

3836

2011-2012 Regular Sessions

I N S E N A T E

March 7, 2011

Introduced by Sen. LAVALLE -- 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 removing the exemption of the state insurance fund from licensing and other requirements; to amend the workers' compensation law, in relation to requiring the superintendent of insurance to approve the rules adopted by the state insurance fund for the conduct of its business; and to amend the workers' compensation law, in relation to the requirement for policyholders to provide 30 days notice to withdraw from the state insurance fund

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

1 Section 1. Section 1108 of the insurance law, subsection (c) as
2 amended by chapter 838 of the laws of 1985 and subsection (j) as added
3 by section 2 of part R of chapter 56 of the laws of 2010, is amended to
4 read as follows:

5 S 1108. Insurers exempt from licensing and other requirements. The
6 following insurers, their officers, agents, representatives and employ-
7 ees shall be exempt from licensing and other requirements imposed by the
8 provisions of this chapter (except article seventy-four hereof) to the
9 extent specified below:

10 (a) Any charitable annuity society which complies with the require-
11 ments of section one thousand one hundred ten of this article, to the
12 extent therein stated.

13 (b) Any fraternal benefit society, membership corporation or other
14 organization exempted under the provisions of article forty-five of this
15 chapter, to the extent therein stated.

16 [(c) The state insurance fund of this state, except as to the
17 provisions of subsection (d) of section two thousand three hundred thir-
18 ty-nine, section three thousand one hundred ten, subsection (a), para-
19 graph one of subsection (b), paragraph three of subsection (c) and

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

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1 subsection (d) of section three thousand two hundred one, sections three
2 thousand two hundred two, three thousand two hundred four, subsections
3 (a) through (d) of section three thousand two hundred twenty-one,
4 subsections (b) and (c) of section four thousand two hundred twenty-
5 four, section four thousand two hundred twenty-six and subsections (a)
6 and (b) and (g) through (j) of section four thousand two hundred thir-
7 ty-five of this chapter and except as otherwise specifically provided by
8 the laws of this state.

9 [(d)] (C) Any corporate trustee or board of trustees acting pursuant to
10 the banking law in relation to the fund for insurance of deposits in
11 savings banks or the fund for insurance of shares of savings and loan
12 associations.

13 [(e)] (D) Any corporation, organized under the laws of any state,
14 solely to provide gratuitously for support or relief of the priests,
15 clergy or ministers of any religious denomination, or their dependents,
16 is exempt from all provisions of this chapter, except that any such
17 corporation, created by special act of incorporation of this state,
18 which by the provisions of such act is subject to the requirement of
19 examination by, and making annual reports to, the superintendent, shall
20 be subject to the provisions of article three of this chapter relating
21 to examinations and statements or reports by insurers.

22 [(f)] (E) Any retirement system or pension fund that was doing busi-
23 ness on January first, nineteen hundred forty under the education law,
24 the civil service law, the mental hygiene law, any special act of incor-
25 poration of this state, or any municipal charter adopted under the laws
26 of this state, exclusively for the benefit of the members of such system
27 or fund or for all or any classes of the employees of this state or any
28 municipality thereof, shall be exempt from the provisions of this chap-
29 ter, except that if the law under which such system or fund was organ-
30 ized subjects it to examination by, and the making of annual reports to,
31 the superintendent, such system or fund shall be subject to the
32 provisions of article three of this chapter relating to examinations and
33 statements or reports by insurers.

34 [(g)] (F) Any membership corporation or voluntary association organ-
35 ized and operating in this state prior to January first, nineteen
36 hundred thirty-nine and its members may act as indemnitors of a licensed
37 property/casualty insurance company in respect to surety bonds or poli-
38 cies of insurance required to be filed by such members pursuant to
39 section three hundred seventy of the vehicle and traffic law and are
40 exempted from the requirement of having an insurer's license; but no
41 such membership corporation or association shall become a surety on any
42 such bond or otherwise do an insurance business.

