

6519

2013-2014 Regular Sessions

I N A S S E M B L Y

April 4, 2013

Introduced by M. of A. SILVER, CAHILL, HEASTIE, MORELLE, FARRELL, BRENNAN, MILLMAN, LENTOL, GLICK, GOTTFRIED, KAVANAGH, O'DONNELL, PRETLOW, ROSENTHAL, CASTRO, SCHIMEL, JAFFEE, HEVESI, TITONE, WEINSTEIN, JACOBS, MARKEY, WEPRIN -- Multi-Sponsored by -- M. of A. ABBATE, AUBRY, BARRETT, BROOK-KRASNY, CLARK, COLTON, CYMBROWITZ, DINOWITZ, ENGLEBRIGHT, GABRYSZAK, GALEF, GIBSON, LAVINE, LUPARDO, MAGEE, PEOPLES-STOKES, PERRY, RIVERA, ROBERTS, SCARBOROUGH, SEPULVEDA, SIMOTAS, SKARTADOS, SWEENEY, ZEBROWSKI -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law, in relation to creating the freelancers health plan demonstration program; and providing for the repeal of such provision upon expiration thereof

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

1 Section 1. The insurance law is amended by adding a new section 1125
2 to read as follows:
3 S 1125. FREELANCERS HEALTH PLAN DEMONSTRATION PROGRAM. (A) FOR
4 PURPOSES OF THIS SECTION:
5 (1) "FREELANCERS ASSOCIATION" MEANS AN ENTITY THAT: (A) IS EXEMPT FROM
6 FEDERAL TAXATION UNDER SECTION 501(C)(3) OR (C)(4) OF THE INTERNAL
7 REVENUE CODE; AND (B) PRIOR TO JANUARY FIRST, TWO THOUSAND THIRTEEN, HAS
8 BEEN ISSUED ONE OR MORE HEALTH INSURANCE POLICIES BY AN INSURER UNDER
9 SECTION ONE THOUSAND ONE HUNDRED TWENTY-THREE OF THIS ARTICLE.
10 (2) "FREELANCERS HEALTH PLAN" OR "PLAN" MEANS A SELF-FUNDED PLAN
11 MAINTAINED BY A FREELANCERS ASSOCIATION FOR THE PURPOSE OF PROVIDING
12 MEDICAL, SURGICAL, OR HOSPITAL SERVICES TO INDEPENDENT WORKERS WHO ARE
13 MEMBERS OF THE FREELANCERS ASSOCIATION AND A MEMBER'S SPOUSE, DOMESTIC
14 PARTNER AND DEPENDENTS.
15 (3) "INDEPENDENT WORKER" MEANS AN INDIVIDUAL WHO: (A) IS AN INDEPENDENT
16 CONTRACTOR; (B) IS SELF-EMPLOYED; (C) WORKS PART-TIME; (D) OBTAINS
17 TEMPORARY WORK THROUGH AN EMPLOYMENT AGENCY; (E) PERFORMS TEMPORARY WORK

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

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FOR TWO OR MORE EMPLOYERS SIMULTANEOUSLY; (F) IS A DOMESTIC CHILD CARE WORKER; OR (G) IS HIRED TO WORK FULL-TIME FOR A SINGLE EMPLOYER FOR A PERIOD NOT TO EXCEED EIGHTEEN MONTHS IF SUCH EMPLOYER DOES NOT OFFER GROUP HEALTH INSURANCE TO EMPLOYEES EMPLOYED ON A TEMPORARY BASIS. AN INDIVIDUAL IS NOT AN INDEPENDENT WORKER IF HE OR SHE IS EMPLOYED FULL-TIME BY A SINGLE EMPLOYER, WITH THE EXCEPTION OF AN INDIVIDUAL WHO MEETS THE REQUIREMENTS OF SUBPARAGRAPH (D), (F) OR (G) OF THIS PARAGRAPH.

(4) "MEMBER CONTRACT" MEANS EVIDENCE OF COVERAGE FURNISHED TO AN INDEPENDENT WORKER WHO IS A MEMBER OF A FREELANCERS ASSOCIATION THAT SETS FORTH ALL BENEFITS AND TERMS AND CONDITIONS WITH REGARD TO A FREELANCERS HEALTH PLAN.

(5) "QUALIFIED ACTUARY" MEANS AN ACTUARY WHO IS A MEMBER IN GOOD STANDING OF THE AMERICAN ACADEMY OF ACTUARIES OR SOCIETY OF ACTUARIES, WITH EXPEDIENCE IN ESTABLISHING RATES FOR SELF-INSURED TRUSTS PROVIDING HEALTH BENEFITS OR OTHER SIMILAR EXPERIENCE.

