

2742

2009-2010 Regular Sessions

I N A S S E M B L Y

January 21, 2009

Introduced by M. of A. GANTT -- read once and referred to the Committee
on Insurance

AN ACT to amend the insurance law, in relation to prohibiting discrimination in the issuance or renewal of homeowners' insurance policies and to the geographical location of risk of certain policies

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

1 Section 1. Section 3429 of the insurance law is amended to read as
2 follows:
3 S 3429. Geographical location of risks; HOMEOWNERS'; fire, fire and
4 extended coverage policies; private passenger automobile insurance poli-
5 cies. (a) No insurer shall REJECT ANY APPLICATION FOR, refuse to issue
6 or renew, LIMIT THE TYPE OR AMOUNT OF COVERAGE OFFERED or shall cancel a
7 policy of:
8 (1) HOMEOWNERS' INSURANCE, fire insurance or fire and extended cover-
9 age insurance, or
10 (2) automobile insurance subject to section three thousand four
11 hundred twenty-five of this article
12 based solely on the geographical location, AGE OR MARKET VALUE of the
13 risk OR PROPERTY within this state. Such prohibition shall not preclude
14 an insurer from REJECTING AN APPLICATION FOR SUCH COVERAGE BASED ON THE
15 UNREASONABLE DISTANCE OF THE RISK OR PROPERTY FROM THE INSURER'S ORDI-
16 NARY SERVICE AREA, OR FROM refusing to issue or renew, LIMITING THE TYPE
17 OR AMOUNT OF COVERAGE OFFERED or from cancelling such policies [based on
18 sound underwriting and actuarial principles] IF ITS ACTION IS SUPPORTED
19 BY ACTUARIALLY SOUND STATISTICAL DATA reasonably related to actual or
20 anticipated loss experience subject to the applicable provisions of
21 section three thousand four hundred twenty-five of this article, AND
22 SUCH ACTION IS CONSISTENT WITH ITS TREATMENT OF RISKS OF SUBSTANTIALLY
23 SIMILAR HAZARD IN ALL GEOGRAPHICAL LOCATIONS IT SERVES IN THIS STATE.
24 (b) The superintendent shall by regulation establish procedures with
25 respect to notification to insureds of the insurer's specific reason or
26 reasons for refusal to issue or renew or for cancellation of such poli-
27 cy.

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

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1 S 2. Section 3430 of the insurance law, paragraph 1 of subsection (a)
2 as amended by chapter 259 of the laws of 2005, is amended to read as
3 follows:

4 S 3430. Right of insured, agent or broker aggrieved on basis of
5 geographical location of property or risks. (a) An insured aggrieved by
6 an inability to obtain OR RETAIN A TYPE OR AMOUNT OF:

7 (1) homeowner's insurance, including fire insurance or fire and
8 extended coverage insurance, other than from the New York property
9 insurance underwriting association, or

10 (2) automobile insurance subject to section three thousand four
11 hundred twenty-five of this article, other than through the New York
12 automobile insurance plan,

13 from any insurer or through any insurance agent or broker because of the
14 geographical location, AGE OR MARKET VALUE of the risk or property with-
15 in the state or a licensed agent or broker whose contract or account was
16 terminated or not renewed because of the geographical location of the
17 agent or broker or the geographical location, AGE OR MARKET VALUE of the
18 risks within the state for which coverage is afforded through the agent
19 or broker [and the grievance was not the result of the application of
20 sound underwriting and actuarial principles reasonably related to actual
21 or anticipated loss experience] may file a complaint to that effect with
22 the superintendent on a form prescribed by him.

23 (b) The superintendent shall investigate the complaint pursuant to
24 rules and regulations promulgated by him. In addition to any other power
25 or procedure authorized by this chapter, the superintendent SHALL TAKE
26 SUCH ACTION AND REQUIRE SUCH DOCUMENTATION AS DEEMED NECESSARY TO DETER-
27 MINE COMPLIANCE WITH SECTION THREE THOUSAND FOUR HUNDRED TWENTY-NINE AND
28 THREE THOUSAND FOUR HUNDRED THIRTY-THREE OF THIS ARTICLE, AND may
29 require the physical inspection of the risk or property or hold a hear-
30 ing, or both, for the purpose of assisting him in his determination of
31 the issues raised by the complaint.

32 S 3. Section 3433 of the insurance law is amended to read as follows:

33 S 3433. Termination of contracts or accounts of licensed agents or
34 brokers; prohibition; geographical location. (a) No insurer shall termi-
35 nate or refuse to renew a contract or account of a licensed agent or
36 broker who negotiated policies of:

37 (1) HOMEOWNERS' INSURANCE, fire insurance or fire and extended cover-
38 age insurance or

39 (2) automobile insurance subject to section three thousand four
40 hundred twenty-five of this article when such termination or refusal to
41 renew is based solely on the geographical location of the agent or
42 broker or GEOGRAPHICAL LOCATION, AGE OR MARKET VALUE of the risks for
43 which coverage is afforded through such agent or broker UNLESS SUCH
44 ACTION IS SUPPORTED BY ACTUARIALLY SOUND STATISTICAL DATA REASONABLY
45 RELATED TO ACTUAL OR ANTICIPATED LOSS EXPERIENCE OF SUCH RISKS, AND SUCH
46 ACTION IS CONSISTENT WITH ITS TREATMENT OF LICENSED AGENTS OR BROKERS
47 WHO NEGOTIATED POLICIES FOR RISKS OF SUBSTANTIALLY SIMILAR HAZARD IN ALL
48 GEOGRAPHICAL LOCATIONS IT SERVES IN THIS STATE.

49 (b) The superintendent shall by regulation establish procedures
50 requiring notification to such agents or brokers of the insurer's
51 specific reason or reasons for termination or refusal to renew the
52 agent's or broker's contract or account.

53 S 4. This act shall take effect on the thirtieth day after it shall
54 have become a law and shall apply to all contracts and policies of
55 insurance issued or renewed on and after such date.