney’s fees, and all reasonable litigation expenses. The bill, with its “super penalties,” seeks to bring New Jersey in line with some of the most pro-policyholder jurisdictions in the United States, including Washington.

A copy of the draft legislation passed by the New Jersey State Senate may be downloaded [here](#).

If you have any questions about this proposed legislation and its potential impact, please contact:

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