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I N   S E N A T E

March 15, 2012

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Introduced by Sen. ROBACH -- 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 a health insurance demonstration program for early retirees; and providing for the repeal of such provisions upon expiration thereof

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

1     Section 1. The insurance law is amended by adding a new section 1123-a  
2     to read as follows:

3     S 1123-A. HEALTH INSURANCE DEMONSTRATION PROGRAM FOR FORMER EMPLOY-  
4     EES. (A) PURPOSE OF THE DEMONSTRATION PROGRAM. THE LEGISLATURE RECOG-  
5     NIZES THAT FORMER EMPLOYEES WHO HAVE RELIED ON EMPLOYER-SPONSORED HEALTH  
6     INSURANCE COVERAGE, AND IN SOME CASES, THE PROMISE OF CONTINUED HEALTH  
7     INSURANCE, HAVE BEEN ADVERSELY AFFECTED BY THE ECONOMY AND THE INABILITY  
8     OF THEIR FORMER EMPLOYERS TO CONTINUE TO PROVIDE HEALTH INSURANCE.  
9     THESE INDIVIDUALS OFTEN FIND THEMSELVES WITHOUT ACCESS TO OTHER EMPLOY-  
10    ER-SPONSORED COVERAGE AND ARE TOO YOUNG TO ENROLL IN MEDICARE. THE  
11    DIRECT PAY MARKET IS NOT ALWAYS A VIABLE OPTION FOR THESE INDIVIDUALS  
12    BECAUSE OF COST. THE DEMONSTRATION PROGRAM AUTHORIZED BY THIS SECTION IS  
13    INTENDED TO PROVIDE A MECHANISM TO ALLOW THESE INDIVIDUALS TO PARTIC-  
14    IPATE IN THEIR OWN GROUP HEALTH INSURANCE PROGRAMS THAT MEET THEIR  
15    SPECIAL NEEDS, WHILE ENSURING COMPLIANCE WITH THIS CHAPTER AND ANY REGU-  
16    LATIONS PROMULGATED THEREUNDER, INCLUDING BENEFIT MANDATES. THE DEMON-  
17    STRATION PROGRAM WILL ENABLE THE LEGISLATURE AND THE SUPERINTENDENT TO  
18    ASSESS WHETHER TO PERMIT AN ASSOCIATION OF FORMER EMPLOYEES TO CONTINUE  
19    TO HAVE HEALTH INSURANCE COVERAGE UNDER SIMILAR TERMS AS THEY HAVE  
20    ENJOYED WHILE EMPLOYED UNTIL THEY ARE ELIGIBLE FOR COVERAGE UNDER TITLE  
21    XVIII OF THE SOCIAL SECURITY ACT (MEDICARE) OR UNTIL OTHER COMPARABLE  
22    GROUP HEALTH INSURANCE COVERAGE BECOMES AVAILABLE.

23    (B) DEFINITIONS. IN THIS SECTION:

24    (1) "ELIGIBLE ASSOCIATION" MEANS AN ENTITY THAT: (A) IS EXEMPT FROM  
25    FEDERAL TAXATION UNDER SECTION 501(C)(3) OR (C)(4) OF THE INTERNAL  
26    REVENUE CODE; (B) WAS INCORPORATED ON OR BEFORE JANUARY FIRST, TWO THOU-  
27    SAND TEN; (C) MEETS THE CRITERIA SET FORTH IN SUBPARAGRAPH (K) OF PARA-

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

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GRAPH ONE OF SUBSECTION (C) OF SECTION FOUR THOUSAND TWO HUNDRED THIRTY-FIVE OF THIS CHAPTER; AND (D) HAS BEEN ESTABLISHED FOR THE BENEFIT OF FORMER EMPLOYEES OF A COMPANY IN THIS STATE.

(2) "ELIGIBLE INSURER" MEANS A HEALTH SERVICE CORPORATION ORGANIZED PURSUANT TO ARTICLE FORTY-THREE OF THIS CHAPTER THAT, AS OF THE EFFECTIVE DATE OF THIS SECTION, HAS ITS PARENT HEADQUARTERS IN THE SAME COUNTY AS THE ELIGIBLE ASSOCIATION AND THAT HAS A NATIONAL NETWORK OF PROVIDERS ABLE TO PROVIDE SERVICES TO MEMBERS OF THE ELIGIBLE ASSOCIATION.

(3) "FORMER EMPLOYEE" MEANS AN INDIVIDUAL: (A) WHO WAS FORMERLY EMPLOYED BY A COMPANY HEADQUARTERED IN THIS STATE AND WHICH HAS BEEN IN OPERATION FOR OVER ONE HUNDRED YEARS; (B) WHO HAS HERETOFORE RECEIVED HEALTH INSURANCE COVERAGE THROUGH THE FORMER EMPLOYER, (C) WHOSE FORMER EMPLOYER FILED FOR CHAPTER ELEVEN BANKRUPTCY IN JANUARY TWO THOUSAND TWELVE, AND (D) WHO IS NOT ELIGIBLE FOR MEDICARE OR FOR GROUP HEALTH INSURANCE COVERAGE THROUGH ANOTHER EMPLOYER.

