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

1746

2009-2010 Regular Sessions

I N A S S E M B L Y

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Introduced by M. of A. ENGLEBRIGHT, SWEENEY, HOYT, CAHILL, WRIGHT, GABRYSZAK -- Multi-Sponsored by -- M. of A. BRENNAN, COLTON, CYMBROWITZ, EDDINGTON, JACOBS, KOON, MAYERSOHN, ORTIZ, PHEFFER, TOWNS -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law, in relation to improving disclosure to automobile insurance consumers; and to amend the executive law, the insurance law and the state administrative procedure act, in relation to establishing an independent office of public insurance consumer advocate and establishing its powers and duties

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 article 5 to read as follows:

ARTICLE 5

AUTOMOBILE INSURANCE CONSUMER INFORMATION

SECTION 501. TITLE; LEGISLATIVE DECLARATION AND PURPOSE.
502. AUTOMOBILE INSURANCE CONSUMER INFORMATION AND COMPLAINT RANKINGS.
503. CONSUMER RATING FACTORS.
504. DISCLOSURE PROCEDURES.
505. NONINTERFERENCE WITH OBTAINING COVERAGE.
506. PUBLIC OUTREACH.

S 501. TITLE; LEGISLATIVE DECLARATION AND PURPOSE. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "AUTOMOBILE INSURANCE CONSUMER INFORMATION ACT".

THE LEGISLATURE FINDS AND DECLARES THAT AUTOMOBILE INSURANCE IS REQUIRED BY LAW FOR ALL RESIDENTS WHO DRIVE AND THAT THE COST OF AUTOMOBILE INSURANCE REPRESENTS A SUBSTANTIAL EXPENSE FOR MANY CONSUMERS. THE LEGISLATURE FURTHER FINDS THAT THE PREMIUM COSTS FOR ANY GIVEN INDIVIDUAL FOR IDENTICAL INSURANCE COVERAGE FROM DIFFERENT LICENSED INSURERS CAN VARY WIDELY AND THAT WIDE VARIATIONS ALSO EXIST IN THE QUALITY OF

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

SERVICE PROVIDED BY INSURERS AS MEASURED BY THE DEPARTMENT'S ANNUAL COMPLAINT HANDLING RANKINGS. IN ADDITION, THE LEGISLATURE FINDS THAT FEW CONSUMERS ARE AWARE OF THESE WIDE COST AND QUALITY OF SERVICE VARIATIONS, THAT AS A RESULT CONSUMERS AS A GROUP MAY PAY HUNDREDS OF MILLIONS OF DOLLARS ANNUALLY FOR OVERPRICED POLICIES AND THAT INDIVIDUAL CONSUMERS MAY ENCOUNTER UNNECESSARY DIFFICULTY IN HAVING THEIR AUTOMOBILE INSURANCE CLAIMS AND COMPLAINTS HANDLED EXPEDITIOUSLY. THE LEGISLATURE FURTHER FINDS AND DECLARES THAT IT INTENDS FOR THE SUPERINTENDENT AND THE DEPARTMENT TO HAVE BROAD AUTHORITY UNDER THIS ARTICLE TO ESTABLISH MECHANISMS TO FULLY INFORM CONSUMERS AS TO WHICH POLICIES ARE AVAILABLE TO THEM AT THE LOWEST POSSIBLE COST AND WHICH INSURERS PROVIDE THE HIGHEST QUALITY OF SERVICE. THE LEGISLATURE INTENDS WITH THIS ARTICLE TO CREATE CERTAIN DISCLOSURE REQUIREMENTS THAT WILL MAKE SUCH INFORMATION MORE READILY AVAILABLE TO ALL CONSUMERS. INCREASED AVAILABILITY OF INFORMATION IS INTENDED TO MAKE THE AUTOMOBILE INSURANCE SYSTEM MORE COMPETITIVE WITH RESPECT TO BOTH COST OF COVERAGE AND THE QUALITY OF SERVICE.

S 502. AUTOMOBILE INSURANCE CONSUMER INFORMATION AND COMPLAINT RANKINGS. (A) THE SUPERINTENDENT SHALL MAINTAIN A DATABASE CONTAINING NONBUSINESS AUTOMOBILE INSURANCE RATE INFORMATION AND COMPLAINT RANKINGS FOR ALL COMPANIES LICENSED TO DO BUSINESS IN THE STATE.

(B) EVERY PERSON, UPON MAKING AN INQUIRY TO THE DEPARTMENT AND PROVIDING THE INFORMATION SPECIFIED IN SECTION FIVE HUNDRED THREE OF THIS ARTICLE, SHALL BE MAILED WITHIN FIVE BUSINESS DAYS, OR, AT THE OPTION OF THE PERSON, RECEIVE AT THE TIME OF SUCH INQUIRY:

(1) THE NAMES, ADDRESSES, TELEPHONE NUMBERS AND, IF APPROPRIATE, WEB SITE ADDRESSES OF THE FIVE COMPANIES HAVING THE LOWEST PREMIUMS FOR THE REQUESTED PACKAGE OF COVERAGE THAT WOULD WRITE INSURANCE FOR SUCH PERSON; THE TOTAL COST FOR THE PACKAGE OF COVERAGE FROM EACH SUCH INSURER; AND THE MOST RECENT COMPLAINT RANKING OF EACH SUCH INSURER;

