S T A T E   O F   N E W   Y O R K

4426

2011-2012 Regular Sessions

I N S E N A T E

April 5, 2011

Introduced by Sen. SEWARD -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance

AN ACT to amend the insurance law, in relation to extending the effectiveness of certain provisions relating to automobile and property/casualty insurance rates

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subsection (g) of section 5412 of the insurance law, as amended by chapter 136 of the laws of 2008, is amended to read as follows:

(g) The provisions of this section shall cease to be of any force or effect on or after June thirtieth, two thousand [eleven] FOURTEEN, except that policies issued or other obligations incurred by the association shall not be impaired by the expiration of this section and the association shall continue for the purpose of servicing such policies and performing such obligations.

S 2. Sections 2328 and 2329 of the insurance law, as amended by chapter 136 of the laws of 2008, are amended to read as follows:

S 2328. Certain motor vehicle insurance rates; prior approval. For the periods February first, nineteen hundred seventy-four through August second, two thousand one, and the effective date of the property/casualty insurance availability act through June thirtieth, two thousand [eleven] FOURTEEN, no changes in rates, rating plans, rating rules and rate manuals applicable to motor vehicle insurance, including no-fault coverages under article fifty-one of this chapter, shall be made effective until approved by the superintendent, notwithstanding any inconsistent provisions of this article; provided, however, that changes in such rates, rating plans, rating rules and rate manuals may be made effective without such approval if the rates which result from such changes are no higher than the insurer's rates last approved by the superintendent. This section shall apply only to policies covering loss-

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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es or liabilities arising out of ownership of a motor vehicle used principally for the transportation of persons for hire, including a bus or a school bus as defined in sections one hundred four and one hundred forty-two of the vehicle and traffic law.

S 2329. Motor vehicle insurance rates; excess profits. In accordance with regulations prescribed by the superintendent, each insurer issuing policies which are subject to article fifty-one of this chapter, including policies of motor vehicle personal injury liability insurance or policies of motor vehicle property damage liability insurance or insurance for loss or damage to a motor vehicle, shall establish a fair, practicable, and nondiscriminatory plan for refunding or otherwise crediting to those purchasing such policies their share of the insurer's excess profit, if any, on such policies. An excess profit shall be a profit beyond a percentage rate of return on net worth attributable to such policies, computed in accordance with the regulation required by section two thousand three hundred twenty-three of this article, and determined by the superintendent to be so far above a reasonable average profit as to amount to an excess profit, taking into consideration the fact that losses or profits below a reasonable average profit will not be recouped from such policyholders. Each plan shall apply to policy periods for the periods January first, nineteen hundred seventy-four through August second, two thousand one, and the effective date of the property/casualty insurance availability act through June thirtieth, two thousand [eleven] FOURTEEN. In prescribing such regulations the superintendent may limit the duration of such plans, waive any requirement for refund or credit which he or she determines to be de minimis or impracticable, adopt forms of returns which shall be made to him or her in order to establish the amount of any refund or credit due, establish periods and times for the determination and distribution of refunds and credits, and shall provide that insurers receive appropriate credit against any refunds or credits required by any such plan for policyholder dividends and for return premiums which may be due under rate credit or retrospective rating plans based on experience.

S 3. Paragraph 2 of subsection (l) of section 3425 of the insurance law, as amended by chapter 136 of the laws of 2008, is amended to read as follows:

(2) The superintendent shall collect, analyze and compile such reports with regard to the number of new insureds, non-renewed insureds and business written by each insurer in each rating territory of each such insurer and, in each case, the class of insureds (including age and sex) affected so that a statistical analysis of the results obtained pursuant to subsections (f) and (m) of this section shall be provided to each house of the legislature by March fifteenth, in the years nineteen hundred ninety-two, nineteen hundred ninety-six, nineteen hundred ninety-eight, two thousand one, two thousand six, two thousand seven, two thousand eight [and], two thousand eleven AND TWO THOUSAND FOURTEEN.

