

4177

2013-2014 Regular Sessions

I N   A S S E M B L Y

February 1, 2013

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Introduced by M. of A. BARCLAY, KOLB, BLANKENBUSH, TENNEY -- Multi-Sponsored by -- M. of A. GIGLIO, HAWLEY -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law, in relation to the rating of individual and small group health insurance policies and contracts and several stop loss funds; and to repeal the closing paragraph of subsection (c) of section 3233 of the insurance law relating to convening the technical advisory committee periodically to evaluate the impact of the standardized direct payment enrollee contracts offered pursuant to sections 4321 and 4322 of such law on the individual health insurance market

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

1     Section 1. Subsections (a) and (b) of section 3231 of the insurance  
2     law, subsection (a) as amended by chapter 661 of the laws of 1997 and  
3     subsection (b) as amended by chapter 557 of the laws of 2002, are  
4     amended to read as follows:  
5     (a) No individual health insurance policy and no group health insurance  
6     policy covering [between two and] A GROUP OF fifty OR FEWER employees  
7     or members of the group exclusive of spouses and dependents, hereinafter  
8     referred to as a small group, providing hospital and/or medical  
9     benefits, including medicare supplemental insurance, shall be issued in  
10    this state unless such policy is community rated and, notwithstanding  
11    any other provisions of law, the underwriting of such policy involves no  
12    more than the imposition of a pre-existing condition limitation as  
13    permitted by this article. Any individual, and dependents of such individual,  
14    and any small group, including all employees or group members and  
15    dependents of employees or members, applying for individual health  
16    insurance coverage, including medicare supplemental coverage, or small  
17    group health insurance coverage, including medicare supplemental insurance,  
18    must be accepted at all times throughout the year for any hospital

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

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1 and/or medical coverage offered by the insurer to individuals or small  
2 groups in this state. Once accepted for coverage, an individual or small  
3 group cannot be terminated by the insurer due to claims experience.  
4 Termination of an individual or small group shall be based only on one  
5 or more of the reasons set forth in subsection (g) of section three  
6 thousand two hundred sixteen or subsection (p) of section three thousand  
7 two hundred twenty-one of this article. Group hospital and/or medical  
8 coverage, including medicare supplemental insurance, obtained through an  
9 out-of-state trust covering a group of fifty or fewer employees or  
10 participating persons who are residents of this state must be community  
11 rated regardless of the situs of delivery of the policy. Notwithstanding  
12 any other provisions of law, the underwriting of such policy may involve  
13 no more than the imposition of a pre-existing condition limitation as  
14 permitted by this article, and once accepted for coverage, an individual  
15 or small group cannot be terminated due to claims experience. Termi-  
16 nation of an individual or small group shall be based only on one or  
17 more of the reasons set forth in subsection (p) of section three thou-  
18 sand two hundred twenty-one of this article. For the purposes of this  
19 section, "community rated" means a rating methodology in which the  
20 premium for all persons covered by a policy or contract form is the same  
21 based on the experience of the entire pool of risks covered by that  
22 policy or contract form without regard to age, sex, health status or  
23 occupation.

24 (b) Nothing herein shall prohibit the use of premium rate structures  
25 to establish different premium rates for individuals as opposed to fami-  
26 ly units [or separate community rates for individuals as opposed to  
27 small groups. If an insurer is required to issue a contract to individ-  
28 ual proprietors pursuant to subsection (i) of this section, such policy  
29 shall be subject to subsection (a) of this section].

30 S 2. Subsections (a) and (b) of section 4317 of the insurance law,  
31 subsection (a) as amended by chapter 661 of the laws of 1997 and  
32 subsection (b) as amended by chapter 557 of the laws of 2002, are  
33 amended to read as follows:

34 (a) No individual health insurance contract and no group health insur-  
35 ance contract covering [between two and] A GROUP OF fifty OR FEWER  
36 employees or members of the group exclusive of spouses and dependents,  
37 including contracts for which the premiums are paid by a remitting agent  
38 for a group, hereinafter referred to as a small group, providing hospi-  
39 tal and/or medical benefits, including Medicare supplemental insurance,  
40 shall be issued in this state unless such contract is community rated  
41 and, notwithstanding any other provisions of law, the underwriting of  
42 such contract involves no more than the imposition of a pre-existing  
43 condition limitation as permitted by this article. Any individual, and  
44 dependents of such individual, and any small group, including all  
45 employees or group members and dependents of employees or members,  
46 applying for individual or small group health insurance coverage must be  
47 accepted at all times throughout the year for any hospital and/or  
48 medical coverage, including Medicare supplemental insurance, offered by  
49 the corporation to individuals or small groups in this state. Once  
50 accepted for coverage, an individual or small group cannot be terminated  
51 by the insurer due to claims experience. Termination of coverage for  
52 individuals or small groups may be based only on one or more of the  
53 reasons set forth in subsection (c) of section four thousand three  
54 hundred four or subsection (j) of section four thousand three hundred  
55 five of this article. For the purposes of this section, "community  
56 rated" means a rating methodology in which the premium for all persons

covered by a policy or contract form is the same, based on the experience of the entire pool of risks covered by that policy or contract form without regard to age, sex, health status or occupation.

(b) Nothing herein shall prohibit the use of premium rate structures to establish different premium rates for individuals as opposed to family units [or separate community rates for individuals as opposed to small groups. If a corporation is required to issue a contract to individual proprietors pursuant to subsection (f) of this section, such contract shall be subject to the requirements of subsection (a) of this section].

S 3. The closing paragraph of subsection (c) of section 3233 of the insurance law is REPEALED and two new subsections (d) and (e) are added to read as follows:

(D) (1) NOTWITHSTANDING ANY PROVISION OF THIS CHAPTER OR ANY OTHER CHAPTER, ON OR BEFORE OCTOBER FIRST, TWO THOUSAND FIFTEEN, THE SUPERINTENDENT SHALL PROMULGATE REGULATIONS TO ENSURE AN ORDERLY IMPLEMENTATION AND ONGOING OPERATION OF THE OPEN ENROLLMENT AND COMMUNITY RATING REQUIRED BY SECTIONS THREE THOUSAND TWO HUNDRED THIRTY-ONE AND FOUR THOUSAND THREE HUNDRED SEVENTEEN OF THIS CHAPTER, AS AMENDED BY THE CHAPTER OF THE LAWS OF TWO THOUSAND THIRTEEN THAT ADDED THIS SUBSECTION, INCLUDING PROVISIONS DESIGNED TO ENCOURAGE INSURERS TO REMAIN IN OR ENTER THE SMALL GROUP HEALTH INSURANCE MARKET. SUCH REGULATIONS SHALL APPLY TO ALL INSURERS AND HEALTH MAINTENANCE ORGANIZATIONS SUBJECT TO COMMUNITY RATING. SUCH REGULATIONS SHALL BE DESIGNED TO PROMOTE AN INSURANCE MARKETPLACE WHERE PREMIUMS DO NOT UNDULY FLUCTUATE, INSURERS AND HEALTH MAINTENANCE ORGANIZATIONS ARE REASONABLY PROTECTED AGAINST UNEXPECTED, SIGNIFICANT SHIFTS IN THE NUMBER OF PERSONS INSURED, AND OTHER MARKET STABILITY FEATURES DEEMED APPROPRIATE BY THE SUPERINTENDENT. SUCH REGULATIONS SHALL NOT REQUIRE ANY INSURER OR HEALTH MAINTENANCE ORGANIZATION SUBJECT TO THIS SECTION, OR ANY SUBSIDIARY OR CONTROLLED PERSON OF A HOLDING COMPANY OF SUCH INSURER OR HEALTH MAINTENANCE ORGANIZATION, TO ENTER, CONTINUE TO CONDUCT OR WITHDRAW FROM ANY LINE OF BUSINESS AS A CONDITION OF ENTERING, CONTINUING IN OR WITHDRAWING FROM ANY OTHER LINE OF BUSINESS.

(2) PRIOR TO ADOPTING SUCH REGULATIONS, THE SUPERINTENDENT SHALL CONVENE A TECHNICAL ADVISORY COMMITTEE, ON OR BEFORE FEBRUARY FIRST, TWO THOUSAND FOURTEEN, TO PROVIDE ADVICE AND RECOMMENDATIONS TO THE SUPERINTENDENT ON ISSUES INCLUDING, BUT NOT LIMITED TO, VOLUNTARY REINSURANCE, POOLING, RISK SHARING, THE ESTABLISHMENT OF A HIGH RISK OR HIGH COST MEDICAL CONDITIONS POOL, THE MODERATION OF INITIAL COMMUNITY RATES AS COMPARED TO PRIOR RATES, OR PREMIUM STABILIZATION METHODS. THE TECHNICAL ADVISORY COMMITTEE SHALL BE COMPRISED OF NINE MEMBERS, ONE OF WHOM SHALL BE THE SUPERINTENDENT OR HIS OR HER DESIGNEE. THE SUPERINTENDENT OR HIS OR HER DESIGNEE SHALL CHAIR THE COMMITTEE AND SHALL APPOINT TWO OTHER MEMBERS TO THE COMMITTEE. THE TEMPORARY PRESIDENT OF THE SENATE AND THE SPEAKER OF THE ASSEMBLY SHALL EACH APPOINT THREE MEMBERS TO THE COMMITTEE. THE APPOINTEES SHALL BE REPRESENTATIVES OF COMMERCIAL HEALTH INSURERS, NOT-FOR-PROFIT HEALTH INSURERS, HEALTH MAINTENANCE ORGANIZATIONS AND PURCHASERS OF INSURANCE AND SHALL BE NAMED NO LATER THAN JANUARY FIRST, TWO THOUSAND FOURTEEN. IN ADDITION, THE SUPERINTENDENT MAY OBTAIN THE SERVICES OF AN ACTUARY WITH EXPERIENCE RELATING TO PREMIUM RATES AND MARKET STABILIZATION FOR SMALL GROUP HEALTH INSURANCE.

(3) (A) SUCH REGULATIONS MAY INCLUDE REINSURANCE OR A POOLING PROCESS INVOLVING INSURER CONTRIBUTIONS TO, OR RECEIPTS FROM, A FUND WHICH SHALL BE DESIGNED TO SHARE THE RISK OF OR EQUALIZE HIGH COST CLAIMS, CLAIMS OF HIGH COST PERSONS, COST VARIATIONS AMONG INSURERS AND HEALTH MAINTENANCE

1 ORGANIZATIONS BASED UPON DEMOGRAPHIC FACTORS OF THE PERSONS INSURED  
2 WHICH CORRELATE WITH SUCH COST VARIATIONS DESIGNED TO PROTECT INSURERS  
3 FROM DISPROPORTIONATE ADVERSE RISKS OF OFFERING COVERAGE TO ALL APPLI-  
4 CANTS; PROVIDED THAT SUCH REGULATIONS SHALL RELATE ONLY TO RISK SHARING  
5 AMONG INSURERS AND HEALTH MAINTENANCE ORGANIZATIONS AND SHALL NOT CREATE  
6 DIFFERENCES IN COMMUNITY RATES CHARGED BY A SINGLE INSURER BECAUSE A  
7 SMALL GROUP'S COVERAGE HAS BEEN REINSURED OR POOLED, AND NEITHER THE  
8 SMALL EMPLOYER NOR THE EMPLOYEE SHALL HAVE REASON TO KNOW THAT THEIR  
9 COVERAGE HAS BEEN REINSURED OR POOLED PURSUANT TO SUCH REGULATIONS.

10 (B) SUCH REGULATIONS MAY SPECIFY THE AGGREGATE TOTAL CONTRIBUTIONS BY  
11 HEALTH MAINTENANCE ORGANIZATIONS AND INSURERS BASED UPON SPECIFIED  
12 MEDICAL CONDITIONS, WHICH MAY BE INCREASED BY THE AGGREGATE TOTAL AMOUNT  
13 OF SAVINGS RESULTING FROM DECREASED CONTRIBUTIONS CALCULATED PURSUANT TO  
14 REGULATIONS BASED UPON DEMOGRAPHIC FACTORS.

15 (C) SUCH REGULATIONS MAY INCLUDE A REINSURANCE OR A POOLING PROCESS  
16 INVOLVING INSURER AND HEALTH MAINTENANCE ORGANIZATION CONTRIBUTIONS TO,  
17 OR RECEIPTS FROM, A FUND WHICH SHALL BE DESIGNED TO SHARE THE RISK OF OR  
18 EQUALIZE HIGH COST CLAIMS OR THE CLAIMS OF HIGH COST PERSONS; PROVIDED  
19 THAT SUCH REGULATIONS SHALL RELATE ONLY TO RISK SHARING AMONG INSURERS  
20 AND HEALTH MAINTENANCE ORGANIZATIONS AND SHALL NOT CREATE DIFFERENCES IN  
21 COMMUNITY RATES CHARGED BY A SINGLE INSURER OR HEALTH MAINTENANCE ORGAN-  
22 IZATION BECAUSE A SMALL GROUP'S COVERAGE HAS BEEN REINSURED OR POOLED,  
23 AND NEITHER THE INDIVIDUAL NOR THE SMALL EMPLOYER NOR THE EMPLOYEE SHALL  
24 HAVE REASON TO KNOW THAT THEIR COVERAGE HAS BEEN REINSURED OR POOLED  
25 PURSUANT TO SUCH REGULATIONS. SUCH REGULATIONS MAY ALSO INCLUDE OTHER  
26 MECHANISMS DESIGNED TO SHARE RISKS OR PREVENT UNDUE VARIATIONS IN INSUR-  
27 ER AND HEALTH MAINTENANCE ORGANIZATION CLAIM COSTS WHICH ARE NOT RELATED  
28 TO EXPECTED DIFFERENCES IN INSURER AND HEALTH MAINTENANCE ORGANIZATION  
29 COSTS BASED UPON COMPETITION, INNOVATION AND EFFICIENCY OF OPERATION.  
30 THE REGULATIONS MAY SEGREGATE ANY REINSURANCE, POOLING OR OTHER PROCESS  
31 AMONG VARIOUS GEOGRAPHIC REGIONS OF THE STATE.