(2) THE NAMES, ADDRESSES, TELEPHONE NUMBERS AND, IF APPROPRIATE, WEB SITE ADDRESSES OF THE FIVE COMPANIES HAVING THE BEST COMPLAINT RANKINGS THAT WOULD WRITE INSURANCE FOR SUCH PERSON, AND THE TOTAL COST FOR THE PACKAGE OF COVERAGE FROM EACH INSURER LISTED;

(3) AN EXPLANATION OF HOW TO OBTAIN FROM SUCH COMPANIES THE NAMES, ADDRESSES, TELEPHONE NUMBERS, AND, IF APPROPRIATE, WEB SITE ADDRESSES OF THOSE AGENTS, BROKERS OR SALES REPRESENTATIVES OF SUCH COMPANIES THAT ARE SITUATED IN A LOCATION REASONABLY CONVENIENT TO THE PERSON; AND

(4) UNTIL SUCH DATABASE IS ESTABLISHED, THE DEPARTMENT SHALL PROVIDE PERSONS MAKING AN INQUIRY THE DEPARTMENT'S ANNUAL RANKING OF AUTOMOBILE INSURANCE COMPLAINTS AND CONSUMERS GUIDE TO AUTO INSURANCE. AFTER THE DATABASE IS ESTABLISHED, IF THE PERSON MAKING AN INQUIRY PREFERS, THE DEPARTMENT MAY PROVIDE, IN LIEU OF THE INFORMATION SPECIFIED IN PARAGRAPHS ONE, TWO AND THREE OF THIS SUBSECTION, THE DEPARTMENT'S ANNUAL RANKING OF AUTOMOBILE INSURANCE COMPLAINTS, AND CONSUMER GUIDE TO AUTO INSURANCE.

S 503. CONSUMER RATING FACTORS. IN ORDER TO RECEIVE THE LIST OF LOWEST COST INSURERS DESCRIBED IN SECTION FIVE HUNDRED TWO OF THIS ARTICLE, THE PERSON SHALL PROVIDE THE FOLLOWING INFORMATION:

(A) THE PLACE IN WHICH THE VEHICLE IS GARAGED OR STORED, OR OTHER INFORMATION NEEDED TO DETERMINE GEOGRAPHICAL TERRITORY;

(B) THE AGE, SEX, MARITAL STATUS AND OTHER INFORMATION NEEDED TO DETERMINE THE DRIVER CLASS OF THE PRINCIPAL AND OCCASIONAL OPERATORS;

(C) THE MAKE, MODEL AND YEAR OF THE AUTOMOBILE;

(D) INFORMATION RELATING TO QUALIFICATION FOR DISCOUNTS;

(E) INFORMATION RELATING TO SURCHARGES OR CREDITS BASED ON DRIVING RECORD OR DRIVING COURSES TAKEN;

(F) DESIRED EFFECTIVE DATE OF THE POLICY;

(G) DESIRED COVERAGES; AND

(H) SUCH OTHER INFORMATION AS THE SUPERINTENDENT MAY BY REGULATION REQUIRE.

S 504. DISCLOSURE PROCEDURES. EVERY POLICY OF NONBUSINESS AUTOMOBILE INSURANCE DELIVERED, ISSUED FOR DELIVERY, RENEWED OR ISSUED FOR RENEWAL IN THIS STATE SHALL INCLUDE A NOTICE PRESCRIBED BY THE SUPERINTENDENT IN REGULATION OF THE AVAILABILITY OF THE INFORMATION AND PROCEDURE FOR OBTAINING SUCH INFORMATION DESCRIBED IN SECTIONS FIVE HUNDRED TWO AND FIVE HUNDRED THREE OF THIS ARTICLE. SUCH NOTICE SHALL INCLUDE THE DEPARTMENT'S ADDRESS, TELEPHONE NUMBER AND WEB SITE ADDRESS.

S 505. NONINTERFERENCE WITH OBTAINING COVERAGE. NO APPLICANT FOR AUTOMOBILE INSURANCE SHALL BE PREVENTED OR DELAYED IN EFFECTING OR APPLYING FOR COVERAGE BY THE REQUIREMENTS OF SECTION FIVE HUNDRED FOUR OF THIS ARTICLE. IN THOSE CASES WHERE, PRIOR TO OR AT THE TIME AN APPLICATION IS TAKEN, IT IS IMPRACTICAL TO PROVIDE ANY DISCLOSURE DOCUMENTS PRESCRIBED BY SECTION FIVE HUNDRED FOUR OF THIS ARTICLE, SUCH DOCUMENTS SHALL BE FURNISHED AS SOON THEREAFTER AS PRACTICAL AND, IN ANY EVENT, NO LATER THAN AT THE TIME THE POLICY IS DELIVERED. WHERE ANY SUCH DOCUMENT IS NOT PROVIDED AS REQUIRED BY SECTION FIVE HUNDRED FOUR OF THIS ARTICLE, THE APPLICANT MAY, NO LATER THAN THIRTY DAYS FOLLOWING RECEIPT OF THE POLICY, AND NOTWITHSTANDING THE PROVISIONS OF SECTION THREE THOUSAND FOUR HUNDRED TWENTY-EIGHT OF THIS CHAPTER, RETURN THE POLICY FOR A PRO RATA REFUND OF PREMIUMS PAID. A CLEAR AND CONSPICUOUS WRITTEN NOTICE EXPLAINING THIS REFUND PROVISION, IN LANGUAGE PROMULGATED BY THE SUPERINTENDENT, SHALL BE DELIVERED WITH THE POLICY.

