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

4602--A

2009-2010 Regular Sessions

I N S E N A T E

April 24, 2009

Introduced by Sens. BRESLIN, DUANE -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the insurance law, in relation to a health insurance demonstration program for independent workers and providing for the repeal of such provisions upon expiration thereof

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 1123 to read as follows:

S 1123. HEALTH INSURANCE DEMONSTRATION PROGRAM FOR INDEPENDENT WORKERS. (A) PURPOSE OF THE DEMONSTRATION PROGRAM. THE LEGISLATURE RECOGNIZES THAT INDEPENDENT CONTRACTORS, PART-TIME WORKERS, TEMPORARY WORKERS AND OTHER INDIVIDUALS WHO PERFORM WORK OUTSIDE THE SCOPE OF A FULL-TIME EMPLOYMENT RELATIONSHIP WITH AN EMPLOYER FREQUENTLY LACK ACCESS TO EMPLOYMENT-BASED GROUP HEALTH INSURANCE COVERAGE. AS A RESULT, THESE INDEPENDENT WORKERS, WHO COMPRISE A GROWING PORTION OF THE WORKFORCE, ARE MORE LIKELY THAN TRADITIONAL EMPLOYEES TO BE UNINSURED. THE DEMONSTRATION PROGRAM AUTHORIZED BY THIS SECTION IS INTENDED TO TEST NEW MODELS FOR ENABLING INDEPENDENT WORKERS TO CREATE THEIR OWN GROUP HEALTH INSURANCE PROGRAMS THAT MEET THEIR SPECIAL NEEDS, WHILE ENSURING COMPLIANCE WITH THIS CHAPTER AND ANY REGULATIONS PROMULGATED THEREUNDER, INCLUDING SOLVENCY REQUIREMENTS, BENEFIT MANDATES AND OTHER OBLIGATIONS IMPOSED ON INSURERS. THE DEMONSTRATION PROGRAM WILL ENABLE THE LEGISLATURE AND THE SUPERINTENDENT TO EVALUATE WHETHER THESE NEW MODELS FOR DELIVERING GROUP HEALTH INSURANCE BENEFITS TO INDEPENDENT WORKERS ARE EFFECTIVE AND SHOULD BE EXPANDED TO OTHER SEGMENTS OF THE POPULATION THAT LACK ACCESS TO EMPLOYMENT-BASED HEALTH INSURANCE.

(B) DEFINITIONS. IN THIS SECTION:

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

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(1) "ELIGIBLE ASSOCIATION" MEANS AN ENTITY THAT: (A) IS EXEMPT FROM FEDERAL TAXATION UNDER SECTION 501(C)(3) OR (C)(4) OF THE INTERNAL REVENUE CODE; (B) WAS INCORPORATED ON OR BEFORE JANUARY FIRST, TWO THOUSAND NINE; (C) MEETS THE CRITERIA SET FORTH IN SUBPARAGRAPH (K) OF PARAGRAPH ONE OF SUBSECTION (C) OF SECTION FOUR THOUSAND TWO HUNDRED THIRTY-FIVE OF THIS CHAPTER; AND (D) HAS BEEN ISSUED ONE OR MORE GROUP HEALTH INSURANCE POLICIES BY AN ELIGIBLE INSURER THAT COLLECTIVELY COVER AT LEAST TEN THOUSAND INDEPENDENT WORKERS IN THIS STATE, INCLUDING THEIR SPOUSES AND DEPENDENTS, WORKING IN DIVERSE AND UNRELATED INDUSTRIES OR OCCUPATIONS.

(2) "ELIGIBLE INSURER" MEANS AN INSURER LICENSED UNDER ARTICLE FORTY-TWO OF THIS CHAPTER THAT IS PRIMARILY OWNED BY AN ELIGIBLE ASSOCIATION. FOR PURPOSES OF THIS PARAGRAPH, AN INSURER SHALL BE DEEMED TO BE PRIMARILY OWNED BY AN ELIGIBLE ASSOCIATION IF THE ELIGIBLE ASSOCIATION DIRECTLY OR INDIRECTLY OWNS MORE THAN FIFTY PERCENT OF THE STOCK OF THE INSURER OR HAS THE RIGHT TO APPOINT MORE THAN FIFTY PERCENT OF THE INSURER'S BOARD OF DIRECTORS.

(3) "INDEPENDENT WORKER" MEANS AN INDIVIDUAL WHO: (A) IS AN INDEPENDENT CONTRACTOR; (B) IS SELF-EMPLOYED; (C) WORKS PART-TIME; (D) OBTAINS TEMPORARY WORK THROUGH AN EMPLOYMENT AGENCY; OR (E) PERFORMS TEMPORARY WORK FOR TWO OR MORE EMPLOYERS SIMULTANEOUSLY. AN INDIVIDUAL IS NOT AN INDEPENDENT WORKER IF HE OR SHE IS EMPLOYED FULL-TIME BY A SINGLE EMPLOYER, WITH THE EXCEPTION OF AN INDIVIDUAL WHO OBTAINS FULL-TIME TEMPORARY WORK THROUGH AN EMPLOYMENT AGENCY.

(4) "GROUP HEALTH INSURANCE" MEANS INSURANCE PROVIDING HOSPITAL, SURGICAL OR MEDICAL EXPENSE COVERAGE OR OTHER SIMILAR COMPREHENSIVE HEALTH INSURANCE COVERAGE THAT COMPLIES WITH PARAGRAPH THREE OF SUBSECTION (A) OF SECTION FOUR THOUSAND TWO HUNDRED THIRTY-FIVE OF THIS CHAPTER.