(B) A FREELANCERS ASSOCIATION SHALL NOT ESTABLISH, MAINTAIN, OR OTHERWISE PARTICIPATE IN A FREELANCERS HEALTH PLAN UNLESS THE FREELANCERS ASSOCIATION OBTAINS AND MAINTAINS A DEMONSTRATION PROGRAM WAIVER FROM THE SUPERINTENDENT PURSUANT TO THE PROVISIONS OF THIS SECTION.

(C) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION OR A REGULATION PROMULGATED BY THE SUPERINTENDENT, A FREELANCERS ASSOCIATION OPERATING A FREELANCERS HEALTH PLAN SHALL:

(1) PROVIDE ALL MANDATED BENEFITS THAT CORPORATIONS ORGANIZED UNDER ARTICLE FORTY-THREE OF THIS CHAPTER ARE REQUIRED TO PROVIDE; AND

(2) PROVIDE THAT ITS PLAN WILL HAVE AN EXPECTED LOSS RATIO OF NOT LESS THAN EIGHTY-TWO PERCENT. IN REVIEWING A RATE FILING OR APPLICATION BY A PLAN, THE SUPERINTENDENT MAY MODIFY THE EIGHTY-TWO PERCENT EXPECTED MINIMUM LOSS RATIO REQUIREMENT IF THE SUPERINTENDENT DETERMINES THE MODIFICATION TO BE IN THE INTERESTS OF THE PEOPLE OF THIS STATE OR IF THE SUPERINTENDENT DETERMINES THAT A MODIFICATION IS NECESSARY TO MAINTAIN PLAN SOLVENCY. NO LATER THAN ONE HUNDRED TWENTY DAYS AFTER THE CLOSE OF A PLAN'S FISCAL YEAR, A PLAN SHALL ANNUALLY REPORT THE ACTUAL LOSS RATIO FOR THE PREVIOUS PLAN FISCAL YEAR IN A FORMAT ACCEPTABLE TO THE SUPERINTENDENT. IF THE EXPECTED LOSS RATIO IS NOT MET, THE SUPERINTENDENT MAY DIRECT THE PLAN TO TAKE CORRECTIVE ACTION.

(D) A FREELANCERS ASSOCIATION SHALL FILE AN APPLICATION FOR A DEMONSTRATION PROGRAM WAIVER ON SUCH FORM AS THE SUPERINTENDENT MAY PRESCRIBE, AND SHALL PROVIDE TO THE SATISFACTION OF THE SUPERINTENDENT THE FOLLOWING:

(1) A COPY OF THE MEMBER CONTRACT, INCLUDING A TABLE OF THE PREMIUM RATES CHARGED OR PROPOSED TO BE CHARGED;

(2) A REPORT INDICATING THE BENEFIT PROVISIONS, PREMIUM RATES, AND INCURRED MEDICAL LOSSES ASSOCIATED WITH THE FREELANCERS ASSOCIATION'S MEMBERS UNDER THE INSURANCE POLICIES INSURING THE FREELANCERS ASSOCIATION'S MEMBERS PURSUANT TO SECTION ONE THOUSAND ONE HUNDRED TWENTY-THREE OF THIS ARTICLE FOR THE THREE YEARS PRIOR TO THE DATE OF THE APPLICATION;

(3) THE MOST RECENT CERTIFIED INDEPENDENTLY-AUDITED FINANCIAL STATEMENT FOR THE FREELANCERS ASSOCIATION;

(4) A REPORT PREPARED BY A QUALIFIED ACTUARY THAT SUPPORTS THE PROPOSED PREMIUMS FOR THE PLAN;

(5) A COPY OF ALL AGREEMENTS BETWEEN THE FREELANCERS ASSOCIATION AND ANY PLAN ADMINISTRATOR, WITH REGARD TO THE FREELANCERS HEALTH PLAN;

(6) A PRO-FORMA BALANCE SHEET, INCLUDING ACTUARIALLY DETERMINED CLAIMS LIABILITIES, AND STATEMENT OF REVENUE AND EXPENSES, INCLUDING REASONABLY

1 PROJECTED EXPENSES, MEDICAL LOSSES, AND PREMIUMS TO BE CHARGED TO
2 MEMBERS OF THE PLAN DURING THE FIRST THREE YEARS;

3 (7) A NARRATIVE DESCRIPTION OF THE:

4 (A) ACCOUNTING METHODOLOGY THAT THE FREELANCERS ASSOCIATION WILL
5 UTILIZE, INCLUDING A DESCRIPTION OF THE SEPARATE ACCOUNTS FOR REVENUES
6 AND EXPENSES, INCLUDING MEDICAL AND HOSPITAL EXPENSES AND ADMINISTRATION
7 EXPENSES, RESERVES FOR CLAIMS AND EXPENSES THEREON, INCLUDING INCURRED-
8 BUT-NOT-REPORTED, UNEARNED PREMIUM RESERVES, CONTINGENT RESERVES, AND
9 ANY ASSET ACCOUNTS (CASH, PREMIUMS RECEIVABLE, INVESTMENTS) RELEVANT TO
10 THE PLAN. THE ACCOUNTS MAY BE ESTABLISHED WITHIN THE FREELANCERS ASSOCI-
11 ATION'S GENERAL ACCOUNTING LEDGER SYSTEM, PROVIDED THE GENERAL LEDGER
12 ACCOUNTS ARE CLEARLY IDENTIFIABLE AS PERTAINING TO THE PLAN, INCLUDING
13 ANY SUCH ACCOUNTS ALLOCATED TO THE PLAN;

14 (B) BILLING AND CLAIM PAYMENT PROCEDURES, INCLUDING THE NAMES AND
15 CONTACT INFORMATION FOR THOSE PERSONS CHARGED WITH HANDLING ACCOUNTING
16 AND CLAIMS ISSUES; AND

17 (C) ANY COMPENSATION THE FREELANCERS ASSOCIATION WILL RECEIVE IN
18 CONNECTION WITH THE PLAN.

19 (8) A COPY OF ANY STOP-LOSS INSURANCE POLICY ISSUED OR PROPOSED TO BE
20 ISSUED BY AN INSURER AUTHORIZED TO DO THE BUSINESS OF ACCIDENT AND
21 HEALTH INSURANCE IN THIS STATE OR IS A HEALTH SERVICE CORPORATION ORGAN-
22 IZED UNDER ARTICLE FORTY-THREE OF THIS CHAPTER; AND

23 (9) SUCH OTHER INFORMATION AS THE SUPERINTENDENT MAY REQUIRE.

24 (E) UPON COMPLIANCE WITH THIS SECTION, THE SUPERINTENDENT SHALL ISSUE
25 A DEMONSTRATION PROGRAM WAIVER TO AN APPLICANT. IF A FREELANCERS ASSOCI-
26 ATION SUBMITS A MATERIALLY SATISFACTORY AND COMPLETE APPLICATION WITHIN
27 SIXTY DAYS OF THE EFFECTIVE DATE OF THIS SECTION, THE SUPERINTENDENT
28 SHALL ISSUE THE FREELANCERS ASSOCIATION A DEMONSTRATION PROGRAM WAIVER
29 THAT IS EFFECTIVE ON OR BEFORE JANUARY FIRST, TWO THOUSAND FOURTEEN.
30 EVERY DEMONSTRATION PROGRAM WAIVER SHALL CONTAIN THE NAME OF THE CERTI-
31 FIED ENTITY AND ITS HOME OFFICE ADDRESS. THE SUPERINTENDENT SHALL REFUSE
32 TO GRANT A DEMONSTRATION PROGRAM WAIVER TO AN APPLICANT THAT FAILS TO
33 MEET THE REQUIREMENTS OF THIS SECTION. NOTICE OF REFUSAL SHALL BE IN
34 WRITING AND SHALL SET FORTH THE BASIS FOR REFUSAL. IF THE APPLICANT
35 SUBMITS A WRITTEN REQUEST WITHIN THIRTY DAYS AFTER RECEIPT OF THE NOTICE
36 OF REFUSAL, THEN THE SUPERINTENDENT SHALL CONDUCT A HEARING TO GIVE THE
37 APPLICANT THE OPPORTUNITY TO SHOW CAUSE WHY THE REFUSAL SHOULD NOT BE
38 MADE FINAL.