S 506. PUBLIC OUTREACH. THE DEPARTMENT SHALL CONDUCT PUBLIC EDUCATION AND OUTREACH TO INFORM CONSUMERS AS TO THE AVAILABILITY OF AND HOW TO ACCESS THE CONSUMER INFORMATION PRESCRIBED BY THIS ARTICLE. NOTWITHSTANDING ANY INCONSISTENT LAW TO THE CONTRARY, NO ADVERTISEMENT UTILIZING ELECTRONIC MEANS, (INCLUDING BUT NOT LIMITED TO RADIO, TELEVISION AND THE INTERNET) PUBLIC SERVICE ANNOUNCEMENT OR OTHER BROADCAST PRODUCED OR DISTRIBUTED PURSUANT TO THIS SECTION SHALL FEATURE THE LIKENESS, PICTURE OR VOICE OF A STATEWIDE ELECTED OFFICIAL OR A FAMILY MEMBER OF SUCH OFFICIAL.

S 2. If any provision of section one of this act or the application thereof to any person or circumstances be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the provision or application or persons or circumstances directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this act or the application thereof to other persons or circumstances.

S 3. The executive law is amended by adding a new article 44-A to read as follows:

ARTICLE 44-A

OFFICE OF PUBLIC INSURANCE CONSUMER ADVOCATE

SECTION 945. OFFICE OF PUBLIC INSURANCE CONSUMER ADVOCATE.
946. PUBLIC INSURANCE CONSUMER ADVOCATE.
947. POWERS AND DUTIES.

S 945. OFFICE OF PUBLIC INSURANCE CONSUMER ADVOCATE. THERE IS HEREBY CREATED IN THE EXECUTIVE DEPARTMENT AN INDEPENDENT OFFICE OF PUBLIC INSURANCE CONSUMER ADVOCATE (HEREINAFTER REFERRED TO IN THIS ARTICLE AS "OFFICE") TO REPRESENT THE INTERESTS OF NONBUSINESS AUTOMOBILE AND HEALTH INSURANCE CONSUMERS IN THE STATE.

S 946. PUBLIC INSURANCE CONSUMER ADVOCATE. 1. THE GOVERNOR, WITH THE ADVICE AND CONSENT OF THE SENATE, SHALL APPOINT A PUBLIC INSURANCE CONSUMER ADVOCATE (HEREINAFTER REFERRED TO IN THIS ARTICLE AS "ADVOCATE") WHO SHALL SERVE AS THE EXECUTIVE DIRECTOR OF THE OFFICE OF PUBLIC INSURANCE CONSUMER ADVOCATE AND SHALL RECEIVE AN ANNUAL SALARY TO BE FIXED BY THE GOVERNOR WITHIN THE AMOUNT AVAILABLE THEREFOR BY APPROPRIATION.

2. (A) TO BE ELIGIBLE TO SERVE AS ADVOCATE, A PERSON MUST BE A RESIDENT OF THE STATE. THE ADVOCATE SHALL BE A PERSON WHO HAS DEMONSTRATED A STRONG COMMITMENT TO AND INVOLVEMENT IN EFFORTS TO SAFEGUARD THE RIGHTS OF THE PUBLIC, AND WHO POSSESSES THE KNOWLEDGE AND EXPERIENCE NECESSARY TO PRACTICE EFFECTIVELY IN INSURANCE PROCEEDINGS.

(B) A PERSON SHALL NOT BE ELIGIBLE FOR APPOINTMENT AS ADVOCATE IF SUCH PERSON OR THE PERSON'S SPOUSE:

(I) IS EMPLOYED BY OR PARTICIPATES IN THE MANAGEMENT OF A BUSINESS ENTITY OR OTHER ORGANIZATION REGULATED BY THE INSURANCE DEPARTMENT OR RECEIVING FUNDS FROM SUCH DEPARTMENT;

(II) OWNS OR CONTROLS, DIRECTLY OR INDIRECTLY, MORE THAN TEN PERCENT INTEREST IN A BUSINESS ENTITY OR OTHER ORGANIZATION REGULATED BY THE INSURANCE DEPARTMENT OR RECEIVING FUNDS FROM THE INSURANCE DEPARTMENT OR THE OFFICE;

(III) USES OR RECEIVES A SUBSTANTIAL AMOUNT OF TANGIBLE GOODS, SERVICES OR FUNDS FROM THE INSURANCE DEPARTMENT OR THE OFFICE, OTHER THAN COMPENSATION OR REIMBURSEMENT AUTHORIZED BY LAW FOR THE INSURANCE DEPARTMENT OR OFFICE MEMBERSHIP, ATTENDANCE OR EXPENSES.

