

6706

I N   S E N A T E

March 3, 2014

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Introduced by Sen. SEWARD -- 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 extending the effectiveness of certain provisions relating to automobile and property/casualty insurance rates

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

1     Section 1. Subsection (g) of section 5412 of the insurance law, as  
2     amended by chapter 102 of the laws of 2011, is amended to read as  
3     follows:  
4     (g) The provisions of this section shall cease to be of any force or  
5     effect on or after June thirtieth, two thousand [fourteen] SEVENTEEN,  
6     except that policies issued or other obligations incurred by the associ-  
7     ation shall not be impaired by the expiration of this section and the  
8     association shall continue for the purpose of servicing such policies  
9     and performing such obligations.  
10    S 2. Sections 2328 and 2329 of the insurance law, as amended by chap-  
11    ter 102 of the laws of 2011, are amended to read as follows:  
12    S 2328. Certain motor vehicle insurance rates; prior approval. For the  
13    periods February first, nineteen hundred seventy-four through August  
14    second, two thousand one, and the effective date of the  
15    property/casualty insurance availability act through June thirtieth, two  
16    thousand [fourteen] SEVENTEEN, no changes in rates, rating plans, rating  
17    rules and rate manuals applicable to motor vehicle insurance, including  
18    no-fault coverages under article fifty-one of this chapter, shall be  
19    made effective until approved by the superintendent, notwithstanding any  
20    inconsistent provisions of this article; provided, however, that changes  
21    in such rates, rating plans, rating rules and rate manuals may be made  
22    effective without such approval if the rates which result from such  
23    changes are no higher than the insurer's rates last approved by the  
24    superintendent. This section shall apply only to policies covering loss-  
25    es or liabilities arising out of ownership of a motor vehicle used prin-  
26    cipally for the transportation of persons for hire, including a bus or a

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

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1 school bus as defined in sections one hundred four and one hundred  
2 forty-two of the vehicle and traffic law.

3 S 2329. Motor vehicle insurance rates; excess profits. In accordance  
4 with regulations prescribed by the superintendent, each insurer issuing  
5 policies which are subject to article fifty-one of this chapter, includ-  
6 ing policies of motor vehicle personal injury liability insurance or  
7 policies of motor vehicle property damage liability insurance or insur-  
8 ance for loss or damage to a motor vehicle, shall establish a fair,  
9 practicable, and nondiscriminatory plan for refunding or otherwise cred-  
10 iting to those purchasing such policies their share of the insurer's  
11 excess profit, if any, on such policies. An excess profit shall be a  
12 profit beyond a percentage rate of return on net worth attributable to  
13 such policies, computed in accordance with the regulation required by  
14 section two thousand three hundred twenty-three of this article, and  
15 determined by the superintendent to be so far above a reasonable average  
16 profit as to amount to an excess profit, taking into consideration the  
17 fact that losses or profits below a reasonable average profit will not  
18 be recouped from such policyholders. Each plan shall apply to policy  
19 periods for the periods January first, nineteen hundred seventy-four  
20 through August second, two thousand one, and the effective date of the  
21 property/casualty insurance availability act through June thirtieth, two  
22 thousand [fourteen] SEVENTEEN. In prescribing such regulations the  
23 superintendent may limit the duration of such plans, waive any require-  
24 ment for refund or credit which he or she determines to be de minimis or  
25 impracticable, adopt forms of returns which shall be made to him or her  
26 in order to establish the amount of any refund or credit due, establish  
27 periods and times for the determination and distribution of refunds and  
28 credits, and shall provide that insurers receive appropriate credit  
29 against any refunds or credits required by any such plan for policyhold-  
30 er dividends and for return premiums which may be due under rate credit  
31 or retrospective rating plans based on experience.

32 S 3. Paragraph 2 of subsection (l) of section 3425 of the insurance  
33 law, as amended by chapter 102 of the laws of 2011, is amended to read  
34 as follows:

35 (2) The superintendent shall collect, analyze and compile such reports  
36 with regard to the number of new insureds, non-renewed insureds and  
37 business written by each insurer in each rating territory of each such  
38 insurer and, in each case, the class of insureds (including age and sex)  
39 affected so that a statistical analysis of the results obtained pursuant  
40 to subsections (f) and (m) of this section shall be provided to each  
41 house of the legislature by March fifteenth, in the years nineteen  
42 hundred ninety-two, nineteen hundred ninety-six, nineteen hundred nine-  
43 ty-eight, two thousand one, two thousand six, two thousand seven, two  
44 thousand eight, two thousand eleven and two thousand [fourteen] SEVEN-  
45 TEEN.

46 S 4. Paragraphs 1 and 2 and the opening paragraph of paragraph 3 of  
47 subsection (m) of section 3425 of the insurance law, as amended by chap-  
48 ter 102 of the laws of 2011, are amended to read as follows:

49 (1) Paragraphs eight and nine of subsection (a), subsection (f) and  
50 subparagraphs (B) and (E) of paragraph one of subsection (j) of this  
51 section shall not apply to any new covered policy of automobile insur-  
52 ance voluntarily written on or after August first, nineteen hundred  
53 eighty-five and prior to January first, nineteen hundred eighty-six, and  
54 on or after August second, two thousand one and prior to the effective  
55 date of the property/casualty insurance availability act, and on or  
56 after June thirtieth, two thousand [fourteen] SEVENTEEN, but the legal

rights granted to insurers or policyholders under such provisions shall not be extinguished or impaired thereby.

