

3068

2013-2014 Regular Sessions

I N   S E N A T E

January 29, 2013

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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:

1     Section 1. Subparagraphs (C) and (D) of paragraph 2 of subsection (o)  
2     of section 3425 of the insurance law, as added by chapter 42 of the laws  
3     of 1996, are amended to read as follows:  
4     (C) The superintendent shall promulgate rules and regulations to  
5     establish standards for the definition of "materially reduce its volume  
6     of policies" as used in this paragraph.  
7     (I) Such definition shall require that a plan be filed with the super-  
8     intendent if the insurer plans to reduce the net number of homeowners  
9     insurance policies as defined in subsection (a) of section twenty-three  
10    hundred fifty-one of this chapter by twenty percent or more, or plans to  
11    reduce the net number of such policies it writes by five hundred, which-  
12    ever is greater, within a five year period of time; provided, however,  
13    that if an insurer is not otherwise required to file a plan pursuant to  
14    this subparagraph, a plan shall be filed if the insurer plans to reduce  
15    the net number of such policies it has in force in a twelve month period  
16    by four percent or more or the net number of such policies it writes by  
17    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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1 (II) PROVIDED FURTHER, SUCH DEFINITION OF THE TERM "MATERIALLY REDUCE  
2 ITS VOLUME OF POLICIES" SHALL MEAN IF AN INSURER PLANS, IN ANY ZIP CODE  
3 OR RATING TERRITORY CONTAINED PARTIALLY OR ENTIRELY WITHIN COASTAL  
4 AREAS, TO REDUCE THE NET NUMBER OF HOMEOWNERS' INSURANCE POLICIES AS  
5 DEFINED IN SUBSECTION (A) OF SECTION TWO THOUSAND THREE HUNDRED  
6 FIFTY-ONE OF THIS CHAPTER BY EIGHT PERCENT OR MORE, OR PLANS TO REDUCE  
7 THE NET NUMBER OF SUCH POLICIES IT WRITES BY FIFTY, WHICHEVER IS GREAT-  
8 ER, WITHIN A FIVE YEAR PERIOD OF TIME; PROVIDED, HOWEVER, THAT IF AN  
9 INSURER IS NOT OTHERWISE REQUIRED TO FILE A PLAN PURSUANT TO THIS  
10 SUBPARAGRAPH, A PLAN SHALL BE FILED IF THE INSURER PLANS TO REDUCE THE  
11 NET NUMBER OF SUCH POLICIES IT HAS IN FORCE IN A TWELVE MONTH PERIOD BY  
12 TWO PERCENT OR MORE OR THE NET NUMBER OF SUCH POLICIES IT WRITES BY  
13 TWENTY, WHICHEVER IS GREATER. FOR THE PURPOSES OF THIS SUBPARAGRAPH THE  
14 TERM "COASTAL AREAS" SHALL MEAN THOSE AREAS THAT ARE WITHIN ONE MILE OF  
15 A SALTWATER OCEAN, SOUND, INLET OR BAY IN THE COUNTIES OF THE BRONX,  
16 KINGS, NASSAU, QUEENS, RICHMOND, SUFFOLK AND WESTCHESTER.

17 The provisions of this subparagraph shall not apply to policies  
18 cancelled or nonrenewed by the insured or policies not renewed or  
19 cancelled pursuant to subparagraph (A), (B), (C), (D) or (E) of para-  
20 graph two of subsection (c) of this section.

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

32 S 2. Paragraphs (h) and (i) of subdivision 1 of section 12 of chapter  
33 42 of the laws of 1996, amending the insurance law relating to homeown-  
34 ers' insurance and a temporary panel on homeowners' insurance coverage,  
35 as amended by chapter 136 of the laws of 2008, are amended and a new  
36 paragraph (j) is added to read as follows:

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

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

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

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

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

3 (a) The superintendent of financial services shall implement a program  
4 designed to attract more competitors to the state's homeowners' insur-  
5 ance market PARTICULARLY WITH RESPECT TO THOSE COMMUNITIES THAT ARE  
6 WITHIN ONE MILE OF A SALTWATER OCEAN, SOUND, INLET OR BAY IN THE COUN-  
7 TIES OF THE BRONX, KINGS, NASSAU, QUEENS, RICHMOND, SUFFOLK, AND WEST-  
8 CHESTER. The program shall include, but shall not be limited to:

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

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

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

17 S 4. This act shall take effect on the first of January next succeed-  
18 ing the date on which it shall have become a law.