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I N A S S E M B L Y

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Introduced by M. of A. ESPAILLAT, PHEFFER, CASTRO, MILLMAN, SCHIMMINGER, KOON, COLTON, SCARBOROUGH, D. WEPRIN, SALADINO, BOYLAND, GIBSON, McDONOUGH -- Multi-Sponsored by -- M. of A. ABBATE, BARRON, CORWIN, DelMONTE, GABRYSZAK, MAGEE, MARKEY, MAYERSOHN, M. MILLER, QUINN, ROBINSON, TOWNSEND -- read once and referred to the Committee on Small Business

AN ACT to amend the insurance law and the state finance law, in relation to establishing the small business insurance pool

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 article 43-A
2 to read as follows:

3 ARTICLE 43-A

4 SMALL BUSINESS INSURANCE POOL PROGRAM

5 SECTION 4351. DEFINITIONS.

6 4352. SMALL BUSINESS INSURANCE BOARD.

7 4353. SMALL BUSINESS INSURANCE POOL PROGRAM.

8 S 4351. DEFINITIONS. AS USED IN THIS ARTICLE:

9 (A) "SMALL BUSINESS INSURANCE BOARD" OR "SBIB" MEANS THE BOARD ESTAB-
10 LISHED PURSUANT TO SECTION FOUR THOUSAND THREE HUNDRED FIFTY-TWO OF THIS
11 ARTICLE TO ESTABLISH AND MAINTAIN THE SMALL BUSINESS INSURANCE POOL
12 PROGRAM.

13 (B) "SMALL BUSINESS INSURANCE POOL PROGRAM" MEANS THE PROGRAM ESTAB-
14 LISHED PURSUANT TO SECTION FOUR THOUSAND THREE HUNDRED FIFTY-THREE UNDER
15 THE DIRECTION OF THE SBIB.

16 (C) "QUALIFIED BUSINESS" MEANS ANY PERSON, PROPRIETARY OR NONPROFIT
17 FIRM, CORPORATION OR PARTNERSHIP THAT IS ACTIVELY ENGAGED IN BUSINESS IN
18 THE STATE AND EMPLOYS AT LEAST ONE BUT NO MORE THAN ONE HUNDRED ELIGIBLE
19 EMPLOYEES, AS DEFINED IN THIS SECTION, AT LEAST FIFTY PERCENT OF THE
20 TIME SUCH BUSINESS IS IN OPERATION. ANY BUSINESS THAT ELECTS TO LEAVE
21 THE SMALL BUSINESS INSURANCE POOL PROGRAM SHALL BE PRECLUDED FROM RE-EN-
22 TERING THE PROGRAM WITHIN TWELVE MONTHS THEREAFTER.

23 (D) "ELIGIBLE EMPLOYEE" MEANS AN EMPLOYEE WHO IS EMPLOYED AT LEAST
24 FIFTY PERCENT OF THE TIME AND IS EMPLOYED WITHIN THE STATE. ELIGIBILITY

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

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1 SHALL ALSO EXTEND TO THE DEPENDENTS, SPOUSE OR DOMESTIC PARTNER OF THE
2 ELIGIBLE EMPLOYEE.

3 S 4352. SMALL BUSINESS INSURANCE BOARD. (A) THERE IS HEREBY ESTAB-
4 LISHED WITHIN THE DEPARTMENT THE SMALL BUSINESS INSURANCE BOARD (SBIB).
5 THE BOARD SHALL CONSIST OF FIVE MEMBERS: ONE EACH TO BE CHOSEN BY THE
6 GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE, THE SPEAKER OF THE
7 ASSEMBLY, THE MINORITY LEADER OF THE SENATE AND THE MINORITY LEADER OF
8 THE ASSEMBLY PROVIDED THAT NO MEMBER OF THE BOARD SHALL BE AN EMPLOYEE,
9 CONSULTANT OR A MEMBER OF THE BOARD OF DIRECTORS OF ANY INSURER, HOSPI-
10 TAL SERVICE PLAN OR HEALTH CARE SERVICE PLAN, OR AN INSURANCE BROKER OR
11 AGENT DOING BUSINESS IN THE STATE.

