

6694

I N   S E N A T E

February 5, 2016

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

AN ACT to amend the insurance law, in relation to catastrophic or reinsurance coverage issued to certain small groups; to amend a chapter of the laws of 2015 amending the insurance law relating to catastrophic or reinsurance coverage issued to certain small groups, as proposed in legislative bills numbers S. 6004 and A. 8300, in relation to the effectiveness of such chapter; and in relation to directing the superintendent of financial services to contract with an independent entity to conduct an assessment regarding the impact of the prohibition on the sale of stop loss, catastrophic and reinsurance coverage to the small group market; to amend a chapter of the laws of 2015 amending the insurance law relating to catastrophic or reinsurance coverage issued to certain small groups, as proposed in legislative bills numbers S.5928-A and A.8134-A, in relation to the effectiveness of such chapter; and to repeal section 4 of a chapter of the laws of 2015 amending the insurance law relating to catastrophic or reinsurance coverage issued to certain small groups, as proposed in legislative bills numbers S. 6004 and A. 8300, relating thereto

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

1     Section 1. Paragraph 1 of subsection (h) of section 3231 of the insur-  
2     ance law, as amended by a chapter of the laws of 2015 amending the  
3     insurance law relating to catastrophic or reinsurance coverage issued to  
4     certain small groups, as proposed in legislative bills numbers S.6004  
5     and A.8300, is amended to read as follows:  
6     (1) Notwithstanding any other provision of this chapter, no insurer,  
7     subsidiary of an insurer, or controlled person of a holding company  
8     system may act as an administrator or claims paying agent, as opposed to  
9     an insurer, on behalf of small groups which, if they purchased insur-  
10    ance, would be subject to this section. No insurer[, subsidiary of an  
11    insurer, or controlled person of a holding company] may provide stop  
12    loss, catastrophic or reinsurance coverage to small groups which, if  
13    they purchased insurance, would be subject to this section.     Provided,

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

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1 however, the provisions of this paragraph shall not apply to: (A) THE  
2 RENEWAL OF stop loss, catastrophic or reinsurance coverage issued and in  
3 effect on [or before] January first, two thousand fifteen to small  
4 groups covering between fifty-one and one hundred employees or members  
5 of the group; AND (B) THE ISSUANCE BETWEEN JANUARY FIRST, TWO THOUSAND  
6 SIXTEEN AND DECEMBER THIRTY-FIRST, TWO THOUSAND SIXTEEN, OF STOP LOSS,  
7 CATASTROPHIC OR REINSURANCE COVERAGE, AND ANY RENEWAL THEREOF, TO A  
8 SMALL GROUP COVERING BETWEEN FIFTY-ONE AND ONE HUNDRED EMPLOYEES OR  
9 MEMBERS OF THE GROUP, PROVIDED THAT SUCH GROUP HAD STOP LOSS,  
10 CATASTROPHIC OR REINSURANCE COVERAGE ISSUED AND IN EFFECT ON JANUARY  
11 FIRST, TWO THOUSAND FIFTEEN.

12 S 2. Paragraph 1 of subsection (e) of section 4317 of the insurance  
13 law, as amended by a chapter of the laws of 2015 amending the insurance  
14 law relating to catastrophic or reinsurance coverage issued to certain  
15 small groups, as proposed in legislative bills numbers S.6004 and  
16 A.8300, is amended to read as follows:

17 (1) Notwithstanding any other provision of this chapter, no insurer,  
18 subsidiary of an insurer, or controlled person of a holding company  
19 system may act as an administrator or claims paying agent, as opposed to  
20 an insurer, on behalf of small groups which, if they purchased insur-  
21 ance, would be subject to this section. No insurer[, subsidiary of an  
22 insurer, or controlled person of a holding company] may provide stop  
23 loss, catastrophic or reinsurance coverage to small groups which, if  
24 they purchased insurance, would be subject to this section. Provided,  
25 however, the provisions of this paragraph shall not apply to: (A) THE  
26 RENEWAL OF stop loss, catastrophic or reinsurance coverage issued and in  
27 effect on [or before] January first, two thousand fifteen to small  
28 groups covering between fifty-one and one hundred employees or members  
29 of the group; AND (B) THE ISSUANCE BETWEEN JANUARY FIRST, TWO THOUSAND  
30 SIXTEEN, AND DECEMBER THIRTY-FIRST, TWO THOUSAND SIXTEEN, OF STOP LOSS,  
31 CATASTROPHIC OR REINSURANCE COVERAGE, AND ANY RENEWAL THEREOF, TO A  
32 SMALL GROUP COVERING BETWEEN FIFTY-ONE AND ONE HUNDRED EMPLOYEES OR  
33 MEMBERS OF THE GROUP, PROVIDED THAT SUCH GROUP HAD STOP LOSS,  
34 CATASTROPHIC OR REINSURANCE COVERAGE ISSUED AND IN EFFECT ON JANUARY  
35 FIRST, TWO THOUSAND FIFTEEN.

36 S 3. Paragraph 1 of subsection (g) of section 3231 of the insurance  
37 law, as amended by a chapter of the laws of 2015 amending the insurance  
38 law relating to catastrophic or reinsurance coverage issued to certain  
39 small groups, as proposed in legislative bills numbers S.5928-A and  
40 A.8134-A, is amended to read as follows:

41 (1) (A) This section shall also apply to policies issued to a group  
42 defined in subsection (c) of section four thousand two hundred thirty-  
43 five of this chapter, including but not limited to an association or  
44 trust of employers, if the group includes one or more member employers  
45 or other member groups [which have fifty] HAVING ONE HUNDRED or fewer  
46 employees or members exclusive of spouses and dependents. For [policies]  
47 A POLICY issued or renewed on or after January first, two thousand four-  
48 teen, if the group includes one or more member small group employers  
49 eligible for coverage subject to this section, then such member employ-  
50 ers shall be classified as small groups for rating purposes and the  
51 remaining members shall be rated consistent with the rating rules appli-  
52 cable to such remaining members pursuant to paragraph two of this  
53 subsection. [Provided, however this subsection shall not apply to groups  
54 which have been issued a policy on or before July first, two thousand  
55 fifteen, and have member employers, who, on or after such date, have  
56 between fifty-one and one hundred employees, exclusive of spouses and

1 dependents, and] (B) SUBPARAGRAPH A OF THIS PARAGRAPH SHALL NOT APPLY TO  
2 EITHER THE RENEWAL OF A POLICY ISSUED TO A GROUP OR THE ISSUANCE,  
3 BETWEEN JANUARY FIRST, TWO THOUSAND SIXTEEN AND DECEMBER THIRTY-FIRST,  
4 TWO THOUSAND SIXTEEN, OF A POLICY, AND ANY RENEWAL THEREOF, TO A GROUP,  
5 PROVIDED THAT THE FOLLOWING THREE REQUIREMENTS ARE MET: (I) THE GROUP  
6 HAD BEEN ISSUED A POLICY THAT WAS IN EFFECT ON JULY FIRST, TWO THOUSAND  
7 FIFTEEN; (II) THE GROUP HAD MEMBER EMPLOYERS, WHO, ON OR AFTER JULY  
8 FIRST, TWO THOUSAND FIFTEEN, HAVE BETWEEN FIFTY-ONE AND ONE HUNDRED  
9 EMPLOYEES, EXCLUSIVE OF SPOUSES AND DEPENDENTS; AND (III) the group is  
10 either: (i) [organized pursuant to article five-G of the general munic-  
11 ipal law and is] comprised entirely of one or more municipal corpo-  
12 rations or districts (as such terms are defined in section one hundred  
13 nineteen-n of the general municipal law); or (ii) comprised entirely of  
14 nonpublic schools providing education in any grade from pre-kindergarten  
15 through twelfth grade. [For such groups which have been issued a policy  
16 on or before July first, two thousand fifteen, the applicability of this  
17 subsection shall continue irrespective of whether the group selects a  
18 policy from a different insurer or if the member employer selects a  
19 different group for such coverage.]