32 (D) IN ORDER TO PROMULGATE RULES AND REGULATIONS TO IMPLEMENT THE  
33 PROVISIONS OF THIS SUBSECTION IN AN ORDERLY MANNER THAT HELPS TO  
34 INCREASE THE AVAILABILITY OF HEALTH INSURANCE TO ALL MEMBERS OF THE  
35 SMALL GROUP MARKET, INCLUDING THOSE PERSONS THAT ARE CURRENTLY PLACED IN  
36 THE INDIVIDUAL OR DIRECT PAY MARKET, THE TECHNICAL ADVISORY COMMITTEE  
37 SHALL MAKE RECOMMENDATIONS TO:

38 (I) FORMULATE, DEVELOP, AND IMPLEMENT A PROGRAM OR METHODOLOGY TO  
39 ESTABLISH A HIGH RISK OR HIGH COST MEDICAL CONDITIONS POOL AND SMALL  
40 GROUP STOP LOSS FUND TO REIMBURSE NINETY PERCENT OF ALL BONA FIDE CLAIMS  
41 ABOVE SEVENTY-FIVE THOUSAND DOLLARS PAID BY HEALTH MAINTENANCE ORGANIZA-  
42 TIONS AND INSURERS IN A CALENDAR YEAR FOR ANY MEMBER OR INSURED COVERED  
43 IN THE NEW SMALL GROUP MARKET ESTABLISHED PURSUANT TO THE PROVISIONS OF  
44 THE CHAPTER OF THE LAWS OF TWO THOUSAND THIRTEEN THAT ADDED THIS  
45 SUBSECTION. ALL APPROVED CLAIMS PAID ON BEHALF OF MEMBERS OR INSURED  
46 COVERED IN THE NEW SMALL GROUP MARKET BY HEALTH MAINTENANCE ORGANIZA-  
47 TIONS AND INSURERS THAT ARE ABOVE THE SEVENTY-FIVE THOUSAND DOLLAR  
48 THRESHOLD SHALL BE REIMBURSABLE, AS FUNDS ARE MADE AVAILABLE, FROM THE  
49 STOP LOSS FUNDS ESTABLISHED PURSUANT TO SECTION FOUR THOUSAND THREE  
50 HUNDRED TWENTY-SEVEN OF THIS CHAPTER, THE STOP LOSS FUNDS ESTABLISHED  
51 PURSUANT TO SECTIONS FOUR THOUSAND THREE HUNDRED TWENTY-ONE-A AND FOUR  
52 THOUSAND THREE HUNDRED TWENTY-TWO-A OF THIS CHAPTER, AND THE TOBACCO  
53 CONTROL AND INSURANCE INITIATIVES POOL DISTRIBUTIONS ESTABLISHED PURSU-  
54 ANT TO SECTION TWO THOUSAND EIGHT HUNDRED SEVEN-V OF THE PUBLIC HEALTH  
55 LAW.

1 (II) COORDINATE THE ISSUANCE OF NEW SMALL GROUP POLICIES OR CONTRACTS  
2 ISSUED AND RATED PURSUANT TO THIS CHAPTER WITH CONTRACTS ISSUED PURSUANT  
3 TO SECTION FOUR THOUSAND THREE HUNDRED TWENTY-SIX OF THIS CHAPTER.

4 (III) DEVELOP A MECHANISM TO SHIFT ALL PERSONS COVERED BY INDIVIDUAL  
5 CONTRACTS OR POLICIES PAID ON A DIRECT PAYMENT BASIS ISSUED PURSUANT TO  
6 THIS ARTICLE AND SECTIONS FOUR THOUSAND THREE HUNDRED FOUR, FOUR THOU-  
7 SAND THREE HUNDRED TWENTY-ONE AND FOUR THOUSAND THREE HUNDRED TWENTY-TWO  
8 OF THIS CHAPTER TO THE NEW SMALL GROUP MARKET BY JANUARY FIRST, TWO  
9 THOUSAND TWENTY-ONE.

10 (IV) DETERMINE WHETHER OR NOT CONTRACTS ISSUED PURSUANT TO SECTIONS  
11 FOUR THOUSAND THREE HUNDRED TWENTY-ONE AND FOUR THOUSAND THREE HUNDRED  
12 TWENTY-TWO OF THIS CHAPTER WILL CONTINUE TO BE NEEDED AND ISSUED TO  
13 ADEQUATELY SATISFY THE INSURANCE COVERAGE REQUIREMENTS OF ALL SEGMENTS  
14 OF THIS STATE'S POPULATION. FURTHER, THE COMMITTEE SHALL MAKE RECOMMEN-  
15 DATIONS TO THE GOVERNOR, TEMPORARY PRESIDENT OF THE SENATE AND SPEAKER  
16 OF THE ASSEMBLY BY JULY FIRST, TWO THOUSAND SIXTEEN ON THE ADVISABILITY  
17 OF REPEALING SECTIONS FOUR THOUSAND THREE HUNDRED FOUR, FOUR THOUSAND  
18 THREE HUNDRED TWENTY-ONE AND FOUR THOUSAND THREE HUNDRED TWENTY-TWO OF  
19 THIS CHAPTER AND PROHIBITING THE ISSUANCE OF NEW DIRECT PAY CONTRACTS OR  
20 POLICIES TO ANY MEMBERS OR INSURED AFTER JANUARY FIRST, TWO THOUSAND  
21 SEVENTEEN OR PERMITTING ALL INDIVIDUALS THAT HAVE INDIVIDUAL DIRECT PAY  
22 CONTRACTS OR POLICIES ISSUED PURSUANT TO THIS ARTICLE AND SECTIONS FOUR  
23 THOUSAND THREE HUNDRED FOUR, FOUR THOUSAND THREE HUNDRED TWENTY-ONE AND  
24 FOUR THOUSAND THREE HUNDRED TWENTY-TWO OF THIS CHAPTER BEFORE JANUARY  
25 FIRST, TWO THOUSAND SEVENTEEN TO CONTINUE TO RENEW OR RETAIN SUCH  
26 CONTRACTS OR POLICIES AFTER JANUARY FIRST, TWO THOUSAND SEVENTEEN.