12 (B) THE BOARD SHALL HAVE THE FOLLOWING RESPONSIBILITIES:

13 (1) APPOINT AN ADMINISTRATOR WHO SHALL HIRE APPROPRIATE STAFF AS NEED-
14 ED.

15 (2) ENTER INTO CONTRACTS WITH CARRIERS TO PROVIDE HEALTH BENEFITS
16 COVERAGE TO ELIGIBLE EMPLOYEES AND THEIR DEPENDENTS.

17 (3) DEFINE THE HEALTH BENEFITS COVERAGE, WHICH THE PROGRAM WILL
18 CONTRACT TO PURCHASE FROM PARTICIPATING CARRIERS, AND APPROVE THE PLANS
19 SOLD BY PARTICIPATING CARRIERS.

20 (4) UNDERTAKE ACTIVITIES NECESSARY TO ADMINISTER THE SMALL BUSINESS
21 INSURANCE POOL PROGRAM, INCLUDING MARKETING AND PUBLICIZING THE PROGRAM,
22 AND ASSURING CARRIER, EMPLOYER, AND ENROLLEE COMPLIANCE WITH PROGRAM
23 REQUIREMENTS.

24 (5) ESTABLISH RULES, CONDITIONS, AND PROCEDURES FOR SMALL BUSINESS
25 EMPLOYERS AND PARTICIPATING CARRIERS.

26 (6) ESTABLISH A FINANCIAL RELATIONSHIP DIRECTLY WITH AGENTS OR BROKERS
27 TO PROVIDE SERVICES UNDER THE SMALL BUSINESS INSURANCE POOL.

28 (7) ESTABLISH A MECHANISM TO COLLECT PREMIUMS FROM SMALL EMPLOYERS AND
29 PAY PARTICIPATING CARRIERS.

30 S 4353. SMALL BUSINESS INSURANCE POOL PROGRAM. (A) THE SMALL BUSINESS
31 INSURANCE BOARD SHALL ESTABLISH THE SMALL BUSINESS INSURANCE POOL
32 PROGRAM TO BE OPEN TO QUALIFIED BUSINESSES AS DEFINED IN SECTION FOUR
33 THOUSAND THREE HUNDRED FIFTY-ONE OF THIS ARTICLE.

34 (B) WITHIN THE FIRST FIVE YEARS AFTER ESTABLISHING THE PROGRAM, THE
35 SBIB SHALL ENTER INTO CONTRACTS WITH CARRIERS, ACCEPT APPLICATIONS FROM
36 SMALL BUSINESSES AND GRANT OR DECLINE PARTICIPATION IN THE PROGRAM
37 PURSUANT TO REGULATIONS ESTABLISHED BY THE SBIB.

38 (C) UPON ESTABLISHMENT OF THE INITIAL POOL OF SMALL BUSINESSES, THE
39 SBIB SHALL CONTRACT WITH ELIGIBLE HEALTH INSURANCE CARRIERS FOR A SET OF
40 BENEFITS. SUCH SET OF BENEFITS SHALL INCLUDE, BUT NOT NECESSARILY BE
41 LIMITED TO, HOSPITAL AND PHYSICIAN VISITS, PRESCRIPTION DRUG BENEFITS,
42 MENTAL HEALTH SERVICES, AND DURABLE MEDICAL EQUIPMENT.

43 (D) UPON CONTRACTUAL AGREEMENT BETWEEN THE STATE AND PARTICIPATING
44 CARRIERS AND HEALTH CARE PROVIDERS, NOTIFICATION SHALL BE SENT TO
45 PARTICIPATING SMALL BUSINESSES AND THEIR EMPLOYEES REGARDING PLANS
46 AVAILABLE.

47 (E) PREMIUMS PAID BY PARTICIPATING SMALL BUSINESSES AND THEIR EMPLOY-
48 EES SHALL BE PAID DIRECTLY TO PARTICIPATING CARRIERS.

49 (F) THE PREMIUMS PAID BY PARTICIPATING SMALL BUSINESSES AND THEIR
50 EMPLOYEES SHALL ALSO INCLUDE A SURCHARGE SUFFICIENT TO COVER THE COST OF
51 THE PROGRAM BUT NOT TO EXCEED ONE PERCENT OF SUCH PREMIUMS. SUCH
52 SURCHARGES SHALL BE DEPOSITED IN THE SMALL BUSINESS INSURANCE POOL FUND
53 ESTABLISHED PURSUANT TO SECTION NINETY-SEVEN-JJJJ OF THE STATE FINANCE
54 LAW.

