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

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2013-2014 Regular Sessions

I N S E N A T E

January 29, 2013

Introduced by Sens. KLEIN, KRUEGER, PARKER, SMITH -- 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 homeowners' insurance policies; to amend chapter 42 of the laws of 1996, amending the insurance law relating to homeowners' insurance and a temporary panel on homeowners' insurance coverage, in relation to the panel's evaluation regarding coastal areas; and to amend chapter 136 of the laws of 2008, amending the insurance law relating to extending the effectiveness of certain stand-by powers of the New York property insurance underwriting association, in relation to attracting more competitors to the coastal counties

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

Section 1. Subparagraphs (C) and (D) of paragraph 2 of subsection (o) of section 3425 of the insurance law, as added by chapter 42 of the laws of 1996, are amended to read as follows:

(C) The superintendent shall promulgate rules and regulations to establish standards for the definition of "materially reduce its volume of policies" as used in this paragraph.

(I) Such definition shall require that a plan be filed with the superintendent if the insurer plans to reduce the net number of homeowners insurance policies as defined in subsection (a) of section twenty-three hundred fifty-one of this chapter by twenty percent or more, or plans to reduce the net number of such policies it writes by five hundred, whichever is greater, within a five year period of time; provided, however, that if an insurer is not otherwise required to file a plan pursuant to this subparagraph, a plan shall be filed if the insurer plans to reduce the net number of such policies it has in force in a twelve month period by four percent or more or the net number of such policies it writes by one hundred, whichever is greater.

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

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(II) PROVIDED FURTHER, SUCH DEFINITION OF THE TERM "MATERIALLY REDUCE ITS VOLUME OF POLICIES" SHALL MEAN IF AN INSURER PLANS, IN ANY ZIP CODE OR RATING TERRITORY CONTAINED PARTIALLY OR ENTIRELY WITHIN COASTAL AREAS, TO REDUCE THE NET NUMBER OF HOMEOWNERS' INSURANCE POLICIES AS DEFINED IN SUBSECTION (A) OF SECTION TWO THOUSAND THREE HUNDRED FIFTY-ONE OF THIS CHAPTER BY EIGHT PERCENT OR MORE, OR PLANS TO REDUCE THE NET NUMBER OF SUCH POLICIES IT WRITES BY FIFTY, WHICHEVER IS GREATER, WITHIN A FIVE YEAR PERIOD OF TIME; PROVIDED, HOWEVER, THAT IF AN INSURER IS NOT OTHERWISE REQUIRED TO FILE A PLAN PURSUANT TO THIS SUBPARAGRAPH, A PLAN SHALL BE FILED IF THE INSURER PLANS TO REDUCE THE NET NUMBER OF SUCH POLICIES IT HAS IN FORCE IN A TWELVE MONTH PERIOD BY TWO PERCENT OR MORE OR THE NET NUMBER OF SUCH POLICIES IT WRITES BY TWENTY, WHICHEVER IS GREATER. FOR THE PURPOSES OF THIS SUBPARAGRAPH THE TERM "COASTAL AREAS" SHALL MEAN THOSE AREAS THAT ARE WITHIN ONE MILE OF A SALTWATER OCEAN, SOUND, INLET OR BAY IN THE COUNTIES OF THE BRONX, KINGS, NASSAU, QUEENS, RICHMOND, SUFFOLK AND WESTCHESTER.

The provisions of this subparagraph shall not apply to policies cancelled or nonrenewed by the insured or policies not renewed or cancelled pursuant to subparagraph (A), (B), (C), (D) or (E) of paragraph two of subsection (c) of this section.