27 (V) DEVELOP PROGRAMS OR METHODOLOGIES TO ENSURE THAT APPROPRIATE  
28 MEDICAL CARE SHALL BE PROVIDED FOR ALL PERSONS PLACED IN A HIGH RISK OR  
29 HIGH COST MEDICAL CONDITIONS POOL. SUCH PROGRAM OR METHODOLOGY SHALL  
30 ENSURE THAT SUCH PERSONS RECEIVE APPROPRIATE AND COST EFFECTIVE MEDICAL  
31 CARE AND THAT THE LEVEL AND UTILIZATION OF BENEFITS PROVIDED FOR UNDER  
32 SUCH CONTRACTS OR POLICIES ARE ADEQUATE TO ADDRESS THE SERIOUS OR CHRON-  
33 IC MEDICAL CONDITIONS FACED BY SUCH PERSONS.

34 (E)(I) THE ADVISORY COMMITTEE SHALL BE DEEMED TO BE A PUBLIC BODY FOR  
35 THE PURPOSES SET FORTH IN THE OPEN MEETINGS LAW, AS SET FORTH IN ARTICLE  
36 SEVEN OF THE PUBLIC OFFICERS LAW. ALL COMMITTEE MEETINGS SHALL BE  
37 CONDUCTED ONLY AFTER FOURTEEN DAYS PRIOR PUBLIC NOTICE HAS BEEN GIVEN TO  
38 THE NEWS MEDIA GENERALLY AND PUBLISHED IN THREE STATEWIDE NEWSPAPERS OF  
39 GENERAL CIRCULATION, IN SUCH TRADE, INDUSTRY OR PROFESSIONAL PUBLICA-  
40 TIONS AS THE ADVISORY COMMITTEE SHALL DESIGNATE, AND IN THE STATE REGIS-  
41 TER.

42 (II) THE ADVISORY COMMITTEE SHALL ISSUE A REPORT THAT CONTAINS ITS  
43 FINDINGS AND RECOMMENDATIONS AS PROVIDED FOR PURSUANT TO THIS SUBSECTION  
44 TO THE GOVERNOR, TEMPORARY PRESIDENT OF THE SENATE AND SPEAKER OF THE  
45 ASSEMBLY BY JANUARY FIRST, TWO THOUSAND FIFTEEN.

46 (III) THE SUPERINTENDENT IN PROMULGATING RULES AND REGULATIONS TO  
47 IMPLEMENT THE PROVISIONS OF THIS SUBSECTION AND THE SMALL GROUP STOP  
48 LOSS FUND, MUST RELY ON THE FINDINGS AND RECOMMENDATIONS CONTAINED IN  
49 THE ADVISORY COMMITTEE'S REPORT, UNLESS HE OR SHE FINDS ON THE RECORD  
50 THAT SUCH RECOMMENDATIONS WOULD DESTABILIZE THE HEALTH INSURANCE MARKET,  
51 INSTIGATE SUBSTANTIAL INCREASES IN PREMIUM RATES OR SUBJECT INSURERS AND  
52 HEALTH MAINTENANCE INSURERS TO UNACCEPTABLE LOSS RATIOS OVER THE  
53 INITIAL TWO YEAR PERIOD OF TIME.

54 (IV) THE SUPERINTENDENT, IN PROMULGATING RULES AND REGULATIONS TO  
55 IMPLEMENT THE PROVISIONS OF THIS SUBSECTION, SHALL CONDUCT AT LEAST  
56 THREE SEPARATE PUBLIC HEARINGS (NOTICE WHEREOF SHALL BE GIVEN AS

PROVIDED IN ITEM (I) OF THIS SUBPARAGRAPH) IN DIFFERENT PARTS OF THE STATE ACCEPT PUBLIC COMMENT ON THE COMMITTEE'S REPORT AND THE PROPOSED RULEMAKING SUBMITTED BY THE SUPERINTENDENT TO THE STATE REGISTER TO IMPLEMENT THE PROVISIONS OF THIS SUBSECTION, IN ADDITION TO MEETING THE REQUIREMENTS OF THE STATE ADMINISTRATIVE PROCEDURE ACT; PROVIDED THAT THERE NEED BE NO DUPLICATION OF PERFORMANCE IN COMPLYING WITH THE PROVISIONS OF THIS ITEM AND THOSE OF THE STATE ADMINISTRATIVE PROCEDURE ACT.

(E) THE PROVISIONS OF THIS ARTICLE AND SECTIONS FOUR THOUSAND THREE HUNDRED FOUR, FOUR THOUSAND THREE HUNDRED TWENTY-ONE AND FOUR THOUSAND THREE HUNDRED TWENTY-TWO OF THIS CHAPTER AND ALL INDIVIDUAL CONTRACTS OR POLICIES PAID ON A DIRECT PAYMENT BASIS ISSUED PURSUANT TO THIS CHAPTER SHALL REMAIN IN EFFECT ON AND AFTER JANUARY FIRST, TWO THOUSAND SEVENTEEN, PROVIDED, HOWEVER, THAT, AFTER JANUARY FIRST, TWO THOUSAND SEVENTEEN, NO ADDITIONAL NEW CONTRACTS OR POLICIES MAY BE ISSUED TO INDIVIDUALS THAT DID NOT SUBSCRIBE TO SUCH CONTRACTS OR POLICIES PRIOR TO DECEMBER THIRTY-FIRST, TWO THOUSAND SIXTEEN. ALL INDIVIDUAL CONTRACTS OR POLICIES IN FORCE PURSUANT TO THIS ARTICLE, OR SECTIONS FOUR THOUSAND THREE HUNDRED FOUR, FOUR THOUSAND THREE HUNDRED TWENTY-ONE AND FOUR THOUSAND THREE HUNDRED TWENTY-TWO OF THIS CHAPTER AFTER DECEMBER THIRTY-FIRST, TWO THOUSAND SIXTEEN SHALL CONTINUE TO BE COMMUNITY RATED WITH OTHER GROUPS OF ONE AS PROVIDED FOR BY SECTIONS THREE THOUSAND TWO HUNDRED THIRTY-ONE AND FOUR THOUSAND THREE HUNDRED SEVENTEEN OF THIS CHAPTER AS SAID SECTIONS THREE THOUSAND TWO HUNDRED THIRTY-ONE AND FOUR THOUSAND THREE HUNDRED SEVENTEEN WERE IN EFFECT PRIOR TO THE EFFECTIVE DATE OF THE CHAPTER OF THE LAWS OF TWO THOUSAND THIRTEEN THAT ADDED THIS SUBSECTION. HOLDERS OF ALL SUCH CONTRACTS OR POLICIES SHALL HAVE THE RIGHT TO RENEW AND CONTINUE THEIR CONTRACTS OR POLICIES UNDER THE SAME TERMS AND CONDITIONS UNTIL JANUARY FIRST, TWO THOUSAND TWENTY-ONE.