20 S 4. Paragraph 1 of subsection (d) of section 4317 of the insurance  
21 law, as amended by a chapter of the laws of 2015 amending the insurance  
22 law relating to catastrophic or reinsurance coverage issued to certain  
23 small groups, as proposed in legislative bills numbers S.5928-A and  
24 A.8134-A, is amended to read as follows:

25 (1) (A) This section shall also apply to a contract issued to a group  
26 defined in subsection (c) of section four thousand two hundred thirty-  
27 five of this chapter, including but not limited to an association or  
28 trust of employers, if the group includes one or more member employers  
29 or other member groups [which have fifty] HAVING ONE HUNDRED or fewer  
30 employees or members exclusive of spouses and dependents. For  
31 [contracts] A CONTRACT issued or renewed on or after January first, two  
32 thousand fourteen, if the group includes one or more member small group  
33 employers eligible for coverage subject to this section, then such  
34 member employers shall be classified as small groups for rating purposes  
35 and the remaining members shall be rated consistent with the rating  
36 rules applicable to such remaining members pursuant to paragraph two of  
37 this subsection. [Provided, however this subsection shall not apply to  
38 groups which have been issued a policy on or before July first, two  
39 thousand fifteen, and have member employers, who, on or after such date,  
40 have between fifty-one and one hundred employees, exclusive of spouses  
41 and dependents, and] (B) SUBPARAGRAPH A OF THIS PARAGRAPH SHALL NOT  
42 APPLY TO EITHER THE RENEWAL OF A CONTRACT ISSUED TO A GROUP OR THE ISSU-  
43 ANCE, BETWEEN JANUARY FIRST, TWO THOUSAND SIXTEEN AND DECEMBER  
44 THIRTY-FIRST, TWO THOUSAND SIXTEEN, OF A CONTRACT, AND ANY RENEWAL THER-  
45 EOF, TO A GROUP, PROVIDED THAT THE FOLLOWING THREE REQUIREMENTS ARE MET:  
46 (I) THE GROUP HAD BEEN ISSUED A CONTRACT THAT WAS IN EFFECT ON JULY  
47 FIRST, TWO THOUSAND FIFTEEN; (II) THE GROUP HAD MEMBER EMPLOYERS, WHO,  
48 ON OR AFTER JULY FIRST, TWO THOUSAND FIFTEEN, HAVE BETWEEN FIFTY-ONE AND  
49 ONE HUNDRED EMPLOYEES, EXCLUSIVE OF SPOUSES AND DEPENDENTS; AND (III)  
50 the group is either: (i) [organized pursuant to article five-G of the  
51 general municipal law and are] comprised entirely of one or more munici-  
52 pal corporations or districts (as such terms are defined in section one  
53 hundred nineteen-n of the general municipal law); or (ii) comprised  
54 entirely of nonpublic schools providing education in any grade from  
55 pre-kindergarten through twelfth grade. [For such groups which have been  
56 issued a policy on or before July first, two thousand fifteen, the

1 applicability of this subsection shall continue irrespective of whether  
2 the group selects a policy from a different insurer or if the member  
3 employer selects a different group for such coverage.]

4 S 5. Section 4 of a chapter of the laws of 2015 amending the insurance  
5 law relating to catastrophic or reinsurance coverage issued to certain  
6 small groups, as proposed in legislative bills numbers S.6004 and A.8300  
7 is REPEALED.

8 S 6. Section 5 of a chapter of the laws of 2015 amending the insurance  
9 law relating to catastrophic or reinsurance coverage issued to certain  
10 small groups, as proposed in legislative bills numbers S.6004 and  
11 A.8300, is amended to read as follows:

12 S 5. This act shall take effect on the same date and in the same  
13 manner as a chapter of the laws of 2015 amending the insurance law  
14 relating to catastrophic or reinsurance coverage issued to certain small  
15 groups, as proposed in legislative bills numbers S.5928-A and A.8134-A,  
16 takes effect AND SHALL BE DEEMED REPEALED THREE YEARS THEREAFTER.