39 (F) IN ORDER TO OBTAIN AND MAINTAIN A DEMONSTRATION PROGRAM WAIVER, A
40 FREELANCERS ASSOCIATION SHALL:

41 (1) FILE A COMPLETE APPLICATION WITH THE SUPERINTENDENT IN ACCORDANCE
42 WITH SUBSECTION (D) OF THIS SECTION;

43 (2) HAVE WITHIN ITS OWN ORGANIZATION ADEQUATE RESOURCES AND COMPETENT
44 PERSONNEL TO ADMINISTER THE FREELANCERS HEALTH PLAN OR, IN ORDER TO
45 PROVIDE SUCH ADMINISTRATIVE SERVICES, IN WHOLE OR PART, HAS CONTRACTED
46 WITH A PERSON OR ENTITY TO SERVE AS A PLAN ADMINISTRATOR, DETERMINED BY
47 THE FREELANCERS ASSOCIATION TO BE QUALIFIED BASED UPON WRITTEN DOCUMEN-
48 TATION FURNISHED TO THE FREELANCERS ASSOCIATION, PROVIDED THAT THE
49 DOCUMENTATION SHALL BE MADE AVAILABLE TO THE SUPERINTENDENT UPON
50 REQUEST;

51 (3) ESTABLISH AND MAINTAIN PREMIUM RATES SUFFICIENT TO MEET ITS
52 CONTRACTUAL OBLIGATIONS AND TO SATISFY THE RESERVE REQUIREMENTS SET
53 FORTH IN SUBSECTION (H) OF THIS SECTION;

54 (4) ESTABLISH AND MAINTAIN A FAIR AND EQUITABLE PROCESS FOR CLAIMS
55 REVIEW, DISPUTE RESOLUTION, AND APPEAL PROCEDURES, INCLUDING ARBITRATION
56 OF REJECTED CLAIMS, AND PROCEDURES FOR HANDLING CLAIMS FOR BENEFITS IN

THE EVENT OF PLAN DISSOLUTION, THAT ARE SATISFACTORY TO THE SUPERINTENDENT AND ARE SUBJECT TO ARTICLE FORTY-NINE OF THIS CHAPTER;

(5) PROVIDE MEMBERS WITH A MEMBER CONTRACT; AND

(6) FILE ALL PLAN DOCUMENTS AND ANY AMENDMENTS THERETO WITH THE SUPERINTENDENT AND RECEIVE THE SUPERINTENDENT'S APPROVAL IN ACCORDANCE WITH THIS SECTION.

(G) A FREELANCERS ASSOCIATION THAT HAS RECEIVED A DEMONSTRATION PROGRAM WAIVER SHALL FILE WITH THE SUPERINTENDENT, FOR THE SUPERINTENDENT'S PRIOR APPROVAL, ANY AMENDMENTS TO THE MEMBER CONTRACT, FREELANCERS HEALTH PLAN, OR PREMIUM RATES CHARGED FOR THE PLAN.

(H)(1) A FREELANCERS ASSOCIATION SHALL ESTABLISH RESERVES WITH THE AMOUNTS NECESSARY TO SATISFY ALL CONTRACTUAL OBLIGATIONS AND LIABILITIES OF THE PLAN, INCLUDING: (A) A RESERVE FOR PAYMENT OF CLAIMS AND EXPENSES THEREON REPORTED BUT NOT YET PAID, AND CLAIMS AND EXPENSES THEREON INCURRED BUT NOT YET REPORTED, WHICH SHALL NOT BE LESS THAN AN AMOUNT EQUAL TO TWELVE AND ONE-HALF PERCENT OF EXPECTED INCURRED CLAIMS AND EXPENSES THEREON FOR THE CURRENT PLAN YEAR, UNLESS A QUALIFIED ACTUARY HAS DEMONSTRATED TO THE SUPERINTENDENT'S SATISFACTION THAT A LESSER AMOUNT SHALL BE ADEQUATE; (B) A RESERVE FOR UNEARNED PREMIUM EQUIVALENTS, COMPUTED PRO-RATA ON THE BASIS OF THE UNEXPIRED PORTION OF THE POLICY PERIOD; AND (C) A CONTINGENT RESERVE FUND, ESTABLISHED AND MAINTAINED FOR THE SOLE PURPOSE OF SATISFYING UNEXPECTED OBLIGATIONS OF THE PLAN IN THE EVENT OF THE TERMINATION OF THE PLAN, WHICH SHALL NOT BE LESS THAN FIVE PERCENT OF THE ANNUALIZED EARNED PREMIUM EQUIVALENTS DURING THE CURRENT FISCAL YEAR OF THE PLAN.

