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

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:

Section 1. Section 3429 of the insurance law is amended to read as follows:

S 3429. Geographical location of risks; HOMEOWNERS'; fire, fire and extended coverage policies; private passenger automobile insurance policies. (a) No insurer shall REJECT ANY APPLICATION FOR, refuse to issue or renew, LIMIT THE TYPE OR AMOUNT OF COVERAGE OFFERED or shall cancel a policy of:

(1) HOMEOWNERS' INSURANCE, fire insurance or fire and extended coverage insurance, or

(2) automobile insurance subject to section three thousand four hundred twenty-five of this article

based solely on the geographical location, AGE OR MARKET VALUE of the risk OR PROPERTY within this state. Such prohibition shall not preclude an insurer from REJECTING AN APPLICATION FOR SUCH COVERAGE BASED ON THE UNREASONABLE DISTANCE OF THE RISK OR PROPERTY FROM THE INSURER'S ORDINARY SERVICE AREA, OR FROM refusing to issue or renew, LIMITING THE TYPE OR AMOUNT OF COVERAGE OFFERED or from cancelling such policies [based on sound underwriting and actuarial principles] IF ITS ACTION IS SUPPORTED BY ACTUARIALLY SOUND STATISTICAL DATA reasonably related to actual or anticipated loss experience subject to the applicable provisions of section three thousand four hundred twenty-five of this article, AND SUCH ACTION IS CONSISTENT WITH ITS TREATMENT OF RISKS OF SUBSTANTIALLY SIMILAR HAZARD IN ALL GEOGRAPHICAL LOCATIONS IT SERVES IN THIS STATE.

(b) The superintendent shall by regulation establish procedures with respect to notification to insureds of the insurer's specific reason or reasons for refusal to issue or renew or for cancellation of such policy.

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

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

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

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

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

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

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

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

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

(1) HOMEOWNERS' INSURANCE, fire insurance or fire and extended coverage insurance or

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

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

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