S 4. Subparagraph (O) of paragraph 4 of subsection (j) of section 4301 of the insurance law, as added by section 8 of part A of chapter 1 of the laws of 2002, is amended to read as follows:

(O) Notwithstanding any other provision of law, the board shall direct that such proceeds of the public asset are disbursed in accordance with direction from the director of the division of the budget and transferred to the credit of the tobacco control and insurance initiatives pool, or its successor to be used for the exclusive purposes provided therein, AND TO THE STOP LOSS FUNDS ESTABLISHED PURSUANT TO SUBSECTION (D) OF SECTION THREE THOUSAND TWO HUNDRED THIRTY-THREE OF THIS CHAPTER AND SECTION FOUR THOUSAND THREE HUNDRED TWENTY-SEVEN OF THIS ARTICLE.

S 5. Section 4321-a of the insurance law, as added by chapter 1 of the laws of 1999, paragraph 2 of subsection (e) as amended by chapter 419 of the laws of 2000, is amended to read as follows:

S 4321-a. Fund for standardized individual enrollee direct payment contracts. (a) The superintendent shall establish a fund from which health maintenance organizations may receive reimbursement, to the extent of funds available therefor, for claims paid by such health maintenance organizations for members covered under standardized individual enrollee direct payment contracts issued pursuant to section four thousand three hundred twenty-one of this article AND FOR ALL SMALL GROUP POLICIES OR CONTRACTS ISSUED AFTER JANUARY FIRST, TWO THOUSAND SIXTEEN. The fund established by the superintendent pursuant to this section shall be known as the direct payment stop loss fund. Commencing in calendar year two thousand, health maintenance organizations shall be eligible to receive reimbursement from the direct payment stop loss fund for ninety percent of claims paid between twenty thousand and one

1 hundred thousand dollars in a calendar year for any member covered under  
2 a contract issued pursuant to section four thousand three hundred twen-  
3 ty-one of this article AND FOR ALL SMALL GROUP POLICIES OR CONTRACTS  
4 ISSUED AFTER JANUARY FIRST, TWO THOUSAND SIXTEEN. For the purposes of  
5 this section, claims shall include health care claims paid by a health  
6 maintenance organization on behalf of a covered member pursuant to such  
7 standardized direct payment contracts OR A SMALL GROUP POLICY OR  
8 CONTRACT.

9 (b) The superintendent shall promulgate regulations setting forth  
10 procedures for the operation of the direct payment stop loss fund AND  
11 THE SMALL GROUP STOP LOSS FUND ESTABLISHED PURSUANT TO SUBSECTION (D) OF  
12 SECTION THREE THOUSAND TWO HUNDRED THIRTY-THREE OF THIS CHAPTER and the  
13 distribution of monies therefrom.

14 (c) Claims shall be reported and funds shall be distributed on a  
15 calendar year basis. Claims shall be eligible for reimbursement only for  
16 the calendar year in which the claims are paid. Once claims paid on  
17 behalf of a member reach or exceed one hundred thousand dollars in a  
18 given calendar year, no further claims paid on behalf of such member in  
19 such calendar year shall be eligible for reimbursement.

20 (d) Each health maintenance organization shall submit a request for  
21 reimbursement from the stop loss fund on a form prescribed by the super-  
22 intendent. Such request for reimbursement shall be submitted no later  
23 than April first following the end of the calendar year for which the  
24 reimbursement request is being made. The superintendent may require  
25 health maintenance organizations to submit such claims data in  
26 connection with the reimbursement request as he OR SHE deems necessary  
27 to enable him OR HER to distribute monies and oversee the operation of  
28 the direct payment stop loss fund AND THE SMALL GROUP STOP LOSS FUND.  
29 The superintendent may require that such data be submitted on a per  
30 member, aggregate and/or categorical basis.

31 (e) The superintendent shall calculate the total claims reimbursement  
32 amount for all health maintenance organizations for the calendar year  
33 for which claims are being reported.

34 (1) In the event that the total amount requested for reimbursement by  
35 all health maintenance organizations for a calendar year exceeds funds  
36 available for distribution for claims paid by all health maintenance  
37 organizations during that same calendar year, the superintendent shall  
38 provide for the pro-rata distribution of the available funds. Each  
39 health maintenance organization shall be eligible to receive only such  
40 proportionate amount of the available funds as the individual health  
41 maintenance organization's total eligible claims paid bears to the total  
42 eligible claims paid by all health maintenance organizations.

43 (2) In the event that (A) funds available for distribution for claims  
44 paid by all health maintenance organizations during a calendar year  
45 exceeds the total amount requested for reimbursement by all health main-  
46 tenance organizations during that same calendar year, and (B) the total  
47 amount requested for reimbursement by all health maintenance organiza-  
48 tions from the direct payment out-of-plan stop loss fund exceeds the  
49 amount available for distribution from such fund, then any excess funds  
50 shall be reallocated for distribution to the direct payment out-of-plan  
51 stop loss fund AND THE SMALL GROUP STOP LOSS FUND. Otherwise, such  
52 excess funds shall be carried forward and will not affect monies appro-  
53 priated for the direct payment stop loss fund in the next calendar year.

54 (f) Upon the request of the superintendent, each health maintenance  
55 organization shall be required to furnish such data as the superinten-  
56 dent deems necessary to oversee the operation of the direct payment stop

1 loss fund. Such data shall be furnished in a form prescribed by the  
2 superintendent.

3 (g) The superintendent may obtain the services of an organization to  
4 administer the direct payment stop loss fund. The superintendent shall  
5 establish guidelines for the submission of proposals by organizations  
6 for the purposes of administering the fund. The superintendent shall  
7 make a determination whether to approve, disapprove or recommend modifi-  
8 cation to the proposal of an applicant to administer the fund. An organ-  
9 ization approved to administer the fund shall submit reports to the  
10 superintendent in such form and at times as may be required by the  
11 superintendent in order to facilitate evaluation and ensure orderly  
12 operation of the fund, including, but not limited to an annual report of  
13 the affairs and operations of the fund, such report to be delivered to  
14 the superintendent and to the chairs of the senate finance committee and  
15 assembly ways and means committee. An organization approved to adminis-  
16 ter the fund shall maintain records in a form prescribed by the super-  
17 intendent and which shall be available for inspection by or at the  
18 request of the superintendent. The superintendent shall determine the  
19 amount of compensation to be allocated to an approved organization as  
20 payment for fund administration. Compensation shall be payable from the  
21 direct payment stop loss fund. An organization approved to administer  
22 the fund may be removed by the superintendent and must cooperate in the  
23 orderly transition of services to another approved organization or to  
24 the superintendent.

