

## CHAPTER 41

**AN ACT** to prevent discrimination against victims of domestic violence in certain insurance contracts, and supplementing chapter 29B of Title 17 of the Revised Statutes and P.L.1985, c.179 (C.17:23A-1 et seq.).

**BE IT ENACTED** by the Senate and General Assembly of the State of New Jersey:

C.17:29B-16 Definitions relative to victims of domestic violence.

1. As used in this act:

"Domestic violence" and "victim of domestic violence" shall have the same meaning as in section 3 of P.L.1991, c.261 (C.2C:25-19). "Domestic violence" shall also mean intentionally, knowingly or recklessly causing or attempting to cause damage to property so as to intimidate or attempt to control the behavior of a person in a relationship with a perpetrator of one or more acts of domestic violence.

"Domestic violence-related condition" means a medical condition which arises in whole or in part from one or more acts of domestic violence.

"Insurer" means:

a. any corporation, association, partnership, reciprocal exchange, interinsurer, Lloyd's insurer, fraternal benefit society or other person engaged in the business of insurance pursuant to Subtitle 3 of Title 17 of the Revised Statutes (R.S.17:17-1 et seq.), but shall not include health insurance, accident and health insurance, automobile medical payment insurance or personal injury protection insurance issued pursuant to P.L.1972, c.70 (C.39:6A-1 et seq.);

b. any corporation, association, partnership, reciprocal exchange, interinsurer, Lloyd's insurer, fraternal benefit society or other person engaged in the business of insurance that provides policies or contracts of life insurance delivered, issued, executed or renewed in this State pursuant to Subtitle 3 of Title 17B of the New Jersey Statutes (N.J.S.17B:17-1 et seq.), or approved for issuance or renewal in this State by the Commissioner of Banking and Insurance; and

c. the State disability benefits fund established by the "Temporary Disability Benefits Law," P.L.1948, c.110 (C.43:21-25 et seq.).

C.17:29B-17 Prohibited insurance practices relative to victims of domestic violence.

2. An insurer, on the basis that the insured or prospective insured: is or may be a victim of domestic violence; employs a person who is or may be a victim of domestic violence; or is a domestic violence shelter that is operating pursuant to the standards set forth in P.L.1979, c.337 (C.30:14-1 et seq.) or is employed by a domestic violence shelter, shall not discriminate by engaging in the practices set forth in subsections a., b. and c. of this section. The prohibited practices are:

a. denying, refusing to issue or renew, canceling or otherwise terminating an insurance policy;

b. (1) restricting, excluding or limiting benefits under an insurance policy, (2) denying a covered claim incurred by an insured as a result of domestic violence, or (3) failing to pay claims arising out of abuse to an innocent claimant to the extent of that claimant's legal interest in the covered property if the loss is caused by the intentional act of an insured, or using other exclusions or limitations on coverage which the Commissioner of Banking and Insurance has determined unreasonably restrict the ability of a victim of domestic violence to be indemnified for the loss; or

c. adding a premium differential to any insurance policy.

The provisions of paragraphs (2) and (3) of subsection b. of this section shall not require payment in excess of the loss or policy limits. The provisions of paragraph (3) of subsection b. of this section shall not require payment in the event that the claimant conspires with the insured to commit insurance fraud. Nothing in paragraphs (2) and (3) of subsection b. of this section shall be construed to prohibit an insurer from applying reasonable standards of proof to claims under this section.

Nothing contained in this section shall be construed to require an insurer to issue or renew an insurance policy or contract, or provide benefits or coverage for claims, solely on the basis that an insured or prospective insured: is or may be a victim of domestic violence; employs a person who is or may be a victim of domestic violence; or is a domestic violence shelter or is

employed by a domestic violence shelter.

C.17:23A-13.3 Disclosure of information relative to victim of domestic violence prohibited; exceptions.

3. An insurer or insurance producer shall not disclose any personal or privileged information collected or received in connection with an insurance transaction regarding an individual's status as a victim of domestic violence or a domestic violence-related condition as defined in section 1 of P.L.2003, c.41 (C.17:29B-16), or the individual's status as an employer of a victim of domestic violence, unless the disclosure is:

a. To the individual or another person with the written authorization of the individual;

b. To a licensed physician or health care provider for the direct provision of health care services with the written authorization of the individual;

c. Ordered by a court of competent jurisdiction;

d. Necessary to perform a valid business purpose, including the transfer of personal or privileged information that cannot be reasonably segregated without undue hardship, provided that the recipient of the information has executed a written agreement with the insurer or insurance producer and the disclosure is for the benefit of the individual. The disclosure shall only be made to the following:

(1) A reinsurer who seeks to reinsure a policy covering the individual and cannot write or satisfy the reinsurer's obligations under a reinsurance agreement without the disclosure;

(2) A party to a proposed or consummated sale, transfer, merger or consolidation of all or part of the business of an insurer or insurance producer;

(3) A medical or claims professional contracting with the insurer or insurance producer, when necessary, to process an application, perform the insurer or insurance producer's duties under a policy, or protect the safety or privacy of the individual; or

(4) A person, other than the insurer or insurance producer, to enable the person to transact business with the disclosing insurer or insurance producer, if the business cannot be transacted without the individual's address and telephone number, and the person agrees not to disclose the information further without the individual's written authorization;

e. To an attorney for the purpose of representing the insurer or insurance producer in a judicial matter, provided that the insurer or insurance producer informs the attorney of its obligations under this section and requests the attorney to exercise due diligence in preventing the disclosure of the information, unless disclosure is reasonably necessary to enable the attorney to effectively represent the insurer or insurance producer;

f. To a policyholder or assignee, in the course of delivering an insurance policy, if the policy contains information about the individual's status as a victim of domestic violence or domestic violence-related condition or an employer of a victim of domestic violence;

g. To any other entity as ordered by the commissioner; or

h. Otherwise required by law.

As used in this section, "individual" shall have the same meaning as defined in section 2 of P.L.1985, c.179 (C.17:23A-2).

C.17:29B-18 Complaints, penalties for violations.

4. a. A person aggrieved by a violation of this act may file a complaint with the Commissioner of Banking and Insurance. Upon receipt of the complaint, the commissioner shall investigate an insurer to determine whether the insurer has violated any provision of this act.

b. The commissioner may:

(1) order an insurer that is in violation to pay a monetary penalty of \$5,000 for each violation;

(2) order the insurer to make restitution to the aggrieved person; or

(3) obtain equitable relief in a State or federal court of competent jurisdiction against an insurer, as well as the costs of suit, attorney's fees and expert witness fees.

C.17:29B-19 Rules, regulations.

5. The Commissioner of Banking and Insurance shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to

effectuate the purposes of this act.

6. This act shall take effect immediately.

Approved April 14, 2003.