(2) In lieu of such provisions, paragraph seven of subsection (a), subparagraph (A) of paragraph one of subsection (j) and paragraph three of this subsection shall apply to such automobile insurance policies which are newly and voluntarily written to have an effective date on or after August first, nineteen hundred eighty-five and prior to January first, nineteen hundred eighty-six, and on or after August second, two thousand one and prior to the effective date of the property/casualty insurance availability act, and on or after June thirtieth, two thousand [fourteen] SEVENTEEN.

On and after August first, nineteen hundred eighty-five and prior to January first, nineteen hundred eighty-six, and on or after August second, two thousand one and prior to the effective date of the property/casualty insurance availability act, and on or after June thirtieth, two thousand [fourteen] SEVENTEEN, no notice of nonrenewal or conditional renewal of such covered automobile insurance policies referred to in this subsection shall be issued to become effective during the required policy period unless it is based upon a ground for which the policy could have been cancelled or unless it is based upon one or more of the following grounds which occurred during the thirty-six month period ending on the last day of the fourth month preceding the month of the effective date of such notice of nonrenewal or conditional renewal:

S 5. Subsection (f) of section 2305 of the insurance law, as amended by chapter 102 of the laws of 2011, is amended to read as follows:

(f) Subsection (a) of this section shall be of no force or effect during the period August third, two thousand one through the day before the effective date of the property/casualty insurance availability act, and after June thirtieth, two thousand [fourteen] SEVENTEEN. During the period August third, two thousand one through the day before the effective date of the property/casualty insurance availability act, and again commencing on July first, two thousand [fourteen] SEVENTEEN, all rates previously subject to subsection (a) of this section, other than rates which are not required to be filed pursuant to subsection (b) of section two thousand three hundred ten of this article or which have been suspended from the filing requirement pursuant to section two thousand three hundred eleven of this article, shall become subject to subsections (b), (c) and (d) of this section. All other provisions of this article applicable to kinds of insurance or insurance activities the rates for which are subject to prior approval under subsection (b) of this section shall apply to kinds of insurance the rates for which were previously subject to subsection (a) of this section or the rates for which are not required to be filed pursuant to subsection (b) of section two thousand three hundred ten of this article or the rates for which have been suspended from the filing requirement pursuant to section two thousand three hundred eleven of this article.

S 6. Section 2342 of the insurance law, as amended by chapter 102 of the laws of 2011, is amended to read as follows:

S 2342. Expiration of certain provisions. The provisions of subsection (c) of section two thousand three hundred seven, section two thousand three hundred eight, subsection (a) of section two thousand three hundred ten, sections two thousand three hundred sixteen, two thousand three hundred twenty, two thousand three hundred twenty-three, two thousand three hundred twenty-six, and two thousand three hundred thirty-five, subsection (b) of section two thousand three hundred thirty-six

1 and section two thousand three hundred forty-one of this article shall  
2 cease to be of any force or effect during the period August third, two  
3 thousand one through the day before the effective date of the  
4 property/casualty insurance availability act, and after June thirtieth,  
5 two thousand [fourteen] SEVENTEEN.

6 S 7. Subsection (h) of section 2344 of the insurance law, as amended  
7 by chapter 102 of the laws of 2011, is amended to read as follows:

8 (h) This section shall cease to be of any force or effect during the  
9 period August third, two thousand one through the day before the effec-  
10 tive date of the property/casualty insurance availability act, and after  
11 June thirtieth, two thousand [fourteen] SEVENTEEN, except that rates  
12 shall reflect the likely reductive cost effects reasonably attributable  
13 to the statutory provisions specified in paragraph one of subsection (g)  
14 of this section.

15 S 8. Paragraph 3 of subsection (c) of section 6302 of the insurance  
16 law, as amended by chapter 490 of the laws of 2011, is amended to read  
17 as follows:

18 (3) until [June thirtieth, two thousand fourteen] DECEMBER  
19 THIRTY-FIRST, TWO THOUSAND SIXTEEN, a domestic property/casualty insur-  
20 ance company that maintains at all times a surplus to policyholders of  
21 at least twice the minimum surplus to policyholders required to be main-  
22 tained for the kinds of insurance that it is authorized to write in this  
23 state, or an insurer licensed pursuant to article sixty-one of this  
24 chapter as a reciprocal insurer that maintains at all times a surplus to  
25 policyholders of at least the minimum surplus to policyholders required  
26 to be maintained for the kinds of insurance that it is authorized to  
27 write in this state, provided that the domestic property/casualty insur-  
28 ance company or reciprocal insurer: (A) has total direct premiums  
29 comprised of at least ninety percent medical malpractice insurance; (B)  
30 assumes reinsurance premiums in an amount that is less than five percent  
31 of total direct premiums written; and (C) writes ninety percent of its  
32 total direct premiums in this state.

33 S 9. This act shall take effect immediately.