(2) A QUALIFIED ACTUARY MAY DEMONSTRATE THAT A LESSER AMOUNT OF A RESERVE FOR PAYMENT OF CLAIMS AND EXPENSES THEREON REPORTED BUT NOT YET PAID, AND CLAIMS AND EXPENSES THEREON INCURRED-BUT-NOT-YET-REPORTED, SHALL BE ADEQUATE BY SHOWING THAT THE FREELANCERS ASSOCIATION HAS OBTAINED A MEDICAL STOP-LOSS INSURANCE POLICY ISSUED BY AN INSURER AUTHORIZED BY THE SUPERINTENDENT TO DO THE BUSINESS OF ACCIDENT AND HEALTH INSURANCE IN THIS STATE OR IS A HEALTH SERVICE CORPORATION ORGANIZED UNDER ARTICLE FORTY-THREE OF THIS CHAPTER. IF AT ANY TIME THE RESERVE FUNDS REQUIRED TO BE ESTABLISHED PURSUANT TO THIS SECTION FALL BELOW THE REQUIRED MINIMUM AMOUNTS, THEN THE FREELANCERS ASSOCIATION SHALL IMMEDIATELY NOTIFY THE SUPERINTENDENT OF SUCH IMPAIRMENT. THE FREELANCERS ASSOCIATION SHALL CURE THE IMPAIRMENT WITHIN FIVE BUSINESS DAYS.

(3) THE ASSETS CONSTITUTING THE FREELANCERS HEALTH PLAN'S CONTINGENT RESERVE FUND SHALL CONSIST SOLELY OF CERTIFICATES OF DEPOSIT ISSUED BY A UNITED STATES BANK AND PAYABLE IN UNITED STATES LEGAL TENDER, OR SECURITIES REPRESENTING INVESTMENTS OF THE TYPES SPECIFIED IN PARAGRAPHS ONE, TWO, THREE, EIGHT, AND TEN OF SUBSECTION (A) OF SECTION ONE THOUSAND FOUR HUNDRED FOUR OF THIS CHAPTER, OR AS OTHERWISE EXPRESSLY PERMITTED BY THE SUPERINTENDENT. ANY INTEREST EARNED OR CAPITAL GAIN REALIZED ON THE MONEY SO DEPOSITED OR INVESTED SHALL ACCRUE TO AND BECOME PART OF THE PLAN'S RESERVE FUNDS OR CONTINGENT RESERVE, AS APPLICABLE.

(4) THE PLAN'S ASSETS, LIABILITIES, INCOME AND EXPENSES SHALL BE ACCOUNTED FOR SEPARATE AND APART FROM ALL OTHER ASSETS, LIABILITIES, INCOME AND EXPENSES OF THE FREELANCERS ASSOCIATION. THE ACCOUNTING FOR THE PLAN'S CONTINGENT RESERVE FUND SHALL SHOW: (A) THE PURPOSE, SOURCE, DATE AND AMOUNT OF EACH SUM PAID INTO THE FUND; (B) THE INTEREST EARNED BY SUCH FUND; (C) CAPITAL GAINS OR LOSSES RESULTING FROM THE SALE OF INVESTMENTS OF THE PLAN'S CONTINGENT RESERVE FUND; (D) THE ORDER, PURPOSE, DATE AND AMOUNT OF EACH PAYMENT FROM THE CONTINGENT RESERVE

FUND; AND (E) THE ASSETS OF THE CONTINGENT RESERVE FUND, INDICATING CASH BALANCE AND SCHEDULE OF INVESTMENTS.

(5) THE REQUIREMENTS FOR FUNDING OF THE PLAN'S RESERVES SHALL BE CALCULATED USING GENERALLY ACCEPTED ACCOUNTING PRINCIPLES. ONLY THOSE EXPENSES THAT RELATE TO THE PLAN SHALL BE INCLUDED IN CALCULATING THE REQUIREMENTS FOR FUNDING OF THE PLAN'S RESERVE FUNDS. EXPENSES ALLOCATED TO THE PLAN SHALL BE ALLOCATED ON AN EQUITABLE BASIS IN CONFORMITY WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES CONSISTENTLY APPLIED. THE BOOKS, ACCOUNTS, AND RECORDS OF THE PLAN SHALL BE MAINTAINED AS TO CLEARLY AND ACCURATELY DISCLOSE THE NATURE AND DETAILS OF ALL EXPENSES SO AS TO SUPPORT THE REASONABLENESS OF SUCH EXPENSES.