25 (h) If the superintendent deems it appropriate for the proper adminis-  
26 tration of the direct payment stop loss fund, the administrator of the  
27 fund, on behalf of and with the prior approval of the superintendent,  
28 shall be authorized to purchase stop loss insurance and/or reinsurance  
29 from an insurance company licensed to write such type of insurance in  
30 this state. Such stop loss insurance and/or reinsurance may be purchased  
31 to the extent of funds available therefor within such funds which are  
32 available for purposes of the stop loss fund.

33 (I) AS INDIVIDUALS TRANSFER FROM THE STANDARDIZED INDIVIDUAL ENROLLEE  
34 DIRECT PAYMENT CONTRACTS TO THE SMALL GROUP MARKET, AN ACTUARIALLY  
35 APPROPRIATE AMOUNT, AS DETERMINED BY THE SUPERINTENDENT, SHALL BE TRANS-  
36 FERRED FROM THE DIRECT PAYMENT STOP LOSS FUND TO THE SMALL GROUP STOP  
37 LOSS FUND.

38 S 6. Section 4322-a of the insurance law, as added by chapter 1 of the  
39 laws of 1999, paragraph 2 of subsection (e) as amended by chapter 419 of  
40 the laws of 2000, is amended to read as follows:

41 S 4322-a. Fund for standardized individual enrollee direct payment  
42 contracts which provide out-of-plan benefits. (a) The superintendent  
43 shall establish a fund from which health maintenance organizations may  
44 receive reimbursement, to the extent of funds available therefor, for  
45 claims paid by such health maintenance organizations for members covered  
46 under standardized individual enrollee direct payment contracts which  
47 provide out-of-plan benefits issued pursuant to section four thousand  
48 three hundred twenty-two of this article AND FOR ALL SMALL GROUP POLI-  
49 CIES OR CONTRACTS ISSUED AFTER JANUARY FIRST, TWO THOUSAND SIXTEEN. The  
50 fund established by the superintendent pursuant to this section shall be  
51 known as "the direct payment out-of-plan stop loss fund". Commencing in  
52 calendar year two thousand, health maintenance organizations shall be  
53 eligible to receive reimbursement from the direct payment out-of-plan  
54 stop loss fund for ninety percent of claims paid between twenty thousand  
55 and one hundred thousand dollars in a calendar year for any member  
56 covered under a contract issued pursuant to section four thousand three



1 hundred twenty-two of this article AND FOR ALL SMALL GROUP POLICIES OR  
2 CONTRACTS ISSUED AFTER JANUARY FIRST, TWO THOUSAND SIXTEEN. For the  
3 purposes of this section, claims shall include health care claims paid  
4 by a health maintenance organization on behalf of a covered member  
5 pursuant to contracts issued pursuant to section four thousand three  
6 hundred twenty-two of this article OR A SMALL GROUP POLICY OR CONTRACT.

7 (b) The superintendent shall promulgate regulations that set forth  
8 procedures for the operation of the direct payment out-of-plan stop loss  
9 fund AND THE SMALL GROUP STOP LOSS FUND ESTABLISHED PURSUANT TO  
10 SUBSECTION (D) OF SECTION THREE THOUSAND TWO HUNDRED THIRTY-THREE OF  
11 THIS CHAPTER and the distribution of monies therefrom.

12 (c) Claims shall be reported and funds shall be distributed on a  
13 calendar year basis. Claims shall be eligible for reimbursement only for  
14 the calendar year in which the claims are paid. Once claims paid on  
15 behalf of a member reach or exceed one hundred thousand dollars in a  
16 given calendar year, no further claims paid on behalf of such member in  
17 that calendar year shall be eligible for reimbursement.

18 (d) Each health maintenance organization shall submit a request for  
19 reimbursement from the stop loss fund on a form prescribed by the super-  
20 intendent. Such request for reimbursement shall be submitted no later  
21 than April first following the end of the calendar year for which the  
22 reimbursement request is being made. The superintendent may require  
23 health maintenance organizations to submit such claims data in  
24 connection with the reimbursement request as he OR SHE deems necessary  
25 to enable him OR HER to distribute monies and oversee the operation of  
26 the direct payment out-of-plan stop loss fund AND THE SMALL GROUP STOP  
27 LOSS FUND. The superintendent may require that such data be submitted  
28 on a per member, aggregate and/or categorical basis.

29 (e) The superintendent shall calculate the total claims reimbursement  
30 amount for all health maintenance organizations for the calendar year  
31 for which claims are being reported.

32 (1) In the event that the total amount requested for reimbursement by  
33 all health maintenance organizations for a calendar year exceeds funds  
34 available for distribution for claims paid by all health maintenance  
35 organizations during that same calendar year, the superintendent shall  
36 provide for the pro-rata distribution of the available funds. Each  
37 health maintenance organization shall be eligible to receive only such  
38 proportionate amount of the available funds as the individual health  
39 maintenance organization's total eligible claims bears to the total  
40 eligible claims paid by all health maintenance organizations.

41 (2) In the event that (A) funds available for distribution for claims  
42 paid by all health maintenance organizations during a calendar year  
43 exceeds the total amount requested for reimbursement by all health main-  
44 tenance organizations during that same calendar year, and (B) the total  
45 amount requested for reimbursement by all health maintenance organiza-  
46 tions from the direct payment stop loss fund exceeds the amount avail-  
47 able for distribution from such fund, then any excess funds shall be  
48 reallocated for distribution to the direct payment stop loss fund AND  
49 THE SMALL GROUP STOP LOSS FUND. Otherwise, such excess funds shall be  
50 carried forward and shall not affect the monies appropriated for the  
51 direct payment out-of-plan stop loss fund in the next calendar year.

52 (f) Upon the request of the superintendent, each health maintenance  
53 organization shall be required to furnish such data as the superinten-  
54 dent deems necessary to oversee the operation of the direct payment  
55 out-of-plan stop loss fund. Such data shall be furnished in a form  
56 prescribed by the superintendent.