(D) The superintendent shall promulgate rules and regulations to establish standards to approve such an application and to define "minimizes market disruption." SUCH DEFINITION OF THE TERM "MINIMIZES MARKET DISRUPTION" SHALL INCLUDE AN ANALYSIS OF: (I) THE ABILITY OF A HOLDER OF A HOMEOWNER'S INSURANCE POLICY WHO HAS BEEN CANCELLED OR TERMINATED IN A COASTAL AREA TO READILY OBTAIN COMPARABLE REPLACEMENT HOMEOWNERS' COVERAGES AT RELATIVELY COMPARABLE PREMIUM RATES IN THE PRIVATE INSURANCE MARKET; AND (II) THE ADVERSE EFFECTS THAT SUCH CANCELLATIONS MAY HAVE ON CAPTIVE AGENTS AND THEIR INSURANCE AGENCIES, AND THE MITIGATION MEASURES THAT CAN BE UNDERTAKEN BY SUCH INSURERS TO SAFEGUARD THE BUSINESS PROSPECTS OF SUCH CAPTIVE AGENTS.

S 2. Paragraphs (h) and (i) of subdivision 1 of section 12 of chapter 42 of the laws of 1996, amending the insurance law relating to homeowners' insurance and a temporary panel on homeowners' insurance coverage, as amended by chapter 136 of the laws of 2008, are amended and a new paragraph (j) is added to read as follows:

(h) an evaluation of insurer preparedness in the recovery, rebuilding and renewal processes following weather-related losses; [and]

(i) an evaluation of public awareness of storm risks and programs to educate the public of storm risks and mitigation techniques[.]; AND

(J) AN EVALUATION OF THE PROFITABILITY OF INSURERS THAT WRITE HOMEOWNER'S INSURANCE IN COASTAL AREAS OF THIS STATE AND THE PROFITS OR LOSSES SUCH INSURERS SUSTAIN BY WRITING COVERAGES ALONG THIS STATE'S COASTAL AREAS. THE PANEL SHALL SPECIFICALLY ANALYZE THE REASONS WHY AND RATE AT WHICH INSURERS MAY BE WITHDRAWING FROM THE COASTAL HOMEOWNERS' INSURANCE MARKET AND INORDINATELY CANCELLING SUCH POLICIES OR SUBSTANTIALLY INCREASING INSURANCE PREMIUM RATES IN SUCH MARKET. FURTHER, THE PANEL SHALL STUDY THE COST OF OBTAINING COMPARABLE REPLACEMENT HOMEOWNER'S COVERAGE FOR THOSE INSUREDS WHO HAVE BEEN CANCELLED IN SUCH COASTAL AREAS. FOR THE PURPOSES OF THIS PARAGRAPH, THE TERM COASTAL HOMEOWNERS' INSURANCE MARKET SHALL MEAN THOSE AREAS THAT ARE WITHIN ONE MILE OF A SALTWATER OCEAN, SOUND, INLET OR BAY IN THE COUNTIES OF THE BRONX, KINGS, NASSAU, QUEENS, RICHMOND, SUFFOLK, AND WESTCHESTER.

S 3. Subdivision (a) of section 23 of chapter 136 of the laws of 2008, amending the insurance law relating to extending the effectiveness of certain stand-by powers of the New York property insurance underwriting

association, as further amended by section 104 of part A of chapter 62 of the laws of 2011, is amended to read as follows:

(a) The superintendent of financial services shall implement a program designed to attract more competitors to the state's homeowners' insurance market PARTICULARLY WITH RESPECT TO THOSE COMMUNITIES THAT ARE WITHIN ONE MILE OF A SALTWATER OCEAN, SOUND, INLET OR BAY IN THE COUNTIES OF THE BRONX, KINGS, NASSAU, QUEENS, RICHMOND, SUFFOLK, AND WESTCHESTER. The program shall include, but shall not be limited to:

(1) identifying, contacting and soliciting feedback from national, regional and other insurance carriers not currently writing homeowners insurance in the state to determine their interest in selling homeowners insurance in the state;

(2) adopting specific measures to encourage such insurers to sell homeowners' insurance in the state; and

(3) documenting those issues or concerns such insurers may cite as barriers to selling homeowners insurance in the state.

S 4. This act shall take effect on the first of January next succeeding the date on which it shall have become a law.