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I N   S E N A T E

January 31, 2014

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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 internet enrollment of employees

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

1     Section 1. The opening paragraph and subparagraph (D) of paragraph 1  
2     of subsection (b) of section 1101 of the insurance law, the opening  
3     paragraph as amended by section 1 of part I of chapter 61 of the laws of  
4     2011, are amended to read as follows:  
5     Except as OTHERWISE provided in [paragraph two, three, three-a, or  
6     seven of] this subsection, any of the following acts in this state,  
7     effected by mail from outside this state or otherwise, by any person,  
8     firm, association, corporation or joint-stock company shall constitute  
9     doing an insurance business in this state and shall constitute doing  
10    business in the state within the meaning of section three hundred two of  
11    the civil practice law and rules:  
12    (D) doing any kind of business, including a reinsurance business,  
13    specifically recognized as constituting the doing of an insurance busi-  
14    ness within the meaning of this chapter; OR  
15    S 2. Subsection (b) of section 1101 of the insurance law is amended by  
16    adding a new paragraph 8 to read as follows:  
17    (8) NOTWITHSTANDING THE FOREGOING, THE MAINTENANCE OF A WEBSITE  
18    OUTSIDE THE STATE BY AN UNAUTHORIZED FOREIGN OR ALIEN INSURER DULY  
19    LICENSED TO TRANSACT THE BUSINESS OF INSURANCE IN AND BY THE LAWS OF ITS  
20    DOMICILE, BY WHICH A MEMBER OF A GROUP MAY SELF-ENROLL, THROUGH AN AUTO-  
21    MATED PROCESS, IN A GROUP LIFE, GROUP ANNUITY, OR GROUP ACCIDENT AND  
22    HEALTH INSURANCE POLICY OR CONTRACT, AS DEFINED IN PARAGRAPHS ONE, TWO,  
23    AND THREE OF SUBSECTION (A) OF SECTION ONE THOUSAND ONE HUNDRED THIRTEEN  
24    OF THIS ARTICLE, SHALL NOT CONSTITUTE DOING AN INSURANCE BUSINESS IN  
25    THIS STATE, BUT SECTION ONE THOUSAND ONE HUNDRED THIRTEEN OF THIS ARTI-  
26    CLE NEVERTHELESS SHALL APPLY TO THE INSURER; PROVIDED THAT:  
27    (A) THE GROUP CONFORMS TO THE DEFINITION OF ELIGIBILITY CONTAINED IN:

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

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1 (I) PARAGRAPH ONE, TWO, FOUR (WITH RESPECT TO A POLICY ISSUED TO A  
2 TRUSTEE OR TRUSTEES OF A FUND ESTABLISHED OR PARTICIPATED IN BY TWO OR  
3 MORE EMPLOYERS, ONE OR MORE LABOR UNIONS, OR BY ONE OR MORE EMPLOYERS OR  
4 LABOR UNIONS, PROVIDED THAT ALL SUCH EMPLOYERS OR LABOR UNIONS ARE IN  
5 THE SAME INDUSTRY), OR FIVE OF SUBSECTION (B) OF SECTION FOUR THOUSAND  
6 TWO HUNDRED SIXTEEN OF THIS CHAPTER;

7 (II) SUBPARAGRAPH (A), (B), (C), OR (D) (WITH RESPECT TO A POLICY  
8 ISSUED TO A TRUSTEE OR TRUSTEES OF A FUND ESTABLISHED OR PARTICIPATED IN  
9 BY TWO OR MORE EMPLOYERS, ONE OR MORE LABOR UNIONS, OR BY ONE OR MORE  
10 EMPLOYERS OR LABOR UNIONS, PROVIDED THAT ALL SUCH EMPLOYERS OR LABOR  
11 UNIONS ARE IN THE SAME INDUSTRY) OF PARAGRAPH ONE OF SUBSECTION (C) OF  
12 SECTION FOUR THOUSAND TWO HUNDRED THIRTY-FIVE OF THIS CHAPTER; OR

13 (III) PARAGRAPHS ONE, TWO, THREE, FOUR OR ELEVEN OF SUBSECTION (B) OF  
14 SECTION FOUR THOUSAND TWO HUNDRED THIRTY-EIGHT OF THIS CHAPTER, BUT NOT  
15 INCLUDING A GROUP ANNUITY CONTRACT: (I) FUNDING INDIVIDUAL RETIREMENT  
16 ACCOUNTS OR INDIVIDUAL RETIREMENT ANNUITIES, AS DEFINED IN SECTION FOUR  
17 HUNDRED EIGHT OF THE INTERNAL REVENUE CODE; (II) FUNDING ANNUITIES IN  
18 ACCORDANCE WITH SUBDIVISION (B) OF SECTION FOUR HUNDRED THREE OF SUCH  
19 CODE; OR (III) PROVIDING A PLAN OF RETIREMENT ANNUITIES UNDER WHICH THE  
20 PAYMENTS ARE DERIVED WHOLLY FROM FUNDS CONTRIBUTED BY THE PERSONS  
21 COVERED.

22 (B) THE INSURER LAWFULLY ISSUED THE MASTER POLICY OR CONTRACT WITHOUT  
23 THIS STATE IN A JURISDICTION WHERE THE INSURER WAS AUTHORIZED TO DO AN  
24 INSURANCE BUSINESS;

25 (C) THE INSURER'S WEBSITE CLEARLY STATES THAT THE INSURER IS NOT  
26 AUTHORIZED TO TRANSACT THE BUSINESS OF INSURANCE IN THIS STATE; AND

27 (D) THE INSURER DOES NOT HAVE ANY OTHER CONTACT OR INTERACTION WITH  
28 THE MEMBER OTHER THAN AS SPECIFIED AND IN THE MANNER PROVIDED IN PARA-  
29 GRAPH TWO OF THIS SUBSECTION.

30 S 3. This act shall take effect immediately.