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

8007--B

2013-2014 Regular Sessions

I N A S S E M B L Y

June 14, 2013

Introduced by M. of A. HEVESI -- read once and referred to the Committee on Insurance -- recommitted to the Committee on Insurance in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the insurance law, the vehicle and traffic law and the general business law, in relation to consumer motor vehicle rental programs

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

Section 1. Paragraph 1 of subsection (a) of section 308 of the insurance law, as amended by chapter 499 of the laws of 2009, is amended to read as follows:

(1) The superintendent may also address to any health maintenance organization, life settlement provider, life settlement intermediary or its officers, CONSUMER MOTOR VEHICLE RENTAL PROGRAM ADMINISTRATOR, or any authorized insurer or rate service organization, or officers thereof, any inquiry in relation to its transactions or condition or any matter connected therewith. Every corporation or person so addressed shall reply in writing to such inquiry promptly and truthfully, and such reply shall be, if required by the superintendent, subscribed by such individual, or by such officer or officers of a corporation, as the superintendent shall designate, and affirmed by them as true under the penalties of perjury.

S 2. The insurance law is amended by adding a new article 81 to read as follows:

ARTICLE 81

CONSUMER MOTOR VEHICLE RENTAL PROGRAMS

SECTION 8101. DEFINITIONS.
8102. REGISTRATION.

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

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8103. REQUIREMENTS FOR DOING BUSINESS.
8104. REVOCATION OR SUSPENSION OF REGISTRATION AND CERTIFICATE OF AUTHORITY.
8105. SELF-FUNDED MOTOR VEHICLE PHYSICAL DAMAGE INSURANCE.
8106. STOP-LOSS INSURANCE.
8107. RECORDKEEPING.
8108. PENALTIES.
8109. REGULATIONS.

S 8101. DEFINITIONS. AS USED IN THIS ARTICLE, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

(A) "CONSUMER MOTOR VEHICLE RENTAL PROGRAM" OR "PROGRAM" MEANS A PROGRAM THAT FACILITATES THE USE OR OPERATION OF A MOTOR VEHICLE WHERE THE VEHICLE IS RENTED TO A RENTER WITHOUT A DRIVER.

(B) "CONSUMER MOTOR VEHICLE RENTAL PROGRAM ADMINISTRATOR" OR "ADMINISTRATOR" MEANS A PERSON OR OTHER ENTITY THAT ADMINISTERS A CONSUMER MOTOR VEHICLE RENTAL PROGRAM.

(C) "FINANCIAL RESPONSIBILITY COVERAGE" MEANS COVERAGE IN SATISFACTION OF THE FINANCIAL RESPONSIBILITY REQUIREMENTS SET FORTH IN SUBDIVISION FOUR OF SECTION THREE HUNDRED ELEVEN OF THE VEHICLE AND TRAFFIC LAW, SECTION THREE THOUSAND FOUR HUNDRED TWENTY OF THIS CHAPTER, AND ARTICLE FIFTY-ONE OF THIS CHAPTER, AND REGULATIONS PROMULGATED THEREUNDER, AND SUCH OTHER REQUIREMENTS THAT MAY APPLY FOR THE PURPOSES OF SATISFYING THE FINANCIAL RESPONSIBILITY REQUIREMENTS WITH RESPECT TO THE USE OR OPERATION OF THE MOTOR VEHICLE.

(D) "GROUP INSURER" MEANS THE INSURER THAT HAS ISSUED THE GROUP POLICY.

(E) "GROUP POLICY" MEANS AN INSURANCE POLICY ISSUED PURSUANT TO SECTION THREE THOUSAND FOUR HUNDRED FIFTY-FIVE OF THIS CHAPTER.

(F) "INSURANCE IDENTIFICATION CARD" SHALL HAVE THE MEANING SET FORTH IN SUBDIVISION TEN OF SECTION THREE HUNDRED ELEVEN OF THE VEHICLE AND TRAFFIC LAW.

(G) "MOTOR VEHICLE" OR "VEHICLE" SHALL HAVE THE MEANING SET FORTH IN SUBDIVISION TWO OF SECTION THREE HUNDRED ELEVEN OF THE VEHICLE AND TRAFFIC LAW.

(H) "OPTIONAL VEHICLE PROTECTION" SHALL HAVE THE MEANING SET FORTH IN PARAGRAPH (D) OF SUBDIVISION ONE OF SECTION THREE HUNDRED NINETY-SIX-Z OF THE GENERAL BUSINESS LAW.

(I) "OWNER" MEANS A PERSON, OTHER THAN A LIEN HOLDER, HAVING THE PROPERTY IN OR TITLE TO A MOTOR VEHICLE AND SHALL INCLUDE A PERSON ENTITLED TO THE USE AND POSSESSION OF A MOTOR VEHICLE SUBJECT TO A SECURITY INTEREST IN ANOTHER PERSON, AND ALSO SHALL INCLUDE ANY LESSEE OR BAILEE OF A MOTOR VEHICLE HAVING THE EXCLUSIVE USE THEREOF, UNDER A LEASE OR OTHERWISE, FOR A PERIOD GREATER THAN THIRTY DAYS.

