



General Assembly

Substitute Bill No. 6549

January Session, 2013



**AN ACT ESTABLISHING A MEDIATION PROGRAM FOR CERTAIN
INSURANCE POLICY CLAIMS ARISING FROM A CATASTROPHIC
EVENT.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2013*) (a) (1) The Insurance
2 Department shall establish a mediation program for any claim for loss
3 or damage to personal or real property that arises under a claimant's
4 (A) personal risk insurance policy, as defined in section 38a-663 of the
5 general statutes, other than a private passenger nonfleet automobile
6 insurance policy, (B) condominium association master policy under
7 section 47-83 of the general statutes, or (C) unit owners' association
8 property insurance policy under section 47-255 of the general statutes,
9 as a result of a catastrophic event for which the Governor has declared
10 a state of emergency. Any company licensed to write the lines of
11 insurance set forth in subparagraphs (A) to (C), inclusive, of this
12 subdivision shall participate in the mediation program. For purposes
13 of this section, "claim" means any dispute between a claimant and such
14 claimant's insurer arising from such catastrophic event in which the
15 difference between the position of the parties is five thousand dollars
16 or more, notwithstanding any applicable deductible, except that the
17 parties may agree to mediate a dispute involving a lesser amount. A
18 claim does not include a dispute with respect to which the insurer has
19 reported allegations of fraud, based on an investigation by the

20 insurer's special investigative unit, to the Insurance Department.

21 (2) This section shall not apply to any claim made under a flood
22 insurance policy issued by the National Flood Insurance Program or to
23 any claim for which coverage is in dispute.

24 (b) The Insurance Commissioner shall designate an entity as the
25 commissioner's designee to carry out the mediations pursuant to this
26 section. The insurer shall pay the mediation fee to the designated
27 entity not later than five business days after such insurer receives an
28 invoice for such mediation from such entity. The insurer shall not be
29 responsible for any cost incurred by an insured for advisors or
30 representatives, including, but not limited to, attorneys or public
31 adjusters.

32 (c) The mediation shall be conducted in accordance with procedures
33 established by the designated entity and approved by the
34 commissioner. The commissioner shall not designate an entity as the
35 commissioner's designee unless:

36 (1) Such entity agrees (A) that the commissioner shall oversee the
37 operational procedures of such entity with respect to the
38 administration of the mediation program, (B) that the commissioner
39 shall have access to all systems, databases and records related to the
40 mediation program, and (C) to make reports to the commissioner in a
41 form and manner prescribed by the commissioner;

42 (2) Such entity's procedures require that (A) the parties agree, in
43 writing, prior to the mediation that statements made during the
44 mediation are confidential and will not be admitted into evidence in
45 any civil action concerning the claim, except with respect to any
46 proceeding or investigation of insurance fraud, (B) a settlement
47 agreement reached in a mediation shall be transcribed into a written
48 agreement, on a form approved by the commissioner, that is signed by
49 the claimant and a representative of the insurer with the authority to
50 do so, and (C) a settlement agreement prepared during a mediation

51 shall include a provision affording the claimant a right to rescind the
52 agreement within three business days after the date such agreement is
53 reached, provided the claimant has not cashed or deposited any check
54 or draft disbursed to the claimant for the disputed matters as a result
55 of such agreement; and

56 (3) Such entity's procedures provide that (A) the mediator may
57 terminate a mediation session if the mediator determines that either
58 the claimant or the insurer's representative is not participating in the
59 mediation in good faith, or if even after good faith efforts, a settlement
60 cannot be reached, (B) the designated entity may schedule additional
61 mediation sessions if it believes the sessions may result in a settlement,
62 (C) the designated entity may require the insurer to send a different
63 representative to a rescheduled mediation session if the first
64 representative has not participated in the mediation in good faith, and
65 any fee for such other representative shall be paid by the insurer, and
66 (D) the designated entity may reschedule a mediation session if the
67 mediator determines that the claimant is not participating in good
68 faith, but only if the claimant pays the entity's fee for the mediation.

69 (d) A claimant's right to request mediation pursuant to this section
70 shall not affect any other right the claimant may have to redress the
71 dispute, including any remedies specified in the insurance policy or
72 any right provided by law.

73 (e) The commissioner shall adopt regulations, in accordance with
74 the provisions of chapter 54 of the general statutes, to implement the
75 provisions of this section. Such regulations shall include, but not be
76 limited to, (1) the form and manner of notification by the insurer to an
77 insured of the right to mediation, (2) the forms and procedures for a
78 claimant or an insurer to request a mediation proceeding, and (3) the
79 requirements for an insurer's participation at the mediation hearing.

<p>This act shall take effect as follows and shall amend the following sections:</p>
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Section 1	October 1, 2013	New section
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INS *Joint Favorable Subst.*