S 4. Paragraphs 1 and 2 and the opening paragraph of paragraph 3 of subsection (m) of section 3425 of the insurance law, as amended by chapter 136 of the laws of 2008, are amended to read as follows:

(1) Paragraphs eight and nine of subsection (a), subsection (f) and subparagraphs (B) and (E) of paragraph one of subsection (j) of this section shall not apply to any new covered policy of automobile insurance voluntarily written on or after August first, nineteen hundred eighty-five and prior to January first, nineteen hundred eighty-six, and on or after August second, two thousand one and prior to the effective date of the property/casualty insurance availability act, and on or

after June thirtieth, two thousand [eleven] FOURTEEN, but the legal rights granted to insurers or policyholders under such provisions shall not be extinguished or impaired thereby.

(2) In lieu of such provisions, paragraph seven of subsection (a), subparagraph (A) of paragraph one of subsection (j) and paragraph three of this subsection shall apply to such automobile insurance policies which are newly and voluntarily written to have an effective date on or after August first, nineteen hundred eighty-five and prior to January first, nineteen hundred eighty-six, and on or after August second, two thousand one and prior to the effective date of the property/casualty insurance availability act, and on or after June thirtieth, two thousand [eleven] FOURTEEN.

On and after August first, nineteen hundred eighty-five and prior to January first, nineteen hundred eighty-six, and on or after August second, two thousand one and prior to the effective date of the property/casualty insurance availability act, and on or after June thirtieth, two thousand [eleven] FOURTEEN, no notice of nonrenewal or conditional renewal of such covered automobile insurance policies referred to in this subsection shall be issued to become effective during the required policy period unless it is based upon a ground for which the policy could have been cancelled or unless it is based upon one or more of the following grounds which occurred during the thirty-six month period ending on the last day of the fourth month preceding the month of the effective date of such notice of nonrenewal or conditional renewal:

S 5. Subsection (f) of section 2305 of the insurance law, as amended by chapter 136 of the laws of 2008, is amended to read as follows:

(f) Subsection (a) of this section shall be of no force or effect during the period August third, two thousand one through the day before the effective date of the property/casualty insurance availability act, and after June thirtieth, two thousand [eleven] FOURTEEN. During the period August third, two thousand one through the day before the effective date of the property/casualty insurance availability act, and again commencing on July first, two thousand [eleven] FOURTEEN, all rates previously subject to subsection (a) of this section, other than rates which are not required to be filed pursuant to subsection (b) of section two thousand three hundred ten of this article or which have been suspended from the filing requirement pursuant to section two thousand three hundred eleven of this article, shall become subject to subsections (b), (c) and (d) of this section. All other provisions of this article applicable to kinds of insurance or insurance activities the rates for which are subject to prior approval under subsection (b) of this section shall apply to kinds of insurance the rates for which were previously subject to subsection (a) of this section or the rates for which are not required to be filed pursuant to subsection (b) of section two thousand three hundred ten of this article or the rates for which have been suspended from the filing requirement pursuant to section two thousand three hundred eleven of this article.

S 6. Section 2342 of the insurance law, as amended by chapter 136 of the laws of 2008, is amended to read as follows:

S 2342. Expiration of certain provisions. The provisions of subsection (c) of section two thousand three hundred seven, section two thousand three hundred eight, subsection (a) of section two thousand three hundred ten, sections two thousand three hundred sixteen, two thousand three hundred twenty, two thousand three hundred twenty-three, two thousand three hundred twenty-six, and two thousand three hundred thirty-five, subsection (b) of section two thousand three hundred thirty-six and section two thousand three hundred forty-one of this article shall cease to be of any force or effect during the period August third, two thousand one through the day before the effective date of the property/casualty insurance availability act, and after June thirtieth, two thousand [eleven] FOURTEEN.

S 7. Subsection (h) of section 2344 of the insurance law, as amended by chapter 136 of the laws of 2008, is amended to read as follows:

(h) This section shall cease to be of any force or effect during the period August third, two thousand one through the day before the effective date of the property/casualty insurance availability act, and after June thirtieth, two thousand [eleven] FOURTEEN, except that rates shall reflect the likely reductive cost effects reasonably attributable to the statutory provisions specified in paragraph one of subsection (g) of this section.

S 8. This act shall take effect immediately.