1 (g) The superintendent may obtain the services of an organization to  
2 administer the direct payment out-of-plan stop loss fund. The super-  
3 intendent shall establish guidelines for the submission of proposals by  
4 organizations for the purposes of administering the fund. The super-  
5 intendent shall make a determination whether to approve, disapprove or  
6 recommend modification to the proposal of an applicant to administer the  
7 fund. An organization approved to administer the fund shall submit  
8 reports to the superintendent in such form and at times as may be  
9 required by the superintendent in order to facilitate evaluation and  
10 ensure orderly operation of the fund, including, but not limited to, an  
11 annual report of the affairs and operations of the fund, such report to  
12 be delivered to the superintendent and to the chairs of the senate  
13 finance committee and assembly ways and means committee. An organization  
14 approved to administer the fund shall maintain records in a form  
15 prescribed by the superintendent and which shall be available for  
16 inspection by or at the request of the superintendent. The superinten-  
17 dent shall determine the amount of compensation to be allocated to an  
18 approved organization as payment for fund administration. Compensation  
19 shall be payable from the direct payment out-of-plan stop loss fund. An  
20 organization approved to administer the fund may be removed by the  
21 superintendent and must cooperate in the orderly transition of services  
22 to another approved organization or to the superintendent.

23 (h) If the superintendent deems it appropriate for the proper adminis-  
24 tration of the direct payment out-of-plan stop loss fund, the adminis-  
25 trator of the fund, on behalf of and with the prior approval of the  
26 superintendent, shall be authorized to purchase stop loss insurance  
27 and/or reinsurance from an insurance company licensed to write such type  
28 of insurance in this state. Such stop loss insurance and/or reinsurance  
29 may be purchased to the extent of funds available therefor within such  
30 funds which are available for purposes of the stop loss fund.

31 (I) AS INDIVIDUALS TRANSFER FROM THE STANDARDIZED INDIVIDUAL ENROLLEE  
32 DIRECT PAYMENT CONTRACTS WHICH PROVIDE OUT-OF-PLAN BENEFITS TO THE SMALL  
33 GROUP MARKET, AN ACTUARIALLY APPROPRIATE AMOUNT, AS DETERMINED BY THE  
34 SUPERINTENDENT, SHALL BE TRANSFERRED FROM THE DIRECT PAYMENT OUT-OF-PLAN  
35 STOP LOSS FUND TO THE SMALL GROUP STOP LOSS FUND.

36 S 7. The section heading and subsections (a), (b), (c), (d), (e), (f),  
37 (h), (i), (q) and (r) of section 4327 of the insurance law, as added by  
38 chapter 1 of the laws of 1999, subsection (h) as amended by chapter 419  
39 of the laws of 2000, are amended to read as follows:

40 Stop loss funds for standardized health insurance contracts issued to  
41 qualifying small employers and qualifying individuals AND THE SMALL  
42 GROUP MARKET. (a) The superintendent shall establish a fund from which  
43 health maintenance organizations, corporations or insurers may receive  
44 reimbursement, to the extent of funds available therefor, for claims  
45 paid by such health maintenance organizations, corporations or insurers  
46 for members covered under qualifying group health insurance contracts  
47 issued pursuant to section THREE THOUSAND TWO HUNDRED THIRTY-ONE OF THIS  
48 CHAPTER AND SECTIONS FOUR THOUSAND THREE HUNDRED SEVENTEEN AND four  
49 thousand three hundred twenty-six of this article. This fund shall be  
50 known as the "small employer stop loss fund". The superintendent shall  
51 establish a separate and distinct fund from which health maintenance  
52 organizations, corporations or insurers may receive reimbursement, to  
53 the extent of funds available therefor, for claims paid by such health  
54 maintenance organizations, corporations or insurers for members covered  
55 under qualifying individual health insurance contracts issued pursuant

1 to section four thousand three hundred twenty-six of this article. This  
2 fund shall be known as the "qualifying individual stop loss fund".

3 (b) Commencing on January first, two thousand one, health maintenance  
4 organizations, corporations or insurers shall be eligible to receive  
5 reimbursement for ninety percent of claims paid between thirty thousand  
6 and one hundred thousand dollars in a calendar year for any member  
7 covered under a standardized contract issued pursuant to section four  
8 thousand three hundred twenty-six of this article OR A CONTRACT OR POLI-  
9 CY ISSUED PURSUANT TO SECTION THREE THOUSAND TWO HUNDRED THIRTY-ONE OF  
10 THIS CHAPTER OR SECTION FOUR THOUSAND THREE HUNDRED SEVENTEEN OF THIS  
11 ARTICLE, PURSUANT TO REGULATIONS PROMULGATED PURSUANT TO SUBSECTION (D)  
12 OF SECTION THREE THOUSAND TWO HUNDRED THIRTY-THREE OF THIS CHAPTER.  
13 Claims paid for members covered under qualifying group health insurance  
14 contracts shall be reimbursable from the small employer stop loss fund.  
15 Claims paid for members covered under qualifying individual health  
16 insurance contracts shall be reimbursable from the qualifying individual  
17 stop loss fund; PROVIDED, HOWEVER, THAT THE SUPERINTENDENT, IN CONSULTA-  
18 TION WITH THE DIRECTOR OF THE BUDGET, MAY TRANSFER AN ACTUARIALLY APPRO-  
19 PRIATE AMOUNT OF FUNDS FROM THE SMALL EMPLOYER STOP LOSS FUND AND THE  
20 QUALIFYING INDIVIDUAL STOP LOSS FUND TO ESTABLISH THE SMALL GROUP STOP  
21 LOSS FUND ESTABLISHED PURSUANT TO SUBSECTION (D) OF SECTION THREE THOU-  
22 SAND TWO HUNDRED THIRTY-THREE OF THIS CHAPTER. For the purposes of this  
23 section, claims shall include health care claims paid by a health main-  
24 tenance organization on behalf of a covered member pursuant to such  
25 standardized contracts.

26 (c) The superintendent shall promulgate regulations that set forth  
27 procedures for the operation of the small employer stop loss fund [and],  
28 the qualifying individual stop loss fund, AND THE SMALL GROUP STOP LOSS  
29 FUND ESTABLISHED PURSUANT TO SUBSECTION (D) OF SECTION THREE THOUSAND  
30 TWO HUNDRED THIRTY-THREE OF THIS CHAPTER and distribution of monies  
31 therefrom.

32 (d) The small employer stop loss fund shall operate separately from  
33 the qualifying individual stop loss fund. Except as specified in  
34 subsection (b) of this section with respect to calendar year two thou-  
35 sand one, the level of stop loss coverage for the qualifying group  
36 health insurance contracts and the qualifying individual health insur-  
37 ance contracts need not be the same. The two stop loss funds need not be  
38 structured or operated in the same manner, except as specified in this  
39 section. The monies available for distribution from the stop loss funds  
40 may be reallocated between the small employer stop loss fund [and], the  
41 qualifying individual stop loss fund, AND THE SMALL GROUP STOP LOSS FUND  
42 ESTABLISHED PURSUANT TO SUBSECTION (D) OF SECTION THREE THOUSAND TWO  
43 HUNDRED THIRTY-THREE OF THIS CHAPTER if the superintendent determines  
44 that such reallocation is warranted due to enrollment trends.