(I) (1) A FREELANCERS ASSOCIATION SHALL FILE WITH THE SUPERINTENDENT WITHIN ONE HUNDRED TWENTY DAYS OF THE CLOSE OF THE PLAN'S FISCAL YEAR A REPORT THAT CONTAINS:

(A) AN ANNUAL FINANCIAL STATEMENT, VERIFIED BY THE OATH OF AT LEAST TWO OF THE FREELANCERS ASSOCIATION'S PRINCIPAL OFFICERS, WITH DIRECT KNOWLEDGE OF THE OPERATIONS OF THE FREELANCERS HEALTH PLAN, SHOWING THE FINANCIAL CONDITION OF THE PLAN DURING THE MOST RECENT FISCAL YEAR, IN ACCORDANCE WITH LAW AND GENERALLY ACCEPTED ACCOUNTING PRINCIPLES, IN A FORM PRESCRIBED BY THE SUPERINTENDENT;

(B) THE IDENTITY OF THE QUALIFIED ACTUARY UTILIZED BY THE FREELANCERS ASSOCIATION OR PLAN AND THE AMOUNT PAID TO THE QUALIFIED ACTUARY BY THE FREELANCERS ASSOCIATION OR PLAN DURING ITS MOST RECENT FISCAL YEAR;

(C) THE IDENTITIES OF THE PLAN'S TEN LARGEST VENDORS BY PAYMENT AMOUNT DURING ITS MOST RECENT FISCAL YEAR;

(D) THE NAME AND CONTACT INFORMATION OF THE PERSON OR ENTITY APPOINTED BY THE FREELANCERS ASSOCIATION TO ADMINISTER THE FREELANCERS HEALTH PLAN;

(E) A PRO-FORMA STATEMENT OF PROJECTED REVENUE AND EXPENSES FOR HEALTH BENEFITS ANTICIPATED BY THE PLAN FOR THE NEXT TWELVE-MONTH PERIOD OF THE PLAN'S OPERATION, PROVIDED ON A FISCAL YEAR;

(F) A DETAILED REPORT OF THE OPERATIONS AND CONDITION OF THE PLAN'S RESERVE FUNDS; AND

(G) SUCH OTHER INFORMATION AS THE SUPERINTENDENT MAY REQUIRE.

(2) A FREELANCERS ASSOCIATION SHALL FILE WITH THE SUPERINTENDENT WITHIN ONE HUNDRED TWENTY DAYS OF THE CLOSE OF ITS FREELANCERS HEALTH PLAN'S FISCAL YEAR THE MOST RECENT CERTIFIED, INDEPENDENTLY AUDITED FINANCIAL STATEMENT FOR THE FREELANCERS ASSOCIATION. THE STATEMENT SHALL INCLUDE AN OPINION OF AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT. THE NOTES TO THE FINANCIAL STATEMENT SHALL SHOW THE FINANCIAL RESULTS OF THE FREELANCERS HEALTH PLAN OPERATIONS AND A DESCRIPTION AS TO HOW THE FREELANCERS ASSOCIATION MEETS THE RESERVE REQUIREMENTS IN PARAGRAPH ONE OF SUBSECTION (H) OF THIS SECTION, INCLUDING THE AMOUNTS REPORTED FOR EACH OF THE RESERVES, THE METHOD USED TO CALCULATE THE RESERVES, AND THE CHANGE IN THE RESERVES FROM THE BEGINNING OF THE PLAN'S FISCAL YEAR TO THE END OF THE PLAN'S FISCAL YEAR. IN ADDITION, THE NOTES TO FINANCIAL STATEMENT SHALL DETAIL THE ASSETS COMPRISING THE CONTINGENT RESERVE FUND TO DEMONSTRATE COMPLIANCE WITH PARAGRAPH ONE OF SUBSECTION (H) OF THIS SECTION.

(3) A FREELANCERS ASSOCIATION THAT FAILS TO FILE ANY REPORT OR STATEMENT REQUIRED BY THIS CHAPTER, OR FAILS TO REPLY WITHIN THIRTY DAYS TO A WRITTEN INQUIRY BY THE SUPERINTENDENT IN CONNECTION THEREWITH SHALL, IN ADDITION TO OTHER PENALTIES PROVIDED BY THIS CHAPTER, BE SUBJECT, UPON DUE NOTICE AND OPPORTUNITY TO BE HEARD, TO A PENALTY OF UP TO ONE THOUSAND DOLLARS PER DAY OF DELAY, NOT TO EXCEED TWENTY-FIVE THOUSAND DOLLARS IN THE AGGREGATE, FOR EACH SUCH FAILURE.

(J) THE SUPERINTENDENT MAY, PURSUANT TO SECTIONS THREE HUNDRED NINE, THREE HUNDRED TEN, THREE HUNDRED ELEVEN, AND THREE HUNDRED TWELVE OF THIS CHAPTER, AND PURSUANT TO THE FINANCIAL SERVICES LAW, MAKE AN EXAMINATION INTO THE AFFAIRS OF ANY FREELANCERS ASSOCIATION WITH REGARD TO A FREELANCERS HEALTH PLAN ISSUED BY THE FREELANCERS ASSOCIATION, AS OFTEN AS THE SUPERINTENDENT DEEMS IT EXPEDIENT FOR THE PROTECTION OF THE INTERESTS OF THE PEOPLE OF THIS STATE.