3. THE ADVOCATE SHALL SERVE FOR A TERM OF TWO YEARS.

4. IT SHALL BE A GROUND FOR REMOVAL FROM OFFICE IF THE ADVOCATE:

(A) DOES NOT HAVE AT THE TIME OF APPOINTMENT THE QUALIFICATIONS REQUIRED BY THIS SECTION;

(B) DOES NOT MAINTAIN DURING SERVICE AS ADVOCATE THE QUALIFICATIONS REQUIRED BY THIS SECTION;

(C) VIOLATES A PROHIBITION ESTABLISHED BY THIS SECTION; OR

(D) CANNOT DISCHARGE THE ADVOCATE'S DUTIES FOR A SUBSTANTIAL PART OF THE TERM FOR WHICH THE ADVOCATE IS APPOINTED BECAUSE OF ILLNESS OR DISABILITY.

5. THE VALIDITY OF AN ACTION OF THE OFFICE SHALL NOT BE AFFECTED BY THE FACT THAT IT IS TAKEN WHEN A GROUND FOR REMOVAL OF THE ADVOCATE EXISTS.

6. (A) A PERSON SHALL NOT SERVE AS THE ADVOCATE OR ACT AS THE GENERAL COUNSEL FOR THE OFFICE OF ADVOCATE IF THE PERSON IS REQUIRED TO REGISTER AS A LOBBYIST PURSUANT TO ARTICLE ONE-A OF THE LEGISLATIVE LAW.

(B) A PERSON SERVING AS THE ADVOCATE SHALL NOT, FOR A PERIOD OF TWO YEARS AFTER THE DATE THE PERSON CEASES TO BE AN ADVOCATE, REPRESENT ANY PERSON IN A PROCEEDING BEFORE THE SUPERINTENDENT OF INSURANCE OR THE INSURANCE DEPARTMENT OR RECEIVE COMPENSATION FOR SERVICES RENDERED ON BEHALF OF ANY PERSON REGARDING A CASE BEFORE THE SUPERINTENDENT OF INSURANCE OR THE INSURANCE DEPARTMENT.

(C) A PERSON SHALL NOT SERVE AS THE ADVOCATE OR BE AN EMPLOYEE OF THE OFFICE IF THE PERSON IS AN OFFICER, EMPLOYEE OR PAID CONSULTANT OF A TRADE ASSOCIATION IN THE FIELD OF INSURANCE.

(D) A PERSON WHO IS THE SPOUSE OF AN OFFICER, MANAGER OR PAID CONSULTANT OF A TRADE ASSOCIATION IN THE FIELD OF INSURANCE SHALL NOT SERVE AS THE ADVOCATE AND MAY NOT BE AN OFFICE EMPLOYEE.

(E) FOR THE PURPOSES OF THIS SECTION, A TRADE ASSOCIATION IS A NONPROFIT, COOPERATIVE AND VOLUNTARILY JOINED ASSOCIATION OF BUSINESS OR PROFESSIONAL COMPETITORS DESIGNED TO ASSIST ITS MEMBERS AND ITS INDUSTRY

OR PROFESSION IN DEALING WITH MUTUAL BUSINESS OR PROFESSIONAL PROBLEMS AND IN PROMOTING THEIR COMMON INTEREST.

S 947. POWERS AND DUTIES. 1. THE ADVOCATE, AS EXECUTIVE DIRECTOR OF THE OFFICE, SHALL BE CHARGED WITH THE RESPONSIBILITY OF ADMINISTERING, ENFORCING AND CARRYING OUT THE PROVISIONS OF THIS ARTICLE, INCLUDING PREPARATION OF A BUDGET FOR THE OFFICE, EMPLOYING ALL NECESSARY PROFESSIONAL, TECHNICAL AND OTHER EMPLOYEES TO CARRY OUT PROVISIONS OF THIS ARTICLE, APPROVAL OF EXPENDITURES FOR PROFESSIONAL SERVICES, TRAVEL, PER DIEM AND OTHER ACTUAL AND NECESSARY EXPENSES INCURRED IN ADMINISTERING THE OFFICE. THE COMPENSATION OF EMPLOYEES OF THE OFFICE SHALL BE FIXED BY THE ADVOCATE WITHIN THE APPROPRIATION PROVIDED THEREFOR.

2. THE OFFICE SHALL FILE ANNUALLY WITH THE GOVERNOR, TEMPORARY PRESIDENT OF THE SENATE AND SPEAKER OF THE ASSEMBLY A COMPLETE AND DETAILED WRITTEN REPORT ACCOUNTING FOR ALL FUNDS RECEIVED AND DISBURSED BY THE OFFICE DURING THE PRECEDING FISCAL YEAR. THE ANNUAL REPORT SHALL BE IN THE FORM AND REPORTED AS PART OF THE EXECUTIVE BUDGET.

3. ALL MONEY PAID TO THE OFFICE UNDER THIS ARTICLE SHALL BE DEPOSITED IN THE STATE TREASURY.

4. THE OFFICE MAY ASSESS THE IMPACT OF INSURER PRACTICES AND PROPOSED AND IN-FORCE INSURANCE RATES, RULES AND REGULATIONS ON NONBUSINESS AUTOMOBILE AND HEALTH INSURANCE CONSUMERS IN THE STATE; IN ITS OWN NAME, ADVOCATE ON BEHALF OF POSITIONS THAT ARE MOST ADVANTAGEOUS TO A SUBSTANTIAL NUMBER OF INSURANCE CONSUMERS AS DETERMINED BY THE ADVOCATE; AND DO ALL THINGS NECESSARY AND PROPER FOR THESE PURPOSES, INCLUDING ENGAGING ATTORNEYS, AND EXPERTS IN ACTUARIAL SCIENCE, ECONOMICS, ACCOUNTING, FINANCE OR ANY OTHER DISCIPLINE WHICH MAY BE APPROPRIATE.

