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

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I N S E N A T E

May 7, 2010

Introduced by Sen. BRESLIN -- 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 sponsored group personal excess insurance

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

Section 1. Section 3445 of the insurance law, as added by chapter 528 of the laws of 1998, is renumbered section 3453 and paragraphs 3, 6 and 7 of subsection (a) and subsections (c) and (d) of such section are amended to read as follows:

(3) "Employee" means an individual or partner who receives or has received income, wages or salaries from the employer AND/OR AN OFFICER OR DIRECTOR OF THE EMPLOYER.

(6) "Group member" means a designated ACTIVE OR RETIRED employee insured under this section AND ALSO MAY INCLUDE THE EMPLOYEE'S SPOUSE, FAMILY MEMBERS LIVING WITH THE EMPLOYEE AND OTHER HOUSEHOLD MEMBERS LIVING WITH THE EMPLOYEE.

(7) "Group policy" means employer sponsored group personal excess insurance written for the designated employees of an employer AND/OR OTHER GROUP MEMBERS DEFINED IN THIS SECTION.

(c) The premium for the group policy may be paid by the employer from funds contributed:

(1) wholly by the employer;

(2) wholly by the employees OR GROUP MEMBERS; or

(3) jointly by the employer and employees OR GROUP MEMBERS.

(d) An employee OR GROUP MEMBER shall have the right to refuse coverage offered by an employer under this section.

S 2. The insurance law is amended by adding a new section 3454 to read as follows:

S 3454. SPONSORED GROUP PERSONAL INSURANCE. (A) FOR PURPOSES OF THIS SECTION, THE FOLLOWING DEFINITIONS SHALL APPLY:

(1) "CERTIFICATE" OR "CERTIFICATE OF INSURANCE" MEANS ANY POLICY, CONTRACT OR OTHER EVIDENCE OF INSURANCE, OR RIDER OR ENDORSEMENT THERE-

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

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TO, ISSUED TO A GROUP MEMBER UNDER A SPONSOR GROUP PERSONAL INSURANCE POLICY.

(2) "CONDITIONAL RENEWAL" MEANS ANY CHANGE OF LIMITS, CHANGE IN TYPE OF COVERAGE, REDUCTION OR ELIMINATION OF COVERAGE, INCREASED DEDUCTIBLE OR ADDITION OF EXCLUSION, OR INCREASED PREMIUMS IN EXCESS OF TEN PERCENT (EXCLUSIVE OF ANY PREMIUM INCREASE GENERATED AS A RESULT OF EXPERIENCE RATING, LOSS RATING OR RETROSPECTIVE RATING).

(3) "GROUP PERSONAL EXCESS INSURANCE" MEANS A GROUP POLICY OF INSURANCE PROVIDING THE KIND OF INSURANCE DEFINED IN PARAGRAPH THIRTEEN OR FOURTEEN OF SUBSECTION (A) OF SECTION ONE THOUSAND ONE HUNDRED THIRTEEN OF THIS CHAPTER, WRITTEN AS AN EXCESS POLICY INSURING MEMBERS OF A SPONSOR GROUP.

(4) "GROUP PERSONAL PROPERTY FLOATER" MEANS A GROUP POLICY OF INSURANCE PROVIDING THE KIND OF INSURANCE DEFINED IN SUBPARAGRAPH (C) OF PARAGRAPH SEVEN OF SUBSECTION (A) OF SECTION ONE THOUSAND ONE HUNDRED THIRTEEN OF THIS CHAPTER INSURING MEMBERS OF A SPONSOR GROUP.

(5) "GROUP POLICY" MEANS GROUP PERSONAL EXCESS INSURANCE, GROUP PERSONAL PROPERTY FLOATERS, GROUP RENTERS' INSURANCE AND/OR GROUP VINTAGE VEHICLE INSURANCE WRITTEN FOR MEMBERS OF A SPONSOR GROUP.

