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

331

2009-2010 Regular Sessions

I N S E N A T E

(PREFILED)

January 7, 2009

Introduced by Sen. BRESLIN -- 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 reducing the percentage of policies that an insurer can cancel or not renew without state approval, to require insurers to demonstrate potential risk or loss to justify such cancellations or non-renewals before such approval shall be granted, to authorize the superintendent of insurance to have oversight over participation levels in a coastal market assistance program and to limit notices of intent by insurers

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

Section 1. Section 2351 of the insurance law is amended by adding a new subsection (d) to read as follows:

(D) (1) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THE TOTAL NUMBER (ROUNDED TO THE NEAREST WHOLE NUMBER) OF NOTICES OF INTENTION NOT TO RENEW A POLICY OF HOMEOWNERS' INSURANCE, AND OF NOTICES OF INTENTION TO CONDITION RENEWAL UPON REDUCTION OF LIMITS OR ELIMINATION OF ANY COVERAGE, WHICH AN INSURER MAY ISSUE SHALL BE LIMITED FOR EACH CALENDAR YEAR TO TWO PERCENT OF THE TOTAL NUMBER OF COVERED POLICIES OF THE INSURER IN FORCE AT LAST YEAR-END IN EACH SUCH INSURER'S RATING TERRITORY IN USE IN THIS STATE WHICH HAVE COMPLETED THEIR REQUIRED POLICY PERIOD UNDER THIS SECTION, AND SHALL BE LIMITED TO TEN PERCENT WITHIN A FIVE YEAR PERIOD OF TIME; PROVIDED, HOWEVER, THAT THE INSURER MAY NON-RENEW OR CONDITIONALLY RENEW ONE POLICY IN ANY SUCH INSURER'S RATING TERRITORY IN USE IN THIS STATE, IF THE APPLICABLE PERCENTAGE LIMITATION RESULTS IN LESS THAN ONE POLICY. CANCELLATIONS MADE PURSUANT TO SUBSECTION (B) OR (C) OF SECTION THREE THOUSAND FOUR HUNDRED TWENTY-FIVE OF THIS CHAPTER SHALL BE INDEPENDENT OF AND IN ADDITION TO THE NUMBER OF NOTICES OF INTENTION NOT TO RENEW OR TO CONDITION RENEWAL

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

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UPON REDUCTION OF LIMITS OR ELIMINATION OF ANY COVERAGES NOT REQUIRED BY LAW, PERMITTED UNDER THIS SUBSECTION.

(2) FOR EVERY TWO NEW HOMEOWNERS' POLICIES WHICH THE INSURER VOLUNTARILY WRITES IN EACH SUCH TERRITORY, SUCH INSURER SHALL BE PERMITTED TO NON-RENEW OR CONDITIONALLY RENEW ONE ADDITIONAL HOMEOWNER POLICY IN THAT TERRITORY IN EXCESS OF THE TWO PERCENT LIMIT ESTABLISHED IN PARAGRAPH ONE OF THIS SUBSECTION, SUBJECT TO A FAIR AND NONDISCRIMINATORY FORMULA DEVELOPED BY THE SUPERINTENDENT, WHICH SHALL CONSIDER THE NUMBER OF HOMEOWNER POLICIES WRITTEN LESS CANCELLATIONS INITIATED BY THE INSURER WITHIN THE FIRST SIXTY DAYS OF THE POLICY PERIOD.

(3) IF AN INSURER INTENDS TO REDUCE THE VOLUME OF POLICIES WRITTEN IN EXCESS OF THE LIMITS SPECIFIED IN PARAGRAPH ONE OF THIS SUBSECTION, SUCH INSURER SHALL FILE A PLAN REGARDING THE PROPOSED REDUCTION WITH THE SUPERINTENDENT. SUCH PLAN SHALL REQUIRE THE INSURER TO DEMONSTRATE POTENTIAL LOSS OR RISK JUSTIFYING THE ADDITIONAL CANCELLATIONS. NO SUCH PLAN SHALL BE EFFECTIVE OR SUCH REDUCTION ALLOWED UNTIL APPROVED BY THE SUPERINTENDENT.