17 S 6-a. Section 5 of a chapter of the laws of 2015 amending the insur-  
18 ance law relating to catastrophic or reinsurance coverage issued to  
19 certain small groups, as proposed in legislative bills numbers S.5928-A  
20 and A.8134-A, as amended by a chapter of the laws of 2015 amending the  
21 insurance law relating to catastrophic or reinsurance coverage issued to  
22 certain small groups, as proposed in legislative bills numbers S.6004  
23 and A.8300, is amended to read as follows:

24 S 5. This act shall take effect immediately; and shall be deemed  
25 repealed [2] 3 years after it shall have become a law.

26 S 7. 1. The superintendent of financial services shall contract with  
27 an independent entity to conduct a review and draft a report assessing  
28 the impact of: (a) prohibiting the sale of stop loss coverage to the  
29 expanded small group market (groups sized 51 to 100); and (b) allowing  
30 the sale of stop loss coverage to groups that have between 51 and 100  
31 employees or members and are exempt from paragraph 1 of subsection (h)  
32 of section 3231 of the insurance law or paragraph 1 of subsection (e) of  
33 section 4317 of the insurance law.

34 2. The report shall, to the extent information is available: (a)  
35 assess the impact of the above mentioned actions on the ability of  
36 employers of 51 to 100 employees to provide health insurance coverage.  
37 Such impact analysis shall compare the financial costs to employers with  
38 51 to 100 employees of providing health coverage through purchasing a  
39 small group policy with providing self-funded benefit plans with stop  
40 loss coverage; (b) set forth the impact on the premiums within the small  
41 group comprehensive health insurance market from allowing such exempted  
42 groups to obtain stop loss coverage, including analysis as to whether  
43 allowing the sale of stop loss coverage to such exempted groups with  
44 between 51 and 100 members results in adverse selection within the small  
45 group comprehensive health insurance market by allowing such groups to  
46 select either stop loss or a small group comprehensive health insurance  
47 product; (c) survey and describe the number and features, including  
48 wellness programs, of health benefit packages available to employer  
49 purchasers of health insurance in the small group market and employers  
50 who provide self-funded benefits; (d) compare the differences between  
51 consumer protections provided under small group comprehensive health  
52 insurance products and consumer protections provided under self-funded  
53 benefit plans, including differences in limits on cost sharing, network  
54 adequacy, patient appeal rights, consumer review of rates during the  
55 prior approval process, examinations, audits, oversight, and insurer  
56 solvency requirements. The preparation of the report shall include a

1 review of insured rate filings, health insurance premium rating data,  
2 small group enrollment, and surveys of employers and stop loss carriers  
3 from New York.

4 3. The department of financial services shall submit its report to the  
5 governor, the temporary president of the senate, the speaker of the  
6 assembly, and the chairs of the senate and assembly standing committees  
7 on insurance no later than March 1, 2018.

8 4. Each authorized insurer that writes stop loss coverage in this  
9 state shall be responsible for the costs of the contract entered into  
10 pursuant to this section, in an amount in proportion to the gross direct  
11 stop loss premiums written or received by the insurer in this state  
12 during the 2015 calendar year.

13 S 8. This act shall take effect immediately; provided, however, that  
14 sections one, two, five and seven of this act shall take effect on the  
15 same date and in the same manner as a chapter of the laws of 2015 amend-  
16 ing the insurance law relating to catastrophic or reinsurance coverage  
17 issued to certain small groups, as proposed in legislative bills numbers  
18 S.6004 and A.8300, takes effect; provided further that sections three  
19 and four of this act shall take effect on the same date and in the same  
20 manner as a chapter of the laws of 2015 amending the insurance law,  
21 relating to catastrophic or reinsurance coverage issued to certain small  
22 groups, as proposed in legislative bills numbers S.5928-A and A.8134-A,  
23 takes effect and further provided, however, that the amendments to  
24 sections 3231 and 4317 of the insurance law made by sections one, two,  
25 three and four of this act shall not affect the expiration of such  
26 provisions and shall be deemed to expire therewith.