55 (G) THE SBIB SHALL HAVE THE AUTHORITY TO ADJUST PAYMENTS TO A CARRIER
56 SHOULD THE SBIB FIND THAT A CARRIER HAS A SIGNIFICANTLY DISPROPORTIONATE

1 SHARE OF HIGH- OR LOW-RISK ENROLLEES. PRIOR TO MAKING SUCH A FINDING,
2 THE SBIB IS REQUIRED TO OBTAIN VALID DATA FROM PARTICIPATING CARRIERS
3 AND REPORTING REQUIREMENTS SHALL BE MADE ADMINISTRATIVELY COMPATIBLE
4 WITH THE METHODS OF OPERATION OF THE CARRIER. ANY ADJUSTMENTS TO
5 PAYMENTS SHALL BE PROSPECTIVE AND SHALL UTILIZE DEMOGRAPHIC AND OTHER
6 FACTORS ACTUARIALLY RELATED TO RISK.

7 (H) BENEFITS PROVIDED UNDER THE SMALL BUSINESS INSURANCE POOL PROGRAM
8 SHALL BE EQUAL TO OR GREATER THAN THE BENEFITS PROVIDED, AND CO-PAYMENTS
9 SHALL BE EQUAL TO OR LESS THAN THE CO-PAYMENTS, UNDER THE HEALTHY NEW
10 YORK PROGRAM ESTABLISHED IN SECTION FOUR THOUSAND THREE HUNDRED TWENTY-
11 SIX AND FOUR THOUSAND THREE HUNDRED TWENTY-SEVEN OF THIS CHAPTER.

12 S 2. The state finance law is amended by adding a new section 97-jjjj
13 to read as follows:

14 S 97-JJJJ. SMALL BUSINESS INSURANCE POOL FUND. 1. THERE IS HEREBY
15 ESTABLISHED IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE SUPER-
16 INTENDENT OF THE DEPARTMENT OF INSURANCE A FUND TO BE KNOWN AS THE SMALL
17 BUSINESS INSURANCE POOL FUND.

18 2. THE FUND SHALL CONSIST OF THOSE MONEYS RECEIVED FROM THE SURCHARGES
19 PAID BY PARTICIPATING SMALL BUSINESSES IN THE SMALL BUSINESS INSURANCE
20 POOL PROGRAM PURSUANT TO SUBSECTION (F) OF SECTION FOUR THOUSAND THREE
21 HUNDRED FIFTY-THREE OF THE INSURANCE LAW.

22 3. MONEYS IN THE SMALL BUSINESS INSURANCE POOL FUND SHALL NOT BE
23 COMMINGLED WITH MONEYS IN ANY OTHER FUND UNDER THE CUSTODY OF THE STATE
24 COMPTROLLER.

25 4. MONEYS OF THE FUND SHALL BE EXPENDED TO COVER THE ADMINISTRATIVE
26 COSTS OF THE SMALL BUSINESS INSURANCE POOL PROGRAM. THE SUPERINTENDENT
27 OF INSURANCE SHALL CERTIFY TO THE STATE COMPTROLLER THE AMOUNTS FROM
28 SUCH FUND WHICH ARE TO BE PAID TO SUCH CARRIERS AND ANY APPROPRIATIONS
29 PROVIDED THEREFOR. ANY CARRY-OVER BALANCE IN THE FUND SHALL BE REAPPRO-
30 PRIATED EACH YEAR BY AN ACT OF THE LEGISLATURE.

31 5. MONEYS SHALL BE PAID OUT OF THE FUND UPON AUDIT AND WARRANT OF THE
32 STATE COMPTROLLER ON VOUCHERS CERTIFIED AND APPROVED BY THE SUPERINTEN-
33 DENT OF INSURANCE.

34 S 3. This act shall take effect January 1, 2010; provided, however,
35 that effective immediately, the addition, amendment and/or repeal of any
36 rule or regulation necessary for the implementation of this act on its
37 effective date are authorized and directed to be made and completed on
38 or before such effective date.