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

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I N S E N A T E

March 1, 2010

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 authorizing the issuance of group policies for service providers listed in a commercial directory

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

Section 1. The insurance law is amended by adding a new section 3453 to read as follows:

S 3453. GROUP POLICY FOR SERVICE PROVIDERS LISTED IN A COMMERCIAL DIRECTORY. (A) FOR PURPOSES OF THIS SECTION, THE FOLLOWING DEFINITIONS SHALL APPLY:

(1) "COMMERCIAL DIRECTORY" MEANS ANY LISTING OF BUSINESSES IN PRINT OR ELECTRONIC FORM WHICH IS ISSUED BY AN ENTITY THAT PUBLISHES BOTH WHITE AND YELLOW PAGE DIRECTORIES.

(2) "SERVICE PROVIDER" MEANS ANY INDIVIDUAL OR BUSINESS ENTITY WHO IS LISTED IN A COMMERCIAL DIRECTORY AND WHO PURCHASES ADVERTISING SERVICES FROM A PUBLISHER OF A COMMERCIAL DIRECTORY AND WHO PROVIDES CERTAIN TYPES OF SERVICES AS SPECIFIED BY THE PUBLISHER OF THE COMMERCIAL DIRECTORY.

(B) A GROUP POLICY MAY BE ISSUED AND DELIVERED IN THE STATE TO A GROUP POLICYHOLDER, WHO SHALL BE A PUBLISHER OF A COMMERCIAL DIRECTORY ONLY IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION.

(C) THE POLICY SHALL GUARANTEE THE PERFORMANCE OF CONTRACTS ENTERED INTO BY SERVICE PROVIDERS AND SHALL BE ISSUED ONLY TO A BUSINESS THAT PUBLISHES COMMERCIAL DIRECTORIES.

(D) THE POLICY MAY PROVIDE COVERAGE FOR THE KIND OF INSURANCE AUTHORIZED BY PARAGRAPH SIXTEEN OF SUBSECTION (A) OF SECTION ONE THOUSAND ONE HUNDRED THIRTEEN OF THIS CHAPTER AND MAY ONLY BE ISSUED BY AN AUTHORIZED INSURER. THE AMOUNT OF COVERAGE SHALL NOT EXCEED FIVE THOUSAND DOLLARS FOR EACH CONTRACT GUARANTEED BY THE COVERAGE.

(E) THE PREMIUM FOR THE GROUP POLICY MAY BE PAID BY THE GROUP POLICYHOLDER FROM THE FUNDS CONTRIBUTED:

(1) WHOLLY BY THE GROUP POLICYHOLDER;

