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

5562

2011-2012 Regular Sessions

I N S E N A T E

June 2, 2011

Introduced by Sen. SEWARD -- (at request of the New York State Insurance Department) -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance

AN ACT to amend the insurance law and the penal law, in relation to the definition of insurance fraud

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

Section 1. Subsection (a) of section 403 of the insurance law is amended to read as follows:

(a) In this article, "fraudulent insurance act" means [an] insurance fraud as defined in section 176.05 of the penal law; and the terms "personal insurance" and "commercial insurance" shall have the same meaning ascribed to them by section 176.00 of such law.

S 2. Section 176.05 of the penal law, as amended by chapter 635 of the laws of 1996, subdivision 1 as designated and subdivision 2 as added by chapter 2 of the laws of 1998, is amended to read as follows:

S 176.05 Insurance fraud; defined.

[1.] A fraudulent insurance act is committed by any person who, knowingly and with intent to defraud presents, causes to be presented, or prepares with knowledge or belief that it will be presented to or by an insurer, self insurer, or purported insurer, or purported self insurer, or any agent thereof[,]:

1. any written statement as part of, or in support of, an application for the issuance of, or the rating of a commercial insurance policy, or certificate or evidence of self insurance for commercial insurance or commercial self insurance, or a claim for payment or other benefit pursuant to an insurance policy or self insurance program for commercial or personal insurance [which] THAT he OR SHE knows to:

[(i)] (A) contain materially false information concerning any fact material thereto; or

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

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[(ii)] (B) conceal, for the purpose of misleading, information concerning any fact material thereto[.]; OR

2. [A fraudulent health care insurance act is committed by any person who, knowingly and with intent to defraud, presents, causes to be presented, or prepares with knowledge or belief that it will be presented to, or by, an insurer or purported insurer or self-insurer, or any agent thereof,] any written statement or other physical evidence as part of, or in support of, an application for the issuance of a health insurance policy, or a policy or contract or other authorization that provides or allows coverage for, membership or enrollment in, or other services of a public or private health plan, or a claim for payment, services or other benefit pursuant to such policy, contract or plan[, which] THAT he OR SHE knows to:

(a) contain materially false information concerning any material fact thereto; or

(b) conceal, for the purpose of misleading, information concerning any fact material thereto.

Such policy or contract or plan or authorization shall include, but not be limited to, those issued or operating pursuant to any public or governmentally-sponsored or supported plan for health care coverage or services or those otherwise issued or operated by entities authorized pursuant to the public health law. For purposes of this subdivision an "application for the issuance of a health insurance policy" shall not include [(a)] (I) any application for a health insurance policy or contract approved by the superintendent of insurance pursuant to the provisions of sections three thousand two hundred sixteen, four thousand three hundred four, four thousand three hundred twenty-one or four thousand three hundred twenty-two of the insurance law or any other application for a health insurance policy or contract approved by the superintendent of insurance in the individual or direct payment market; [and (b)] OR (II) any application for a certificate evidencing coverage under a self-insured plan or under a group contract approved by the superintendent of insurance.

S 3. This act shall take effect immediately.