(6) "GROUP RENTERS' INSURANCE" MEANS A GROUP POLICY OF INSURANCE DESIGNED TO INSURE RESIDENTIAL PROPERTY TENANTS OR HOUSING COOPERATIVE SHAREHOLDERS OR CONDOMINIUM OWNERS AGAINST LOSS OR DAMAGE TO PERSONAL PROPERTY OR PROPERTY IMPROVEMENTS AND BETTERMENTS, LOSS ASSESSMENTS AND/OR PERSONAL INJURY LIABILITY OR PROPERTY DAMAGE LIABILITY, INSURING MEMBERS OF A SPONSOR GROUP.

(7) "GROUP VINTAGE VEHICLE INSURANCE" MEANS A GROUP POLICY OF INSURANCE PROVIDING MOTOR VEHICLE INSURANCE, INCLUDING AUTOMOBILE PHYSICAL DAMAGE INSURANCE AND/OR LIABILITY OR PERSONAL INJURY ARISING OUT OF THE OWNERSHIP, MAINTENANCE OR OPERATION OF A MOTOR VEHICLE, COVERING VEHICLES THAT ARE VINTAGE, HISTORICAL, ANTIQUE, COLLECTIBLE, HOMEMADE, MADE FROM KITS OR REGISTERED AS LIMITED-USE VEHICLES, INSURING MEMBERS OF A SPONSOR GROUP.

(8) "SPONSOR GROUP" MEANS A NON-FICTITIOUS ASSOCIATION, ORGANIZATION, LABOR UNION, FEDERATION, FRATERNITY, CLUB OR SIMILAR ENTITY IN WHICH THE MEMBERS ARE ENGAGED IN A COMMON PURSUIT OR ENTERPRISE. A BANK, CORPORATION, PARTNERSHIP, TRUST COMPANY OR TRUSTEE OF A TRUST OWNING REAL ESTATE ALSO MAY BE A SPONSOR GROUP WITH RESPECT TO GROUP RENTERS' INSURANCE SOLD TO OCCUPANTS OF RESIDENTIAL PROPERTIES OWNED BY THAT BANK, CORPORATION, PARTNERSHIP OR TRUST. A SPONSOR GROUP, OTHER THAN A BANK, CORPORATION, PARTNERSHIP, TRUST OR TRUST COMPANY ACTING AS A SPONSOR GROUP FOR GROUP RENTERS INSURANCE, MUST HAVE BEEN IN EXISTENCE FOR MORE THAN THREE YEARS, HAVE TWENTY-FIVE OR MORE MEMBERS, ADOPTED BY-LAWS OR SIMILAR GOVERNANCE RULES AND A METHOD TO ENROLL OR REGISTER MEMBERS. A BANK, CORPORATION, PARTNERSHIP OR TRUST SPONSORING GROUP RENTERS' INSURANCE MUST OWN TWENTY-FIVE OR MORE PROPERTIES OR LIVING UNITS. GROUPS FORMED FOR THE PURPOSE OF SPONSORING, SELLING OR PURCHASING GROUP INSURANCE SHALL NOT BE PERMITTED TO ACT AS A SPONSOR GROUP.

(9) "SPONSOR GROUP MEMBER" MEANS AN ENROLLED MEMBER, OFFICER OR DIRECTOR OF AN ASSOCIATION, ORGANIZATION, LABOR UNION, FEDERATION, FRATERNITY, CLUB OR SIMILAR ENTITY. LESSEES OR OCCUPANTS OF RESIDENTIAL PROPERTY OWNED BY A BANK, CORPORATION, PARTNERSHIP OR TRUST ALSO MAY BE SPONSOR GROUP MEMBERS WHEN THE BANK, CORPORATION, PARTNERSHIP, TRUST COMPANY OR TRUSTEE ACTS AS THE SPONSOR GROUP. LESSEES OR OCCUPANTS OF RESIDENTIAL PROPERTY ALSO MAY BE SPONSOR GROUP MEMBERS IF THE SPONSOR GROUP IS A TENANTS' ASSOCIATION, CONDOMINIUM ASSOCIATION OR SIMILAR ORGANIZATION. A GROUP ALSO MAY INCLUDE A GROUP MEMBER'S SPOUSE, FAMILY MEMBERS LIVING

WITH THE GROUP MEMBER AND OTHER HOUSEHOLD MEMBERS LIVING WITH THE EMPLOYEE.

