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

5181

2009-2010 Regular Sessions

I N A S S E M B L Y

February 10, 2009

Introduced by M. of A. P. RIVERA -- Multi-Sponsored by -- M. of A. ALFANO, BARRA -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law, in relation to use of credit information for commercial lines insurance

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

Section 1. Section 2801 of the insurance law is amended by adding two new subsections (j) and (k) to read as follows:

(J) "COMMERCIAL LINES INSURANCE" SHALL MEAN ANY INSURANCE POLICY THAT IS A "COVERED POLICY" AS DEFINED IN PARAGRAPH ONE OF SUBSECTION (A) OF SECTION THREE THOUSAND FOUR HUNDRED TWENTY-SIX OF THIS CHAPTER.

(K) "COMMERCIAL LINES INSURANCE CONSUMER" SHALL MEAN A NATURAL PERSON WHOSE CREDIT INFORMATION IS USED OR WHOSE INSURANCE SCORE IS CALCULATED IN THE UNDERWRITING OR RATING OF A POLICY OF COMMERCIAL LINES INSURANCE.

S 2. Section 2809 of the insurance law, as added by chapter 215 of the laws of 2004, is amended to read as follows:

S [2809] 2810. Severability. If any [section,] paragraph, sentence, clause, phrase, or any part of SECTIONS TWO THOUSAND EIGHT HUNDRED ONE THROUGH TWO THOUSAND EIGHT HUNDRED EIGHT OF this article is declared invalid due to an interpretation of or a future change in the federal Fair Credit Reporting Act or is adjudged by any court of competent jurisdiction to be invalid, such judgment, interpretation or change shall not affect, impair or invalidate the remainder thereof and the remaining sections, paragraphs, sentences, clauses, phrases, or parts thereof shall be in no manner affected thereby but shall remain in full force and effect.

S 3. The insurance law is amended by adding a new section 2809 to read as follows:

S 2809. USE OF CREDIT INFORMATION IN UNDERWRITING AND RATING COMMERCIAL LINES INSURANCE. (A) AN INSURER WRITING COMMERCIAL LINES INSURANCE WHICH USES CREDIT INFORMATION ON A COMMERCIAL LINES INSURANCE CONSUMER

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

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IN UNDERWRITING OR RATING SUCH INSURANCE SHALL DISCLOSE SUCH FACT TO THE COMMERCIAL LINES INSURANCE CONSUMER AND NAME THE SOURCE OF THE CREDIT INFORMATION THAT WILL BE USED. THE INSURER SHALL PROVIDE THE DISCLOSURE REQUIRED BY THIS SUBSECTION TO ANY COMMERCIAL LINES INSURANCE CONSUMER ON NEW AND RENEWED POLICIES IF CREDIT INFORMATION WILL BE USED.

THE DISCLOSURE REQUIRED BY THIS SUBSECTION SHALL BE PROVIDED IN A SEPARATE WRITTEN DOCUMENT, WHICH NEED NOT BE PROVIDED IN A SEPARATE MAILING AS ANOTHER DOCUMENT SO LONG AS THE DISCLOSURE IS PROVIDED ON A SEPARATE PIECE OF PAPER, EXCEPT THAT WITH REGARD TO A NEW BUSINESS THE DISCLOSURE MAY BE PROVIDED EITHER IN WRITING OR IN THE SAME MEDIUM AS THE APPLICATION FOR COMMERCIAL LINES INSURANCE.

(B) AN INSURER WRITING COMMERCIAL LINES INSURANCE WHICH, BASED ON THE CREDIT INFORMATION OF A COMMERCIAL LINES INSURANCE CONSUMER, DENIES, CANCELS, NONRENEWS, INCREASES ANY CHARGE FOR OR MAKES ANY OTHER ADVERSE OR UNFAVORABLE CHANGE IN THE TERMS OF COVERAGE OR ANY INSURANCE, EXISTING OR APPLIED FOR, SHALL PROVIDE NOTIFICATION TO THE COMMERCIAL LINES INSURANCE CONSUMER THAT SUCH ACTION HAS BEEN TAKEN AND THE REASON FOR SUCH ACTION. SUCH REASONS SHALL BE PROVIDED IN SUFFICIENTLY CLEAR AND SPECIFIC LANGUAGE SO THAT A PERSON CAN IDENTIFY THE BASIS FOR THE INSURER'S DETERMINATION AND IDENTIFY THE SOURCE OF THE CREDIT INFORMATION.

S 4. This act shall take effect on the one hundred twentieth day after it shall have become a law and shall apply to policies issued and/or renewed on or after such date.