5. THE ADVOCATE:

(A) MAY APPEAR OR INTERVENE AS A MATTER OF RIGHT BEFORE THE SUPERINTENDENT OF INSURANCE OR INSURANCE DEPARTMENT AS A PARTY OR OTHERWISE ON BEHALF OF INSURANCE CONSUMERS AS A CLASS IN MATTERS INVOLVING INSURER PRACTICES AND PROPOSED AND IN-FORCE RATES, RULES AND REGULATIONS AFFECTING NONBUSINESS AUTOMOBILE AND HEALTH INSURANCE;

(B) MAY INITIATE OR INTERVENE AS A MATTER OF RIGHT OR OTHERWISE APPEAR IN ANY JUDICIAL PROCEEDING INVOLVING OR ARISING OUT OF ANY ACTION TAKEN BY AN ADMINISTRATIVE AGENCY IN A PROCEEDING IN WHICH THE ADVOCATE PREVIOUSLY APPEARED UNDER THE AUTHORITY GRANTED BY THIS ARTICLE;

(C) IS ENTITLED TO ACCESS ANY RECORDS OF THE INSURANCE DEPARTMENT THAT ARE AVAILABLE TO ANY PARTY IN A PROCEEDING BEFORE THE SUPERINTENDENT OF INSURANCE OR INSURANCE DEPARTMENT UNDER THE AUTHORITY GRANTED BY THIS ARTICLE;

(D) IS ENTITLED TO OBTAIN DISCOVERY OF ANY NON-PRIVILEGED MATTER THAT IS RELEVANT TO THE SUBJECT MATTER INVOLVED IN A PROCEEDING OR SUBMISSION BEFORE THE SUPERINTENDENT OF INSURANCE OR INSURANCE DEPARTMENT AS AUTHORIZED BY THIS ARTICLE;

(E) MAY RECOMMEND LEGISLATION TO THE LEGISLATURE THAT, IN THE JUDGMENT OF THE ADVOCATE, WOULD AFFECT POSITIVELY THE INTERESTS OF NONBUSINESS AUTOMOBILE AND HEALTH INSURANCE CONSUMERS;

(F) MAY APPEAR OR INTERVENE AS A MATTER OF RIGHT AS A PARTY OR OTHERWISE ON BEHALF OF NONBUSINESS AUTOMOBILE AND HEALTH INSURANCE CONSUMERS AS A CLASS IN ALL PROCEEDINGS AND ACTIONS IN WHICH THE ADVOCATE DETERMINES THAT SUCH CONSUMERS NEED REPRESENTATION, EXCEPT THAT THE ADVOCATE SHALL NOT INTERVENE IN ANY ENFORCEMENT OR PARENS PATRIAE PROCEEDING BROUGHT BY THE ATTORNEY GENERAL;

(G) MAY CONDUCT ANY INQUIRY, HEARING, INVESTIGATION, SURVEY OR STUDY WHICH THE ADVOCATE DEEMS NECESSARY TO EFFECTIVELY CARRY OUT THE PROVISIONS OF THIS ARTICLE AND, FOR THAT PURPOSE, TO TAKE AND HEAR

PROOFS AND TESTIMONY, SUBPOENA WITNESSES, COMPEL THEIR ATTENDANCE, ADMINISTER OATHS, EXAMINE ANY PERSON UNDER OATH AND TO COMPEL ANY PERSON TO SUBSCRIBE TO HIS OR HER TESTIMONY AFTER IT HAS BEEN CORRECTLY REDUCED TO WRITING, AND IN CONNECTION THEREWITH TO REQUIRE THE PRODUCTION OF ANY BOOKS, PAPERS, RECORDS, ACCOUNTS, CORRESPONDENCE OR OTHER DOCUMENTS WHICH THE ADVOCATE DEEMS RELEVANT TO THE INQUIRY. A SUBPOENA ISSUED UNDER THIS SECTION SHALL BE REGULATED BY THE CIVIL PRACTICE LAW AND RULES.

6. (A) THE OFFICE SHALL PREPARE INFORMATION OF PUBLIC INTEREST DESCRIBING THE FUNCTIONS OF THE OFFICE. THE OFFICE SHALL MAKE THE INFORMATION AVAILABLE TO THE PUBLIC, LAWMAKERS AND APPROPRIATE STATE AGENCIES.

(B) THE OFFICE SHALL PREPARE AND MAINTAIN A WRITTEN PLAN THAT DESCRIBES HOW EACH PERSON WHO DOES NOT SPEAK ENGLISH CAN BE PROVIDED REASONABLE ACCESS TO THE OFFICE'S PROGRAMS.

(C) THE OFFICE SHALL PREPARE AND DISTRIBUTE PUBLIC EDUCATION MATERIALS FOR CONSUMERS, LEGISLATORS AND REGULATORS.

(D) THE OFFICE MAY PARTICIPATE IN TRADE ASSOCIATIONS.