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

LBD16197-01-0

(2) WHOLLY BY THE GROUP MEMBERS; OR
(3) JOINTLY BY THE GROUP POLICYHOLDER AND THE GROUP MEMBERS.
(F) A GROUP POLICY FOR SERVICE PROVIDERS LISTED IN A COMMERCIAL DIRECTORY SHALL NOT BE SUBJECT TO SECTION THREE THOUSAND FOUR HUNDRED TWENTY-SIX OF THIS ARTICLE.
(G) THE SUPERINTENDENT MAY PROMULGATE REGULATIONS PERTAINING TO GROUP POLICIES FOR SERVICE PROVIDERS LISTED IN A COMMERCIAL DIRECTORY, INCLUDING REGULATIONS REGARDING MINIMUM PROVISIONS OF CERTIFICATES AND POLICY CANCELLATION AND RENEWAL.
S 2. The insurance law is amended by adding a new section 2131-a to read as follows:
S 2131-A. LIMITED LICENSE FOR PUBLISHERS OF COMMERCIAL DIRECTORIES. (A) THE SUPERINTENDENT MAY ISSUE TO A PUBLISHER OF A COMMERCIAL DIRECTORY WHICH HAS COMPLIED WITH THE REQUIREMENTS OF THIS SECTION, A LIMITED LICENSE AUTHORIZING THE LICENSEE, KNOWN AS A "LIMITED LICENSEE" FOR THE PURPOSE OF THIS ARTICLE, TO ACT AS AGENT, WITH REFERENCE TO THE KINDS OF INSURANCE SPECIFIED IN THIS SECTION, OF ANY INSURER AUTHORIZED TO WRITE SUCH KINDS OF INSURANCE IN THIS STATE. FOR PURPOSES OF THIS SECTION "COMMERCIAL DIRECTORY" SHALL HAVE THE SAME MEANING AS SET FORTH IN SECTION THIRTY-FOUR HUNDRED FIFTY-THREE OF THIS CHAPTER.
(B) THE PREREQUISITES FOR ISSUANCE OF A LIMITED LICENSE UNDER THIS SECTION SHALL BE THE FILING WITH THE SUPERINTENDENT OF THE FOLLOWING:
(1) AN APPLICATION, SIGNED BY AN OFFICER OF THE APPLICANT, FOR THE LIMITED LICENSE IN SUCH FORM OR FORMS, AND SUPPLEMENTS THERETO, AND CONTAINING SUCH INFORMATION, AS THE SUPERINTENDENT MAY PRESCRIBE; AND
(2) AN APPOINTMENT OF A LIMITED LICENSEE BY THE APPOINTING INSURER, IN A FORMAT APPROVED BY THE SUPERINTENDENT, NO MORE THAN FIFTEEN DAYS AFTER THE DATE THE AGENCY CONTRACT IS EXECUTED OR THE FIRST INSURANCE CONTRACT IS SUBMITTED, WHICHEVER IS LATER, STATING THAT IT HAS SATISFIED ITSELF THAT THE NAMED APPLICANT IS TRUSTWORTHY AND COMPETENT TO ACT AS ITS INSURANCE AGENT FOR THIS LIMITED PURPOSE AND THAT THE INSURER WILL APPOINT SUCH APPLICANT TO ACT AS THE AGENT IN REFERENCE TO THE DOING OF SUCH KIND OR KINDS OF INSURANCE WHICH ARE PERMITTED BY THIS SECTION, IF THE LIMITED LICENSE APPLIED FOR IS ISSUED BY THE SUPERINTENDENT. SUCH APPOINTMENT SHALL BE SUBSCRIBED BY AN OFFICER OR MANAGING AGENT OF SUCH INSURER AND AFFIRMED AS TRUE UNDER THE PENALTIES OF PERJURY.
(C) IN THE EVENT THAT ANY PROVISION OF THIS CHAPTER IS VIOLATED, THE SUPERINTENDENT MAY:
(1) REVOKE OR SUSPEND A LIMITED LICENSE ISSUED UNDER THIS SECTION IN ACCORDANCE WITH THE PROVISIONS OF SECTION TWO THOUSAND ONE HUNDRED TEN OF THIS ARTICLE; OR
(2) AFTER NOTICE AND HEARING IMPOSE SUCH OTHER PENALTIES AS THE SUPERINTENDENT DEEMS NECESSARY OR CONVENIENT TO CARRY OUT THE PURPOSES OF THIS SECTION.
(D) THE COMMERCIAL DIRECTORY PUBLISHER MAY ACT AS AGENT FOR AN AUTHORIZED INSURER ONLY IN CONNECTION WITH PROVIDING ADVERTISING SERVICES IN COMMERCIAL DIRECTLY AND ONLY WITH RESPECT TO THE FOLLOWING KINDS OF INSURANCE: SURETY COVERAGE WHICH GUARANTEES THE PERFORMANCE OF SERVICE PROVIDERS LISTED IN THE COMMERCIAL DIRECTORY.
(E) NO INSURANCE MAY BE ISSUED PURSUANT TO THIS SECTION UNLESS:
(1) AT EVERY LOCATION WHERE AGREEMENTS PROVIDING FOR LISTING OR ADVERTISING IN COMMERCIAL DIRECTORIES ARE EXECUTED, BROCHURES OR OTHER WRITTEN MATERIALS ARE READILY AVAILABLE TO THE PROSPECTIVE PURCHASER WHICH:
(A) SUMMARIZE, CLEARLY AND CORRECTLY, THE MATERIAL TERMS OF INSURANCE COVERAGE, INCLUDING THE IDENTITY OF THE INSURER;
(B) DESCRIBE THE PROCESS FOR FILING A CLAIM;

(C) DISCLOSE THE BENEFITS, EXCLUSIONS AND CONDITIONS OR OTHER LIMITATIONS OF SUCH POLICIES; AND

(D) DISCLOSE THAT THE EMPLOYEE OF THE PUBLISHER OF A COMMERCIAL DIRECTORY IS NOT QUALIFIED OR AUTHORIZED TO EVALUATE THE ADEQUACY OF THE PURCHASER'S EXISTING COVERAGES, UNLESS OTHERWISE LICENSED.

(2) EVIDENCE OF COVERAGE IS PROVIDED TO EVERY SERVICE PROVIDER WHO OBTAINS SUCH COVERAGE.