(K)(1) THE SUPERINTENDENT MAY SUSPEND OR REVOKE A DEMONSTRATION PROGRAM WAIVER ISSUED TO A FREELANCERS ASSOCIATION IF THE SUPERINTENDENT FINDS, AFTER NOTICE AND HEARING, THAT THE FREELANCERS ASSOCIATION HAS FAILED TO COMPLY WITH ANY REQUIREMENT IMPOSED ON IT BY THE PROVISIONS OF THIS CHAPTER AND IF IN THE SUPERINTENDENT'S JUDGMENT SUCH SUSPENSION OR REVOCATION IS REASONABLY NECESSARY TO PROTECT THE INTERESTS OF THE PEOPLE OF THIS STATE, INCLUDING:

(A) FOR ANY CAUSE THAT WOULD BE A BASIS FOR DENIAL OF AN INITIAL APPLICATION FOR A DEMONSTRATION PROGRAM WAIVER;

(B) FAILURE TO MAINTAIN THE RESERVES REQUIRED BY SUBSECTION (H) OF THIS SECTION; OR

(C) THE SUPERINTENDENT FINDS THAT THE FREELANCERS ASSOCIATION HAS REFUSED TO PRODUCE ITS ACCOUNTS, RECORDS, AND FILES FOR EXAMINATION OR HAS REFUSED TO COOPERATE OR GIVE INFORMATION WITH RESPECT TO THE AFFAIRS OF THE FREELANCERS HEALTH PLAN OR TO PERFORM ANY OTHER LEGAL OBLIGATION RELATING TO SUCH AN EXAMINATION WHEN REQUIRED BY THE SUPERINTENDENT.

(2) ANY DEMONSTRATION PROGRAM WAIVER SUSPENDED OR REVOKED UNDER THIS SUBSECTION SHALL BE SURRENDERED TO THE SUPERINTENDENT, AND THE FREELANCERS ASSOCIATION SHALL NOTIFY ALL MEMBERS OF THAT DECISION IN SUCH FORM AND MANNER AS THE SUPERINTENDENT MAY PRESCRIBE, BUT NOT LATER THAN TEN DAYS AFTER RECEIPT OF NOTICE OF THE SUPERINTENDENT'S DECISION REQUIRING SUSPENSION OR REVOCATION. IN ADDITION, THE FREELANCERS ASSOCIATION SHALL SUBMIT A PLAN FOR THE SUPERINTENDENT'S APPROVAL FOR WINDING UP THE PLAN'S AFFAIRS IN AN ORDERLY MANNER DESIGNED TO RESULT IN TIMELY PAYMENT OF ALL BENEFITS, IN SUCH FORM AND MANNER AS THE SUPERINTENDENT MAY PRESCRIBE.

(3) NOTWITHSTANDING SUBDIVISION TWO OF SECTION EIGHTY-SEVEN OF THE PUBLIC OFFICERS LAW, ALL FINAL DECISIONS TO SUSPEND OR REVOKE THE DEMONSTRATION PROGRAM WAIVER WITH REGARD TO A FREELANCERS HEALTH PLAN SHALL BE PUBLIC.

(L) IN ANY CASE IN WHICH A FREELANCERS ASSOCIATION DETERMINES THAT THERE IS A REASON TO BELIEVE THAT THE FREELANCERS HEALTH PLAN WILL TERMINATE, THE FREELANCERS ASSOCIATION SHALL SO INFORM THE SUPERINTENDENT AT LEAST SIXTY DAYS PRIOR THERETO, AND SHALL FILE A SWORN STATEMENT WITH THE SUPERINTENDENT CONCERNING ALL CURRENT AND FUTURE LIABILITIES UNDER ITS DISCONTINUED PLAN. THE FREELANCERS ASSOCIATION SHALL SUBMIT A PLAN FOR THE SUPERINTENDENT'S APPROVAL FOR WINDING UP THE PLAN'S AFFAIRS IN AN ORDERLY MANNER DESIGNED TO RESULT IN TIMELY PAYMENT OF ALL BENEFITS, IN SUCH FORM AND MANNER AS THE SUPERINTENDENT MAY PRESCRIBE.