(C) DEMONSTRATION PROGRAM FOR INDEPENDENT WORKERS. (1) BOTH THE ELIGIBLE INSURER AND THE GROUP HEALTH INSURANCE POLICIES ISSUED TO THE ELIGIBLE ASSOCIATION SHALL BE SUBJECT TO THE PROVISIONS OF THIS CHAPTER AND ANY REGULATIONS PROMULGATED THEREUNDER, EXCEPT THAT, THE ELIGIBLE ASSOCIATION SHALL NOT BE CONSIDERED A SMALL GROUP UNDER THIS CHAPTER AND THE ELIGIBLE INSURER SHALL NOT BE REQUIRED TO OFFER GROUP HEALTH INSURANCE POLICIES TO ANY GROUP OTHER THAN THE ELIGIBLE ASSOCIATION THAT PRIMARILY OWNS THE ELIGIBLE INSURER.

(2) SUBJECT TO PARAGRAPH THREE OF THIS SUBSECTION, THE SUPERINTENDENT MAY ISSUE AN APPROVAL TO AN ELIGIBLE INSURER IF: (A) THE ELIGIBLE INSURER DEMONSTRATES THAT IT SATISFIES ALL FINANCIAL, OPERATIONAL AND OTHER REQUIREMENTS OF THIS CHAPTER AND REGULATIONS PROMULGATED THEREUNDER, OTHER THAN ANY REQUIREMENTS EXPRESSLY WAIVED BY THIS SECTION, AND SHALL OPERATE THE DEMONSTRATION PROGRAM IN ACCORDANCE WITH THE REQUIREMENTS OF THIS SECTION; AND (B) THE SUPERINTENDENT DETERMINES THAT THE DEMONSTRATION PROGRAM FURTHERS THE PUBLIC POLICY GOALS OF THIS SECTION.

(3) ANY ELIGIBLE INSURER SEEKING THE SUPERINTENDENT'S APPROVAL UNDER PARAGRAPH TWO OF THIS SUBSECTION SHALL SUBMIT A WRITTEN REQUEST TO THE SUPERINTENDENT WITHIN THIRTY DAYS OF THE EFFECTIVE DATE OF THIS SECTION. THE ELIGIBLE INSURER'S APPLICATION SHALL: SPECIFY THE IDENTITY AND COMPOSITION OF THE ELIGIBLE ASSOCIATION, THE ELIGIBLE ASSOCIATION'S MEMBERSHIP RULES, AND THE TERMS UNDER WHICH THE ELIGIBLE INSURER SHALL PROVIDE GROUP HEALTH INSURANCE TO THE ELIGIBLE ASSOCIATION; DEMONSTRATE THAT THE ELIGIBLE INSURER AND THE ELIGIBLE ASSOCIATION MEET THE REQUIREMENTS SET FORTH IN THIS SECTION; AND IDENTIFY THE GROUP HEALTH INSURANCE POLICY FORMS THAT THE ELIGIBLE INSURER WILL ISSUE TO THE ELIGIBLE ASSOCIATION. THE SUPERINTENDENT SHALL MAKE A DETERMINATION ON ANY REQUEST

WITHIN NINETY DAYS OF RECEIPT OF ALL NECESSARY INFORMATION. THE SUPERINTENDENT SHALL ISSUE AN APPROVAL TO ONLY ONE ELIGIBLE INSURER.

(4) THE SUPERINTENDENT MAY REVOKE AN APPROVAL ISSUED UNDER PARAGRAPH TWO OF THIS SUBSECTION IF: THE INSURER THAT RECEIVED SUCH APPROVAL NO LONGER QUALIFIES AS AN ELIGIBLE INSURER OR IS OTHERWISE OPERATING IN A MANNER INCONSISTENT WITH THE PROVISIONS OF THIS CHAPTER OR REGULATIONS PROMULGATED THEREUNDER; OR THE ASSOCIATION TO WHICH THE ELIGIBLE INSURER ISSUED THE GROUP HEALTH INSURANCE POLICY NO LONGER QUALIFIES AS AN ELIGIBLE ASSOCIATION. AN ELIGIBLE INSURER THAT RECEIVES APPROVAL UNDER PARAGRAPH TWO OF THIS SUBSECTION SHALL SUBMIT PERIODIC REPORTS TO THE SUPERINTENDENT SUFFICIENT TO ENABLE THE SUPERINTENDENT TO EVALUATE THE EFFECTIVENESS OF THE DEMONSTRATION PROGRAM. SUCH REPORTS SHALL INCLUDE A COMPARISON OF THE COST OF HEALTH INSURANCE OBTAINED UNDER THE PROGRAM TO OTHER AVAILABLE INSURANCE OPTIONS, INCLUDING GROUP HEALTH INSURANCE POLICIES DELIVERED OR ISSUED FOR DELIVERY IN THIS STATE, AN ANALYSIS OF THE PERCENTAGE OF INDIVIDUALS COVERED BY THE PROGRAM WHO WERE UNINSURED OR RECEIVING CONTINUATION BENEFITS UNDER THE FEDERAL CONSOLIDATED OMNIBUS BUDGET RECONCILIATION ACT AT THE TIME OF ENROLLMENT, A DEMOGRAPHIC AND GEOGRAPHIC ANALYSIS OF THE ENROLLED POPULATION AND ANY OTHER INFORMATION REQUIRED BY THE SUPERINTENDENT.

S 2. This act shall take effect immediately and shall expire and be deemed repealed December 31, 2013.