43 [(h)] (G) Any relief department or pension plan of any common carrier
44 subject to the [the] Railroad Retirement Act of 1974 (45 U.S.C. S 31),
45 whose privileges and membership are confined to employees or former
46 employees of such carrier or its affiliated or subsidiary companies, or
47 to any association of such common carriers which administers any such
48 department or plan.

49 [(i)] (H) Every blood credit system established by a city, pursuant to
50 section twenty-one-d of the general city law.

51 [(j)] (I) Any group of employers authorized by the workers' compen-
52 sation board to provide workers' compensation benefits for the employees
53 of all member employers pursuant to subdivision three-a of section fifty
54 of the workers' compensation law.

55 S 2. Paragraph 2 of subsection (a) of section 4522 of the insurance
56 law is amended to read as follows:

1 (2) Organizations which limit their membership to the employees of a
2 particular city or town, or of a designated business corporation or
3 firm, or of one or more business corporations or firms having business
4 interests in common, except as otherwise provided in subsection [(f)]
5 (E) of section one thousand one hundred eight of this chapter. Any such
6 organization which limits its membership to the employees of a corpo-
7 ration having more than five thousand employees may provide for hospi-
8 tal, surgical and medical benefits for the employee, his or her spouse,
9 and his or her child or children not over eighteen years of age.

10 S 3. Section 83 of the workers' compensation law, as amended by chap-
11 ter 34 of the laws of 2010, is amended to read as follows:

12 S 83. Rules. The [commissioner] COMMISSIONERS shall adopt rules for
13 the conduct of the business of the state fund, and may from time to time
14 alter, amend or repeal any rule therefore adopted. At least six affirma-
15 tive votes shall be required for the adoption of any rule, or the amend-
16 ment or repeal of any rule. No rule, and no resolution proposing to
17 alter, amend or repeal any rule, shall be effective unless approved by
18 the [commissioner of labor. If the commissioner of labor fails to act
19 upon any such rule or resolution within thirty days after it is communi-
20 cated to him or her, such rule or resolution shall be deemed to have
21 been approved] SUPERINTENDENT OF INSURANCE.

22 The rules of the commissioners shall provide for the conduct of the
23 business of the state insurance fund, including the issuance of policies
24 and their terms and conditions, the fixing of premium rates, the keeping
25 of records, auditing of payrolls, and the billing and collection of
26 premiums therefor, the inspection of risks and the setting of the stand-
27 ards of safety, the adjustment and payment of claims and awards, and the
28 investigation of all matters relating thereto, the medical examination
29 of persons claiming compensation and the furnishing and supervision of
30 medical and surgical treatment to persons injured as set forth in this
31 chapter, the conduct of the legal business of the fund and the enforce-
32 ment of the subrogated rights of the fund against third parties, the
33 investment of the surplus and reserves of the fund, and the collection
34 and analysis of statistics of payrolls, premiums, losses and expenses
35 and the actuarial consideration thereof.

36 S 4. Subdivision a of section 94 of the workers' compensation law, as
37 amended by chapter 635 of the laws of 1996, is amended to read as
38 follows:

39 a. Any employer may, upon complying with subdivision two or three of
40 section fifty of this chapter, withdraw from the fund by turning in his
41 insurance contract for cancellation, [provided he has given written
42 notice to the fund of his intention to withdraw not less than thirty
43 days before the effective date of such cancellation] ALONG WITH WRITTEN
44 NOTICE OF THE EFFECTIVE DATE OF THE CANCELLATION. Upon receipt of such
45 notice the fund shall[, at least ten days prior to the effective date]
46 file in the office of the chairman a notice of such cancellation date.

47 [In no event shall the insurance contract be deemed cancelled until at
48 least ten days after the date of such filing, any earlier date mentioned
49 in the notice to the contrary notwithstanding.]

50 If an employer withdraws from the fund upon complying with subdivision
51 two of section fifty of this chapter, the new insurance contract with
52 the stock corporation, mutual corporation or reciprocal insurer shall be
53 deemed not to take effect until the cancellation of such employer's
54 contract with the state insurance fund has become effective.

55 S 5. This act shall take effect on the ninetieth day after it shall
56 have become a law.