7. THE OFFICE SHALL BE SUBJECT TO ARTICLES SIX AND SIX-A OF THE PUBLIC OFFICERS LAW; PROVIDED, HOWEVER, THAT DOCUMENTS, RECORDS, FILES, REPORTS OR OTHER INFORMATION CONCERNING CONFIDENTIAL MATTERS OF THE BOARD, AS DEFINED AND DESCRIBED IN REGULATIONS PROMULGATED BY THE BOARD, ARE SPECIFICALLY EXEMPTED FROM DISCLOSURE PURSUANT TO SECTION EIGHTY-SEVEN OF THE PUBLIC OFFICERS LAW.

S 4. Subsection (d) of section 2321 of the insurance law is amended to read as follows:

(d) Proceedings pursuant to subsections (b) and (c) [hereof] OF THIS SECTION may be instituted upon the initiative of the superintendent or upon written application to the superintendent by any aggrieved person or organization, other than a rate service organization, for a hearing, if the superintendent finds that the application is made in good faith and that the grounds otherwise justify holding such a hearing WHICH SHALL BE HELD WITHIN FIFTEEN DAYS OF THE REQUEST; PROVIDED, HOWEVER, THAT THE SUPERINTENDENT SHALL HOLD SUCH A HEARING WITHIN FIFTEEN DAYS OF AN APPLICATION THEREFOR FROM THE PUBLIC INSURANCE CONSUMER ADVOCATE ESTABLISHED UNDER ARTICLE FORTY-FOUR-A OF THE EXECUTIVE LAW. IN THE CASE OF A DENIAL OF AN APPLICATION FOR A HEARING FILED BY ANY AGGRIEVED PERSON OR ANY OTHER ORGANIZATION, THE SUPERINTENDENT SHALL PROVIDE THE REASONS THEREFOR IN WRITING TO THE APPLICANT WITHIN FIFTEEN DAYS OF SUCH DENIAL.

S 5. Subsection (c) of section 2305 of the insurance law is amended to read as follows:

(c) (1) Rates filed with the superintendent shall be accompanied by the information upon which the insurer supports the rate as set forth in subsection (b) of section two thousand three hundred four of this article.

(2) WITH RESPECT TO RATES FILED FOR NONBUSINESS AUTOMOBILE POLICIES, SUCH FILINGS SHALL INCLUDE ALL STATISTICAL DATA RELIED UPON TO SUPPORT THE FILING AND SUCH OTHER INFORMATION AS THE SUPERINTENDENT SHALL REQUIRE. SUCH FILINGS AND SUPPORTING INFORMATION SHALL CONFORM WITH STANDARDS OF UNIFORMITY WHICH THE SUPERINTENDENT SHALL PRESCRIBE BY REGULATION WITHIN ONE HUNDRED EIGHTY DAYS OF THE EFFECTIVE DATE OF THIS PARAGRAPH.

S 6. The insurance law is amended by adding a new section 2352 to read as follows:

S 2352. MUNICIPAL PETITIONS; MOTOR VEHICLE INSURANCE FOR NONBUSINESS AUTOMOBILES. (A) NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW, ANY MUNICIPALITY OR COMBINATION OF CONTIGUOUS MUNICIPALITIES MAY PETITION THE DEPARTMENT FOR A REDUCTION IN RATES OF POLICIES COVERING LOSSES OR LIABILITIES ARISING OUT OF THE OWNERSHIP OF A MOTOR VEHICLE PREDOMINANTLY USED FOR NONBUSINESS PURPOSES, WHEN A NATURAL PERSON IS THE NAMED INSURED UNDER A POLICY OF AUTO INSURANCE, WHEN SUCH RATES DO NOT REFLECT ACCURATELY THE CURRENT DATA PERTINENT TO THE RISK OF LOSS IN THE MUNICIPALITY OR MUNICIPALITIES BASED ON REASONABLE AND SOUND UNDERWRITING AND ACTUARIAL CRITERIA.

(B) WITHIN FIFTEEN DAYS OF RECEIPT OF SUCH A PETITION, THE DEPARTMENT SHALL HOLD A PUBLIC HEARING THEREON, AT WHICH MUNICIPAL REPRESENTATIVES, INSURERS AND THE PUBLIC SHALL HAVE THE RIGHT TO BE HEARD. THE DEPARTMENT SHALL EXPLAIN IN WRITING ITS REASONS FOR GRANTING OR DENYING, IN WHOLE OR IN PART, THE RELIEF SOUGHT IN THE PETITION. IF THE DEPARTMENT GRANTS SUCH RELIEF, IT SHALL IMMEDIATELY ORDER AN APPROPRIATE REDUCTION, WHICH MAY INCLUDE RETROACTIVE RELIEF, IF JUSTIFIED, NOTWITHSTANDING ANY INCONSISTENT PROVISION OF LAW.

(C) FOR THE PURPOSES OF THIS SECTION, THE TERM "MUNICIPALITY" SHALL MEAN ANY COUNTY NOT WHOLLY CONTAINED WITHIN A CITY AND ANY CITY COMPRISING MORE THAN ONE COUNTY.