(M)(1) NO PART OF ANY FUNDS OF THE FREELANCERS ASSOCIATION, AS THEY PERTAIN TO THE FREELANCERS HEALTH PLAN, SHALL BE SUBJECT TO THE CLAIMS OF GENERAL CREDITORS OF THE FREELANCERS ASSOCIATION UNTIL ALL PLAN BENEFITS AND OTHER PLAN OBLIGATIONS HAVE BEEN SATISFIED. UNTIL SUCH TIME, THE FREELANCERS ASSOCIATION SHALL CONTINUE TO MAINTAIN AND FUND THE RESERVE FUNDS REQUIRED TO BE ESTABLISHED UNDER SUBSECTION (H) OF THIS SECTION. IF AT ANY TIME THE SUPERINTENDENT DETERMINES THAT ADDITIONAL FUNDS SHALL BE DEPOSITED IN THE RESERVE FUNDS, THEN THE FREELANCERS ASSOCIATION SHALL MAKE THE DEPOSIT WITHIN THIRTY DAYS OF THE SUPERINTENDENT'S DETERMINATION.

1 (2) IF, AFTER TWENTY-FOUR MONTHS, OR SUCH LONGER PERIOD AS DEEMED
2 NECESSARY BY THE SUPERINTENDENT, ALL PLAN BENEFITS AND OTHER PLAN OBLI-
3 GATIONS HAVE BEEN SATISFIED, THE FREELANCERS ASSOCIATION, UPON APPROVAL
4 BY THE SUPERINTENDENT, SHALL NO LONGER BE REQUIRED TO MAINTAIN ASSETS
5 WITHIN THE PLAN'S RESERVE FUNDS WITHIN RESTRICTED ACCOUNTS WITHIN THE
6 FREELANCERS ASSOCIATION'S GENERAL ACCOUNTING LEDGER SYSTEM.

7 (N) A FREELANCERS ASSOCIATION THAT RECEIVES A DEMONSTRATION PROGRAM
8 WAIVER UNDER THIS SECTION SHALL SUBMIT PERIODIC REPORTS TO THE SUPER-
9 INTENDENT SUFFICIENT TO ENABLE THE SUPERINTENDENT TO EVALUATE THE EFFEC-
10 TIVENESS OF THE DEMONSTRATION PROGRAM. SUCH REPORTS SHALL INCLUDE A
11 COMPARISON OF THE COST OF BENEFITS OBTAINED UNDER THE PROGRAM TO OTHER
12 AVAILABLE INSURANCE OPTIONS AND ANY OTHER INFORMATION REQUIRED BY THE
13 SUPERINTENDENT.

14 (O) A FREELANCERS ASSOCIATION SHALL NOT ISSUE A STOP-LOSS INSURANCE
15 POLICY.

16 (P) A FREELANCERS HEALTH PLAN SHALL PROVIDE BENEFITS ONLY TO INDEPEND-
17 ENT WORKERS WHO ARE MEMBERS OF THE FREELANCERS ASSOCIATION SPONSORING
18 THE PLAN AND SUCH MEMBERS' SPOUSES, DOMESTIC PARTNERS AND DEPENDENTS.

19 (Q) THE PROVISIONS OF THIS CHAPTER REQUIRING LICENSURE OF INSURERS
20 SHALL BE WAIVED WITH RESPECT TO A FREELANCERS HEALTH PLAN OPERATING
21 UNDER A DEMONSTRATION PROGRAM WAIVER. A FREELANCERS ASSOCIATION OPERAT-
22 ING FREELANCERS HEALTH PLAN PURSUANT TO A DEMONSTRATION PROGRAM WAIVER
23 SHALL NOT BE DEEMED TO BE AN INSURER UNDER SECTION ONE THOUSAND ONE
24 HUNDRED ONE OF THIS ARTICLE AND SHALL NOT BE SUBJECT TO THE PROVISIONS
25 OF THIS CHAPTER REGULATING INSURERS EXCEPT AS EXPRESSLY SET FORTH IN
26 THIS SECTION.

27 (R) THE SUPERINTENDENT MAY PROMULGATE SUCH REGULATIONS AS THE SUPER-
28 INTENDENT DEEMS NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS SECTION
29 AND TO ENSURE THAT THE PLANS ESTABLISHED UNDER THIS SECTION ARE IN THE
30 BEST INTERESTS OF THE FREELANCERS ASSOCIATION'S MEMBERS, AND THEIR
31 SPOUSES, DOMESTIC PARTNERS AND DEPENDENTS.

32 (S) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, ANY FREELANCERS
33 ASSOCIATION THAT VIOLATES THIS SECTION SHALL BE SUBJECT TO THE PENALTIES
34 SET FORTH IN SECTION ONE HUNDRED NINE OF THIS CHAPTER.

35 S 2. This act shall take effect immediately and shall expire and be
36 deemed repealed December 31, 2014.