(F) ANY BROCHURES USED IN CONNECTION WITH THE PROVISION OF INSURANCE FOR SERVICE PROVIDERS LISTED OR ADVERTISING IN A COMMERCIAL DIRECTORY SHALL BE FILED WITH THE SUPERINTENDENT FOR REVIEW HOWEVER; SUCH BROCHURES SHALL NOT BE SUBJECT TO SECTION THREE THOUSAND ONE HUNDRED TWO OF THIS CHAPTER. SUCH BROCHURES SHALL BE WRITTEN IN A CLEAR AND COHERENT MANNER TO FACILITATE READABILITY AND AID THE POLICYHOLDER IN UNDERSTANDING THE COVERAGE PROVIDED. SUCH BROCHURES SHALL INCLUDE AND PROMINENTLY DISPLAY: DISCLOSURE OF THE CLAIMS FILING PROCESS; LIST ANY DEDUCTIBLE AMOUNTS AND LIMITS; AND WHENEVER PRACTICABLE USE WORDS WITH COMMON AND EVERY DAY MEANING.

(G) ANY LIMITED LICENSE ISSUED UNDER THIS SECTION SHALL ALSO AUTHORIZE ANY SALARIED EMPLOYEE OR ANY SALES REPRESENTATIVE AUTHORIZED BY THE LICENSEE WHO, PURSUANT TO SUBSECTION (H) OF THIS SECTION, IS TRAINED TO ACT INDIVIDUALLY ON BEHALF OF THE LICENSEE WITH RESPECT TO THE KINDS OF INSURANCE SPECIFIED IN THIS SECTION.

(H) EACH COMPANY LICENSED PURSUANT TO THIS SECTION SHALL CONDUCT A TRAINING PROGRAM, WHICH SHALL BE SUBMITTED TO THE SUPERINTENDENT FOR APPROVAL PRIOR TO USE, AND WHICH SHALL MEET THE FOLLOWING MINIMUM STANDARDS:

(1) EACH TRAINEE SHALL RECEIVE BASIC INSTRUCTION ABOUT THE KINDS OF INSURANCE SPECIFIED IN THIS SECTION OFFERED FOR PURCHASE BY SERVICE PROVIDERS LISTING OR ADVERTISING IN A COMMERCIAL DIRECTORY;

(2) EACH TRAINEE SHALL BE INSTRUCTED WITH RESPECT TO THE DISCLOSURES REQUIRED UNDER SUBSECTION (E) OF THIS SECTION;

(I) LIMITED LICENSEES ACTING PURSUANT TO AND UNDER THE AUTHORITY OF THIS SECTION SHALL COMPLY WITH ALL APPLICABLE PROVISIONS OF THIS ARTICLE, EXCEPT THAT NOTWITHSTANDING SECTION TWO THOUSAND ONE HUNDRED TWENTY OF THIS ARTICLE, A LIMITED LICENSEE PURSUANT TO THIS SECTION SHALL NOT BE REQUIRED TO TREAT PREMIUMS COLLECTED FROM SERVICE PROVIDERS PURCHASING A LISTING OR ADVERTISING IN A COMMERCIAL DIRECTORY AS FUNDS RECEIVED IN A FIDUCIARY CAPACITY, PROVIDED THAT THE INSURER REPRESENTED BY THE LIMITED LICENSEE HAS CONSENTED IN WRITING, SIGNED BY THE INSURER'S OFFICER, THAT PREMIUMS NEED NOT BE SEGREGATED FROM FUNDS RECEIVED BY THE PUBLISHER OF A COMMERCIAL DIRECTORY ON ACCOUNT OF THE SALE OF A LISTING OR ADVERTISING IN A COMMERCIAL DIRECTORY.

(J) NO LIMITED LICENSEES UNDER THIS SECTION SHALL ADVERTISE, REPRESENT OR OTHERWISE HOLD ITSELF OR ANY OF ITS EMPLOYEES THEMSELVES OUT AS LICENSED INSURANCE AGENTS OR BROKERS.

(K) THE SUPERINTENDENT MAY ISSUE A REPLACEMENT FOR A CURRENTLY IN FORCE LICENSE WHICH HAS BEEN LOST OR DESTROYED. BEFORE SUCH REPLACEMENT LICENSE SHALL BE ISSUED, THERE SHALL BE ON FILE IN THE OFFICE OF THE SUPERINTENDENT A WRITTEN APPLICATION FOR SUCH REPLACEMENT LICENSE, AFFIRMING UNDER PENALTY OR PERJURY THAT THE ORIGINAL LICENSE HAS BEEN LOST OR DESTROYED, TOGETHER WITH A FEE OF FIFTEEN DOLLARS.

S 3. This act shall take effect on the one hundred eightieth day after it shall become a law provided, however, that the superintendent of insurance is authorized to promulgate all rules and regulations and take any other measure necessary to implement this act on or before its effective date.