S 2. The insurance law is amended by adding a new section 2352 to read as follows:

S 2352. THE DEPARTMENT SHALL CONDUCT A STUDY ON THE PROFITABILITY OF THE PROPERTY AND CASUALTY INSURANCE INDUSTRY, INCLUDING BUT NOT LIMITED TO SPECIFICALLY REVIEWING THE REASONS AND RATES AT WHICH THE INDUSTRY INCREASES PREMIUMS CHARGED OR TERMINATES COVERAGE IN MARKETS LESS IMPACTED BY NATURAL DISASTERS. THE STUDY SHALL BE COMPLETED AND A REPORT SUBMITTED BY SEPTEMBER FIRST, TWO THOUSAND TEN TO THE GOVERNOR, THE TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY.

S 3. Section 3425 of the insurance law is amended by adding a new subsection (s) to read as follows:

(S) (1) WITH RESPECT TO A COASTAL MARKET ASSISTANCE PROGRAM ESTABLISHED BY THE SUPERINTENDENT TO FACILITATE THE PLACEMENT OF HOMEOWNERS' INSURANCE, IF THE SUPERINTENDENT DETERMINES IN A WRITTEN FINDING AFTER A HEARING ON A RECORD, THAT SUCH PROGRAM IS NOT WORKING TO APPRECIABLY INCREASE THE AVAILABILITY AND PLACEMENT OF MEANINGFUL HOMEOWNERS' INSURANCE, OR THAT MODIFICATIONS TO A COASTAL MARKET ASSISTANCE PROGRAM COULD INCREASE INSURER PARTICIPATION IN SUCH PROGRAM, INCREASE INSURER PARTICIPATION IN A ROTATION PROCESS OF SUCH PROGRAM, INCREASE CONSUMER AWARENESS OF SUCH PROGRAM, OR INCREASE CONSUMER AND PRODUCER USE OF AND SATISFACTION WITH SUCH PROGRAM, THE SUPERINTENDENT MAY TAKE SUCH ACTION AS DEEMED NECESSARY, INCLUDING MANDATORY PARTICIPATION OR INCREASED LEVELS OF PARTICIPATION IN A COASTAL MARKET ASSISTANCE PROGRAM.

(2) IN MAKING A DETERMINATION PURSUANT TO THIS SUBSECTION, THE SUPERINTENDENT MAY CONSIDER SUCH FACTORS AS: THE EXTENT AND NATURE OF COMPETITION; SIZE AND SIGNIFICANCE OF THE COVERAGE; AVAILABILITY OF ADEQUATE LIMITS OF COVERAGE; EFFICACY OF A COASTAL MARKET ASSISTANCE PROGRAM ADMINISTERED BY THE SUPERINTENDENT INCLUDING BUT NOT LIMITED TO ACTUAL PLACEMENT AND DEMAND FOR PLACEMENT OF COVERAGE THROUGH SUCH PROGRAMS AT THE TIME SUCH DETERMINATION IS TO BE MADE; RATE OF GROWTH IN POLICIES PLACED THROUGH THE NEW YORK PROPERTY INSURANCE UNDERWRITING ASSOCIATION; REINSURANCE AVAILABILITY; EXTENT AND NATURE OF CONSUMER AND PRODUCER COMPLAINTS TO THE INSURANCE DEPARTMENT, STEERING COMMITTEE AND ADMINISTRATOR OF A COASTAL MARKET ASSISTANCE PROGRAM; EXTENT OF DENIALS AND RESTRICTIONS OF COVERAGE; VOLUME OF CANCELLATIONS AND NON-RENEWALS; OR CHANGING CONDITIONS IN THE ECONOMIC, JUDICIAL AND SOCIAL ENVIRONMENT.

(3) WITH RESPECT TO ANY ACTION TAKEN BY THE SUPERINTENDENT PURSUANT TO THIS SUBSECTION, IF THE SUPERINTENDENT DETERMINES IN A WRITTEN FINDING, AFTER A HEARING ON A RECORD, THAT READY AVAILABILITY AND PLACEMENT OF

MEANINGFUL HOMEOWNERS' COVERAGE HAS BEEN RESTORED, OR THAT THE RESCINDING OF ANY ACTION WOULD BEST FACILITATE THE PLACEMENT OF HOMEOWNERS' INSURANCE, THE SUPERINTENDENT MAY RESCIND SUCH ACTION.

S 4. This act shall take effect immediately.