S 7. The insurance law is amended by adding a new section 342 to read as follows:

S 342. COOPERATION WITH OFFICE OF PUBLIC INSURANCE CONSUMER ADVOCATE. (A) THE SUPERINTENDENT, AND EVERY DEPUTY AND EMPLOYEE OF THE DEPARTMENT SHALL COOPERATE FULLY AND COMPLETELY WITH THE OFFICE OF PUBLIC INSURANCE CONSUMER ADVOCATE AND PROVIDE WITHOUT CHARGE TO SUCH OFFICE, ACCESS AND, UPON REQUEST OF THE PUBLIC INSURANCE CONSUMER ADVOCATE, COPIES OF ALL BOOKS, RECORDS AND FILES OF THE DEPARTMENT AND OF EACH LICENSEE OF THE DEPARTMENT TO THE EXTENT THAT THE DEPARTMENT HAS ACCESS OR COPIES OF SUCH BOOKS, RECORDS AND FILES, WHICH SUCH ADVOCATE DEEMS NECESSARY AND APPROPRIATE TO CARRY OUT THE PURPOSES OF ARTICLE FORTY-FOUR-A OF THE EXECUTIVE LAW, INCLUDING, BUT NOT LIMITED TO FILINGS AND APPLICATIONS WHICH MAY BE SUBJECT TO A HEARING PURSUANT TO THIS SECTION, AND ALL INFORMATION FURNISHED THE SUPERINTENDENT IN SUPPORT OF SUCH FILINGS AND APPLICATIONS.

(B) NOTWITHSTANDING ANY INCONSISTENT LAW, RULE OR REGULATION TO THE CONTRARY, THE SUPERINTENDENT SHALL NOTIFY THE OFFICE OF PUBLIC INSURANCE CONSUMER ADVOCATE OF ALL RATE-RELATED FILINGS MADE UNDER ARTICLE TWENTY-THREE OF THIS CHAPTER WITH RESPECT TO NONBUSINESS AUTOMOBILE INSURANCE, FILINGS FOR RATE INCREASES PURSUANT TO SECTIONS THREE THOUSAND TWO HUNDRED THIRTY-ONE AND FOUR THOUSAND THREE HUNDRED EIGHT OF THIS CHAPTER AND APPLICATIONS FOR MATERIAL CHANGE IN BENEFITS OR DELIVERY OF BENEFITS UNDER A CONTRACT, WITHIN FIVE BUSINESS DAYS OF HAVING RECEIVED SUCH FILINGS AND APPLICATIONS. SUCH NOTIFICATION SHALL INCLUDE A SUMMARY OF EACH FILING OR APPLICATION, TO INCLUDE, BUT NOT BE LIMITED TO: THE NUMBER OF POLICYHOLDERS, SUBSCRIBERS OR ENROLLEES AFFECTED; THE AMOUNT OF RATE INCREASE; THE REGIONS OR TERRITORIES AFFECTED; AND A DESCRIPTION OF THE CHANGE IN BENEFITS OR DELIVERY OF BENEFITS. THE SUPERINTENDENT SHALL SIMULTANEOUSLY SUBMIT FOR PUBLICATION IN THE STATE REGISTER ALL SUCH NOTIFICATIONS TO THE PUBLIC INSURANCE CONSUMER ADVOCATE. WITHIN FIVE BUSINESS DAYS OF THE REQUEST OF SUCH ADVOCATE, THE SUPERINTENDENT SHALL FORWARD ANY FILINGS AND APPLICATIONS SO REQUESTED AND ALL INFORMATION FURNISHED IN SUPPORT OF SUCH FILINGS AND APPLICATIONS.

(C) THE PUBLIC INSURANCE CONSUMER ADVOCATE MAY REQUEST THE SUPERINTENDENT HOLD A HEARING ON ANY MATTER DEEMED NECESSARY AND APPROPRIATE TO

CARRY OUT THE PURPOSES OF ARTICLE FORTY-FOUR-A OF THE EXECUTIVE LAW, WHICH SHALL BE HELD WITHIN FIFTEEN DAYS OF THE REQUEST. NO PROPOSED CHANGE IN RULE OR REGULATION, FILING FOR A NONBUSINESS AUTOMOBILE RATE-RELATED CHANGE OR RATE INCREASE, FILING FOR A RATE INCREASE PURSUANT TO SECTIONS THREE THOUSAND TWO HUNDRED THIRTY-ONE AND FOUR THOUSAND THREE HUNDRED EIGHT OF THIS CHAPTER, OR APPLICATION FOR MATERIAL CHANGE IN BENEFITS OR DELIVERY OF BENEFITS SUBJECT TO A HEARING UNDER THIS SECTION SHALL BECOME EFFECTIVE PENDING THE CLOSE OF SUCH HEARING, PROVIDED THAT SUCH REQUEST IS MADE WITHIN THIRTY DAYS OF SUCH ADVOCATE HAVING RECEIVED NOTICE OF SUCH PROPOSED CHANGE, FILING OR APPLICATION. WITHIN FIFTEEN DAYS AFTER THE CLOSE OF THE HEARING, OR SUCH TIME AS THE SUPERINTENDENT APPROVES THE PROPOSED RULE, REGULATION, FILING OR APPLICATION, THE SUPERINTENDENT SHALL ISSUE A WRITTEN OPINION BASED UPON THE HEARING RECORD, EXPLAINING THE REASONS FOR APPROVING OR DENYING, IN WHOLE OR IN PART, THE CHANGE SOUGHT.