45 (e) Claims shall be reported and funds shall be distributed from the  
46 small employer stop loss fund [and], from the qualifying individual stop  
47 loss fund, AND THE SMALL GROUP STOP LOSS FUND ESTABLISHED PURSUANT TO  
48 SUBSECTION (D) OF SECTION THREE THOUSAND TWO HUNDRED THIRTY-THREE OF  
49 THIS CHAPTER on a calendar year basis. Claims shall be eligible for  
50 reimbursement only for the calendar year in which the claims are paid.  
51 Once claims paid on behalf of a covered member reach or exceed one  
52 hundred thousand dollars in a given calendar year, no further claims  
53 paid on behalf of such member in that calendar year shall be eligible  
54 for reimbursement.

55 (f) Each health maintenance organization, corporation or insurer shall  
56 submit a request for reimbursement from each of the stop loss funds on

1 forms prescribed by the superintendent. Each of the requests for  
2 reimbursement shall be submitted no later than April first following the  
3 end of the calendar year for which the reimbursement requests are being  
4 made. The superintendent may require health maintenance organizations,  
5 corporations or insurers to submit such claims data in connection with  
6 the reimbursement requests as he OR SHE deems necessary to enable him OR  
7 HER to distribute monies and oversee the operation of the small employer  
8 and qualifying individual stop loss funds AND THE SMALL GROUP STOP LOSS  
9 FUND ESTABLISHED PURSUANT TO SUBSECTION (D) OF SECTION THREE THOUSAND  
10 TWO HUNDRED THIRTY-THREE OF THIS CHAPTER. The superintendent may  
11 require that such data be submitted on a per member, aggregate and/or  
12 categorical basis. Data shall be reported separately for qualifying  
13 group health insurance contracts [and], qualifying individual health  
14 insurance contracts issued pursuant to section four thousand three  
15 hundred twenty-six of this article, AND SMALL GROUP CONTRACTS OR POLI-  
16 CIES ISSUED PURSUANT TO SECTION THREE THOUSAND TWO HUNDRED THIRTY-ONE OF  
17 THIS CHAPTER AND SECTION FOUR THOUSAND THREE HUNDRED SEVENTEEN OF THIS  
18 ARTICLE.

19 (h) Upon the request of the superintendent, each health maintenance  
20 organization shall be required to furnish such data as the superinten-  
21 dent deems necessary to oversee the operation of the small employer and  
22 qualifying individual stop loss funds AND THE SMALL GROUP STOP LOSS FUND  
23 ESTABLISHED PURSUANT TO SUBSECTION (D) OF SECTION THREE THOUSAND TWO  
24 HUNDRED THIRTY-THREE OF THIS CHAPTER. Such data shall be furnished in a  
25 form prescribed by the superintendent. Each health maintenance organiza-  
26 tion, corporation or insurer shall provide the superintendent with  
27 monthly reports of the total enrollment under the qualifying group  
28 health insurance contracts and the qualifying individual health insur-  
29 ance contracts issued pursuant to section four thousand three hundred  
30 twenty-six of this article. The reports shall be in a form prescribed by  
31 the superintendent.

32 (i) The superintendent shall separately estimate the per member annual  
33 cost of total claims reimbursement from each OF THE THREE stop loss  
34 [fund for qualifying individual health insurance contracts and for qual-  
35 ifying group health insurance contracts] FUNDS based upon available data  
36 and appropriate actuarial assumptions. Upon request, each health mainte-  
37 nance organization, corporation or insurer shall furnish to the super-  
38 intendent claims experience data for use in such estimations.

39 (q) The superintendent may obtain the services of an organization to  
40 administer the stop loss funds established by this section AND THE SMALL  
41 GROUP STOP LOSS FUND ESTABLISHED PURSUANT TO SUBSECTION (D) OF SECTION  
42 THREE THOUSAND TWO HUNDRED THIRTY-THREE OF THIS CHAPTER. If the super-  
43 intendent deems it appropriate, he or she may utilize a separate organ-  
44 ization for administration of the small employer stop loss fund [and],  
45 the qualifying individual stop loss fund, AND THE SMALL GROUP STOP LOSS  
46 FUND ESTABLISHED PURSUANT TO SUBSECTION (D) OF SECTION THREE THOUSAND  
47 TWO HUNDRED THIRTY-THREE OF THIS CHAPTER. The superintendent shall  
48 establish guidelines for the submission of proposals by organizations  
49 for the purposes of administering the funds. The superintendent shall  
50 make a determination whether to approve, disapprove or recommend modifi-  
51 cation to the proposal of an applicant to administer the funds. An  
52 organization approved to administer the funds shall submit reports to  
53 the superintendent in such form and at times as may be required by the  
54 superintendent in order to facilitate evaluation and ensure orderly  
55 operation of the funds, including, but not limited to, an annual report  
56 of the affairs and operations of the fund, such report to be delivered

1 to the superintendent and to the chairs of the senate finance committee  
2 and the assembly ways and means committee. An organization approved to  
3 administer the funds shall maintain records in a form prescribed by the  
4 superintendent and which shall be available for inspection by or at the  
5 request of the superintendent. The superintendent shall determine the  
6 amount of compensation to be allocated to an approved organization as  
7 payment for fund administration. Compensation shall be payable from the  
8 stop loss coverage funds. An organization approved to administer the  
9 funds may be removed by the superintendent and must cooperate in the  
10 orderly transition of services to another approved organization or to  
11 the superintendent.

12 (r) If the superintendent deems it appropriate for the proper adminis-  
13 tration of the small employer stop loss fund [and/or], the qualifying  
14 individual stop loss fund, OR THE SMALL GROUP STOP LOSS FUND ESTABLISHED  
15 PURSUANT TO SUBSECTION (D) OF SECTION THREE THOUSAND TWO HUNDRED THIR-  
16 TY-THREE OF THIS CHAPTER, the administrator of the fund, on behalf of  
17 and with the prior approval of the superintendent, shall be authorized  
18 to purchase stop loss insurance and/or reinsurance from an insurance  
19 company licensed to write such type of insurance in this state. Such  
20 stop loss insurance and/or reinsurance may be purchased to the extent of  
21 funds available therefor within such funds which are available for  
22 purposes of the stop loss funds established by this section.

23 S 8. This act shall take effect immediately; provided that sections  
24 one and two of this act shall take effect January 1, 2016; and provided  
25 further that the superintendent of financial services is authorized and  
26 directed to promulgate rules and regulations to implement the provisions  
27 of this act, which rules and regulations must be adopted and filed with  
28 the secretary of state by October 1, 2015. This act shall apply to all  
29 policies and contracts of health insurance issued, renewed, modified,  
30 altered or amended on or after January 1, 2016.