(4) "GROUP HEALTH INSURANCE" MEANS INSURANCE PROVIDING HOSPITAL, SURGICAL OR MEDICAL EXPENSE COVERAGE OR OTHER SIMILAR COMPREHENSIVE HEALTH INSURANCE COVERAGE.

(C) DEMONSTRATION PROGRAM FOR FORMER EMPLOYEES. (1) BOTH THE INSURER AND THE GROUP HEALTH INSURANCE POLICIES ISSUED TO THE ELIGIBLE ASSOCIATION SHALL BE SUBJECT TO THE PROVISIONS OF THIS CHAPTER AND ANY REGULATIONS PROMULGATED THEREUNDER, EXCEPT THAT THE ELIGIBLE ASSOCIATION SHALL NOT BE CONSIDERED A SMALL GROUP UNDER THIS CHAPTER.

(2) SUBJECT TO PARAGRAPH THREE OF THIS SUBSECTION, THE SUPERINTENDENT MAY ISSUE AN APPROVAL TO AN ELIGIBLE INSURER IF: (A) THE ELIGIBLE INSURER DEMONSTRATES THAT IT SATISFIES ALL FINANCIAL, OPERATIONAL AND OTHER REQUIREMENTS OF THIS CHAPTER AND REGULATIONS PROMULGATED THEREUNDER, OTHER THAN ANY REQUIREMENTS EXPRESSLY WAIVED BY THIS SECTION, AND SHALL OPERATE THE DEMONSTRATION PROGRAM IN ACCORDANCE WITH THE REQUIREMENTS OF THIS SECTION; AND (B) THE SUPERINTENDENT DETERMINES THAT THE DEMONSTRATION PROGRAM FURTHERS THE PUBLIC POLICY GOALS OF THIS SECTION.

(3) ANY ELIGIBLE INSURER SEEKING THE SUPERINTENDENT'S APPROVAL UNDER PARAGRAPH TWO OF THIS SUBSECTION SHALL SUBMIT A WRITTEN REQUEST TO THE SUPERINTENDENT WITHIN THIRTY DAYS OF THE EFFECTIVE DATE OF THIS SECTION. THE ELIGIBLE INSURER'S APPLICATION SHALL: SPECIFY THE IDENTITY AND COMPOSITION OF THE ELIGIBLE ASSOCIATION, THE ELIGIBLE ASSOCIATION'S MEMBERSHIP RULES, AND THE TERMS UNDER WHICH THE ELIGIBLE INSURER SHALL PROVIDE GROUP HEALTH INSURANCE TO THE ELIGIBLE ASSOCIATION; DEMONSTRATE THAT THE ELIGIBLE INSURER AND THE ELIGIBLE ASSOCIATION THE REQUIREMENTS SET FORTH IN THIS SECTION; AND IDENTIFY THE GROUP HEALTH INSURANCE POLICY FORMS THAT THE ELIGIBLE INSURER WILL ISSUE TO THE ELIGIBLE ASSOCIATION. THE SUPERINTENDENT SHALL MAKE A DETERMINATION ON ANY REQUEST WITHIN NINETY DAYS OF RECEIPT OF ALL NECESSARY INFORMATION. THE SUPERINTENDENT SHALL ISSUE AN APPROVAL TO ONLY ONE ELIGIBLE INSURER.

(4) THE SUPERINTENDENT MAY REVOKE AN APPROVAL ISSUED UNDER PARAGRAPH TWO OF THIS SUBSECTION IF: THE INSURER THAT RECEIVED SUCH APPROVAL NO LONGER QUALIFIES AS AN ELIGIBLE INSURER OR IS OTHERWISE OPERATING IN A MANNER INCONSISTENT WITH THE PROVISIONS OF THIS CHAPTER OR REGULATIONS PROMULGATED THEREUNDER; OR THE ASSOCIATION TO WHICH THE ELIGIBLE INSURER ISSUED THE GROUP HEALTH INSURANCE POLICY NO LONGER QUALIFIES AS AN ELIGIBLE ASSOCIATION. AN ELIGIBLE INSURER THAT RECEIVES APPROVAL UNDER PARAGRAPH TWO OF THIS SUBSECTION SHALL SUBMIT PERIODIC REPORTS TO THE SUPERINTENDENT SUFFICIENT TO ENABLE THE SUPERINTENDENT TO EVALUATE THE EFFECTIVENESS OF THE DEMONSTRATION PROGRAM. SUCH REPORTS SHALL INCLUDE A COMPARISON OF THE COST OF HEALTH INSURANCE OBTAINED UNDER THE PROGRAM TO

1 OTHER AVAILABLE INSURANCE OPTIONS, INCLUDING GROUP HEALTH INSURANCE  
2 POLICIES DELIVERED OR ISSUED FOR DELIVERY IN THIS STATE, DEMOGRAPHIC AND  
3 GEOGRAPHIC ANALYSIS OF THE ENROLLED POPULATION AND ANY OTHER INFORMATION  
4 REQUIRED BY THE SUPERINTENDENT.

5 S 2. This act shall take effect immediately and shall expire December  
6 31, 2013 when upon such date the provisions of this act shall be deemed  
7 repealed.