S 8. Subparagraph (A) of paragraph 2 of subsection (e) of section 3231 of the insurance law, as added by chapter 501 of the laws of 1992, is amended to read as follows:

(A) Beginning October first, nineteen hundred ninety-four, as an alternate procedure to the requirements of paragraph one of this subsection, an insurer desiring to increase or decrease premiums for any policy form subject to this section may instead submit a rate filing or application to the superintendent and such application or filing shall be deemed approved, provided that (i) the anticipated minimum loss ratio for a policy form shall not be less than seventy-five percent of the premium, and (ii) the insurer submits, as part of such filing, a certification by a member of the American Academy of Actuaries or other individual acceptable to the superintendent that the insurer is in compliance with the provisions of this paragraph, based upon that person's examination, including a review of the appropriate records and of the actuarial assumptions and methods used by the insurer in establishing premium rates for policy forms subject to this section, UNLESS THE PUBLIC INSURANCE CONSUMER ADVOCATE HAS REQUESTED A PUBLIC HEARING ON SUCH RATE FILING OR APPLICATION PURSUANT TO SECTION THREE HUNDRED FORTY-TWO OF THIS CHAPTER.

S 9. Paragraph 1 of subsection (g) of section 4308 of the insurance law, as added by chapter 504 of the laws of 1995, is amended to read as follows:

(1) Beginning January first, nineteen hundred ninety-six, as an alternate procedure to the requirements of subsection (c) of this section, a corporation subject to the provisions of this article desiring to increase or decrease premiums for any contract subject to this section may instead submit a rate filing or application to the superintendent and such application or filing shall be deemed approved, provided that (A) the anticipated incurred loss ratio for a contract form shall not be less than eighty-five percent for individual direct payment contracts or seventy-five percent for small group and small group remittance contracts, nor, except in the case of individual direct payment contracts with a loss ratio of greater than one hundred five percent during nineteen hundred ninety-four, shall the loss ratio for any direct payment, group or group remittance contract be more than one hundred five percent of the anticipated earned premium, and (B) the corporation submits, as part of such filing, a certification by a member of the American Academy of Actuaries or other individual acceptable to the superintendent that that corporation is in compliance with the provisions of this subsection, based upon that person's examination,

including a review of the appropriate records and of the actuarial assumptions and methods used by the corporation in establishing premium rates for contracts subject to this section, UNLESS THE PUBLIC INSURANCE CONSUMER ADVOCATE HAS REQUESTED A PUBLIC HEARING ON SUCH RATE FILING OR APPLICATION PURSUANT TO SECTION THREE HUNDRED FORTY-TWO OF THIS CHAPTER. For purposes of this section, a small group is any group whose contract is subject to the requirements of section [forty-three] FOUR THOUSAND THREE hundred seventeen of this article.

S 10. Section 149 of the executive law is amended by adding a new subdivision 4 to read as follows:

4. NOTICES SUBMITTED PURSUANT TO SECTION THREE HUNDRED FORTY-TWO OF THE INSURANCE LAW SHALL BE IN SUCH FORMAT AS THE SECRETARY OF STATE SHALL REQUIRE, AND SHALL BE PUBLISHED IN A SEPARATE SECTION OF THE REGISTER WHICH SHALL INCLUDE TELEPHONE NUMBERS, ADDRESSES AND E-MAIL ADDRESSES WHICH THE PUBLIC MAY USE TO CONTACT THE OFFICE OF PUBLIC INSURANCE CONSUMER ADVOCATE AND THE INSURANCE DEPARTMENT.

S 11. Section 202 of the state administrative procedure act is amended by adding a new subdivision 1-a to read as follows:

1-A. IN ADDITION TO THE REQUIREMENTS OF THIS SECTION, ANY NOTICE OF PROPOSED RULEMAKING, NOTICE OF REVISED RULEMAKING OR NOTICE OF EMERGENCY ADOPTION SUBMITTED BY THE INSURANCE DEPARTMENT THAT IMPACTS NONBUSINESS AUTOMOBILE OR HEALTH INSURANCE CONSUMERS SHALL ALSO INCLUDE THE TELEPHONE NUMBER, ADDRESS AND E-MAIL ADDRESS WHICH THE PUBLIC MAY USE TO CONTACT THE OFFICE OF PUBLIC INSURANCE CONSUMER ADVOCATE.

S 12. This act shall take effect immediately; provided, however, that within twelve months of the effective date of this act, the database required by section 502 of the insurance law, as added by section one of this act, shall be completed; and, provided further, that within 90 days of the effective date of this act, notice of the availability of the insurance department's Annual Ranking of Automobile Insurance Complaints and Consumers Guide to Auto Insurance, and the insurance department's address, telephone number and web site address shall be provided with all nonbusiness automobile policies delivered, issued for delivery, renewed or issued for renewal in this state. The disclosure requirement of section 504 of the insurance law, as added by section one of this act shall take effect twelve months after the effective date of this act. The public insurance consumer advocate shall be appointed, pursuant to article 44-A of the executive law, as added by section three of this act for a two year term. Any regulations necessary for the implementation of the provisions of this act shall be promulgated within 180 days after the effective date of this act.