(B) SPONSORED GROUP PERSONAL INSURANCE MAY BE WRITTEN IN THIS STATE BY AUTHORIZED INSURERS PURSUANT TO THIS SECTION.

(C) THE PREMIUM FOR THE GROUP POLICY SHALL BE PAID BY THE GROUP MEMBERS. HOWEVER, THE SPONSOR GROUP MAY AGGREGATE THE GROUP MEMBERS' PREMIUMS AND REMIT THEM TO THE INSURER.

(D) A GROUP MEMBER SHALL HAVE THE RIGHT TO REFUSE COVERAGE OFFERED BY A SPONSOR GROUP UNDER THIS SECTION.

(E) EACH POLICY WRITTEN PURSUANT TO THIS SECTION SHALL PROVIDE SEPARATE LIMITS OF COVERAGE FOR EACH GROUP MEMBER.

(F)(1) THE INSURERS SHALL BE RESPONSIBLE FOR THE MAILING OR DELIVERY TO THE SPONSOR GROUP OF THE POLICY AND CERTIFICATES OF INSURANCE FOR EACH GROUP MEMBER INSURED UNDER THE GROUP POLICY. THE INSURER SHALL ALSO BE RESPONSIBLE FOR THE MAILING OR DELIVERY TO THE SPONSOR GROUP FOR EACH GROUP MEMBER ANY AMENDED CERTIFICATE OF INSURANCE, OR ENDORSEMENT TO THE CERTIFICATE, WHENEVER THERE IS A CHANGE OF LIMITS; ADDITION, REDUCTION, OR ELIMINATION OF COVERAGE; OR ADDITION OF AN EXCLUSION, UNDER THE GROUP POLICY OR CERTIFICATE.

(2) THE CERTIFICATE SHALL CONTAIN IN SUBSTANCE ALL MATERIAL TERMS AND CONDITIONS OF COVERAGE AFFORDED TO THE GROUP MEMBER, INCLUDING, BUT NOT LIMITED TO, THE DISCLOSURE IN CLEAR AND EASILY UNDERSTANDABLE LANGUAGE OF ANY LIMITATIONS, EXCLUSIONS OR REQUIRED UNDERLYING COVERAGES, UNLESS THE GROUP POLICY IS INCORPORATED BY REFERENCE AND A COPY OF THE GROUP POLICY ACCOMPANIES THE CERTIFICATE.

(G)(1) A GROUP POLICY OR CERTIFICATE SHALL NOT BE SUBJECT TO SECTION THREE THOUSAND FOUR HUNDRED TWENTY-FIVE OR SECTION THREE THOUSAND FOUR HUNDRED TWENTY-SIX OF THIS ARTICLE. THE FOLLOWING REQUIREMENTS SHALL APPLY TO AUTHORIZED INSURERS IN REGARD TO TERMINATION OF COVERAGE.

(2) SUBJECT TO THE REQUIREMENTS OF SUBSECTION (I) OF THIS SECTION, A GROUP POLICY AND ALL CERTIFICATES ISSUED UNDER THAT POLICY MAY BE CANCELLED BY AN INSURER ONLY IF CANCELLATION IS BASED ON ONE OR MORE OF THE REASONS SET FORTH IN PARAGRAPH ONE OF SUBSECTION (C) OF SECTION THREE THOUSAND FOUR HUNDRED TWENTY-SIX OF THIS ARTICLE.

(3) AN INSURER'S CANCELLATION OF A GROUP POLICY SHALL NOT BECOME EFFECTIVE UNTIL FORTY-FIVE DAYS, OR TWENTY DAYS IF BASED UPON NON-PAYMENT OF PREMIUM, AFTER THE INSURER MAILS OR DELIVERS WRITTEN NOTICE OF CANCELLATION TO THE SPONSOR GROUP AT THE MAILING ADDRESS SHOWN IN THE POLICY. THE SPONSOR GROUP SHALL MAIL OR DELIVER WRITTEN NOTICE OF SUCH CANCELLATION TO EACH AFFECTED GROUP MEMBER WITHIN TEN DAYS OF RECEIVING A NOTICE FROM THE INSURER ADVISING THE GROUP MEMBER OF THE CANCELLATION AND THE EFFECTIVE DATE OF THE CANCELLATION.

