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

153

2009-2010 Regular Sessions

I N S E N A T E

(PREFILED)

January 7, 2009

Introduced by Sen. KRUGER -- 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 prohibiting discrimination by insurers because of past travel history

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 2606-a to read as follows:

S 2606-A. DISCRIMINATION BECAUSE OF PAST TRAVEL HISTORY. (A) NO INDIVIDUAL, INSURER OR ENTITY SUBJECT TO THE SUPERVISION OF THE SUPERINTENDENT SHALL SOLELY BECAUSE OF AN APPLICANT'S OR INSURED'S PAST LAWFUL TRAVEL EXPERIENCES OR HISTORY:

(1) REFUSE TO ISSUE OR RENEW, DENY OR CANCEL ANY INSURANCE POLICY OR CONTRACT;

(2) DEMAND OR REQUIRE A GREATER PREMIUM OR PAYMENT FROM ANY PERSON;

(3) FIX ANY LOWER RATE OR DISCRIMINATE IN THE FEES OR COMMISSIONS OF AGENTS OR BROKERS FOR WRITING OR RENEWING SUCH A POLICY.

(B) A PERSON'S PAST LAWFUL TRAVEL EXPERIENCES OR HISTORY IS NOT A PERMITTED UNDERWRITING CRITERION.

(C) FOR THE PURPOSES OF THIS SECTION, "INSURER" SHALL MEAN ANY INSURER, ARTICLE FORTY-THREE CORPORATION, HEALTH MAINTENANCE ORGANIZATION, OR AGENT, REPRESENTATIVE OR DESIGNEE THEREOF REGULATED PURSUANT TO THIS CHAPTER.

(D) THE PROHIBITIONS CONTAINED IN SUBSECTION (A) OF THIS SECTION SHALL NOT PRECLUDE AN INSURER FROM TAKING ANY OF THE ACTIONS DESCRIBED IN SUBSECTION (A) OF THIS SECTION SO LONG AS SUCH INSURER RELIES ON UNDERWRITING CRITERIA REASONABLY RELATED TO THE PHYSICAL OR MENTAL CONDITION OF A PERSON, THEIR PROPERTY OR CLAIM HISTORY AND THE DECISION WAS BASED ON SOUND UNDERWRITING AND ACTUARIAL PRINCIPLES REASONABLY RELATED TO ACTUAL OR ANTICIPATED LOSS EXPERIENCE. IN SUCH CASE THE SELECTION CRITE-

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

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RIA PERMITTED MUST BE BASED ON SUCH PRINCIPLES. THE INSURER SHALL NOTIFY THE INSURED OF ITS SPECIFIC REASON OR REASONS FOR SUCH DECISION.

(E) AN INSURER THAT COMPLIES WITH SUBSECTION (A) OF THIS SECTION AND ACTS IN GOOD FAITH SHALL NOT BE SUBJECT TO CIVIL LIABILITY ON ACCOUNT OF COMPLIANCE WITH SUCH SUBSECTION.

S 2. This act shall take effect on the ninetieth day after it shall have become a law and shall apply to all policies issued, renewed, altered or modified on or after such date.