(4) IF A GROUP POLICY IS NOT CANCELLED, AN INDIVIDUAL CERTIFICATE OF INSURANCE MAY BE CANCELLED BY AN INSURER ONLY IF CANCELLATION IS BASED ON ONE OR MORE REASONS PERMISSIBLE FOR CANCELLATION SET FORTH IN SECTION THREE THOUSAND FOUR HUNDRED TWENTY-FIVE OF THIS ARTICLE.

(H)(1) SUBJECT TO THE REQUIREMENTS OF SUBSECTION (I) OF THIS SECTION, AN INSURER MAY NONRENEW OR CONDITIONALLY RENEW A GROUP POLICY AND ALL CERTIFICATES ISSUED UNDER THAT POLICY, FOR ANY REASON UPON FORTY-FIVE DAYS WRITTEN NOTICE TO THE SPONSOR GROUP. THE SPONSOR GROUP SHALL MAIL OR DELIVER WRITTEN NOTICE OF SUCH NONRENEWAL OR CONDITIONAL RENEWAL TO EACH AFFECTED GROUP MEMBER WITHIN TEN DAYS OF RECEIVING SUCH NOTICE FROM THE INSURER.

(2) IF THE GROUP POLICY IS NOT NONRENEWED OR CONDITIONALLY RENEWED, NO NOTICE OF NONRENEWAL OR CONDITIONAL RENEWAL OF AN INDIVIDUAL CERTIFICATE OF RENTERS' INSURANCE SHALL BE ISSUED TO BECOME EFFECTIVE DURING THE

APPLICABLE REQUIRED POLICY PERIOD SET FORTH IN SECTION THREE THOUSAND FOUR HUNDRED TWENTY-FIVE OF THIS ARTICLE UNLESS THE NONRENEWAL OR CONDITIONAL NONRENEWAL IS BASED ON ONE OR MORE REASONS PERMISSIBLE FOR CANCELLATION SET FORTH IN SECTION THREE THOUSAND FOUR HUNDRED TWENTY-FIVE OF THIS ARTICLE.

(I) A SPONSOR GROUP MAY CANCEL A GROUP POLICY FOR ANY REASON UPON THIRTY DAYS WRITTEN NOTICE TO THE INSURER AND EACH AFFECTED GROUP MEMBER.

(J) IF A GROUP RENTERS' INSURANCE POLICY IS CANCELLED OR NONRENEWED BY AN INSURER, THE INSURER SHALL OFFER TO CONVERT A CERTIFICATE TO A NON-GROUP INSURANCE POLICY, USING THE INSURER'S FILED RATES AND FORMS FOR NON-GROUP POLICIES, FOR ANY REMAINING PART OF THE REQUIRED POLICY PERIOD SET FORTH IN SECTION THREE THOUSAND FOUR HUNDRED TWENTY-FIVE OF THIS ARTICLE.

(K) UNLESS A GROUP POLICY PROVIDES FOR A LONGER POLICY PERIOD, THE POLICY AND ALL CERTIFICATES SHALL BE ISSUED OR RENEWED FOR A ONE-YEAR POLICY PERIOD COMMENCING WITH A COMMON INCEPTION DATE. A NEW GROUP MEMBER MAY BE ADDED TO THE GROUP POLICY FOR LESS THAN ONE YEAR TO CONFORM WITH A COMMON EXPIRATION DATE.

(L) NO POLICY FORM SHALL BE DELIVERED OR ISSUED FOR DELIVERY BY AN AUTHORIZED INSURER UNLESS IT HAS BEEN FILED WITH THE SUPERINTENDENT AND THE SUPERINTENDENT HAS EITHER APPROVED IT, OR THIRTY DAYS HAVE ELAPSED AND THE SUPERINTENDENT HAS NOT DISAPPROVED SUCH FORM AS MISLEADING OR VIOLATIVE OF PUBLIC POLICY. THE INITIAL RATE OF FILING PURSUANT TO THIS SECTION SHALL BE SUBJECT TO THE PRIOR APPROVAL OF THE SUPERINTENDENT.

S 3. This act shall take effect immediately.