(J) "RENTER" MEANS A PERSON WHO RENTS A MOTOR VEHICLE FROM AN OWNER THROUGH A CONSUMER MOTOR VEHICLE RENTAL PROGRAM.

S 8102. REGISTRATION. (A) NO PERSON SHALL ACT AS A CONSUMER MOTOR VEHICLE RENTAL PROGRAM ADMINISTRATOR IN THIS STATE WITHOUT HAVING FIRST OBTAINED AN APPROVAL OF A REGISTRATION TO DO SO FROM THE SUPERINTENDENT. THE APPLICATION FOR APPROVAL OF REGISTRATION SHALL CONTAIN THE FOLLOWING INFORMATION:

(1) THE ADDRESS OF THE PRINCIPAL OFFICE OF THE ADMINISTRATOR;

(2) THE NAME AND ADDRESS OF THE ADMINISTRATOR'S AGENT FOR SERVICE OF PROCESS IN THIS STATE, IF OTHER THAN THE ADMINISTRATOR;

(3) THE IDENTITIES OF THE ADMINISTRATOR'S PRINCIPAL OFFICER OR OFFICERS DIRECTLY RESPONSIBLE FOR THE ADMINISTRATOR'S PROGRAM, AND, IF MORE THAN FIFTY PERCENT OF THE ADMINISTRATOR'S REVENUE IS DERIVED FROM THE

PROGRAM, THEN THE IDENTITIES OF THE ADMINISTRATOR'S DIRECTORS AND ANY PERSON WHO CONTROLS THE ADMINISTRATOR; AND

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

(B) THE REGISTRATION APPLICATION SHALL BE ACCOMPANIED BY A FEE OF ONE THOUSAND DOLLARS FOR EACH YEAR OR FRACTION OF A YEAR IN WHICH THE REGISTRATION SHALL BE IN EFFECT.

(C) (1) EVERY ADMINISTRATOR'S REGISTRATION ISSUED PURSUANT TO THIS SECTION SHALL BE FOR A TERM EXPIRING ON APRIL FIRST OF EVEN-NUMBERED YEARS. EVERY SUCH REGISTRATION MAY BE RENEWED FOR THE ENSUING PERIOD OF TWENTY-FOUR MONTHS UPON THE FILING OF AN APPLICATION IN CONFORMITY WITH THIS SECTION.

(2) AN APPLICATION FOR A RENEWAL REGISTRATION SHALL BE FILED WITH THE SUPERINTENDENT NOT LESS THAN SIXTY DAYS PRIOR TO THE DATE THE REGISTRATION EXPIRES OR THE ADMINISTRATOR SHALL BE REQUIRED TO PAY, IN ADDITION TO THE FEE REQUIRED IN SUBSECTION (B) OF THIS SECTION, A FURTHER FEE FOR LATE FILING OF TWO HUNDRED FIFTY DOLLARS.

(3) IF AN APPLICATION FOR A RENEWAL REGISTRATION SHALL HAVE BEEN FILED WITH THE SUPERINTENDENT BEFORE THE EXPIRATION OF SUCH REGISTRATION, THEN THE REGISTRATION SOUGHT TO BE RENEWED SHALL CONTINUE IN FULL FORCE AND EFFECT EITHER UNTIL THE ISSUANCE BY THE SUPERINTENDENT OF THE RENEWAL REGISTRATION APPLIED FOR OR UNTIL FIVE DAYS AFTER THE SUPERINTENDENT SHALL HAVE REFUSED TO ISSUE SUCH RENEWAL REGISTRATION AND GIVEN NOTICE OF SUCH REFUSAL TO THE ADMINISTRATOR.

(4) BEFORE REFUSING TO RENEW ANY SUCH REGISTRATION, THE SUPERINTENDENT SHALL NOTIFY THE ADMINISTRATOR OF THE SUPERINTENDENT'S INTENTION TO DO SO AND SHALL GIVE THE ADMINISTRATOR A HEARING.

(D) THE SUPERINTENDENT MAY REFUSE TO ISSUE OR RENEW ANY REGISTRATION IF, IN THE SUPERINTENDENT'S JUDGMENT, THE ADMINISTRATOR IS NOT TRUSTWORTHY OR COMPETENT TO ACT AS ADMINISTRATOR, HAS GIVEN CAUSE FOR THE REVOCATION OR SUSPENSION OF SUCH A REGISTRATION, OR HAS FAILED TO COMPLY WITH ANY PREREQUISITE FOR THE ISSUANCE OF SUCH REGISTRATION, OR IF ISSUING THE REGISTRATION WOULD BE DETRIMENTAL TO THE HEALTH, SAFETY, OR WELFARE OF THE PUBLIC.

(E) AN ADMINISTRATOR SHALL KEEP CURRENT THE INFORMATION REQUIRED TO BE DISCLOSED IN ITS REGISTRATION UNDER THIS SECTION BY REPORTING ANY MATERIAL CHANGE OR ADDITION WITHIN THIRTY DAYS AFTER THE END OF THE MONTH IN WHICH THE ADMINISTRATOR LEARNS OF SUCH CHANGE OR ADDITION.

(F) THE SUPERINTENDENT MAY CONDUCT INVESTIGATIONS OR EXAMINATIONS OF ADMINISTRATORS TO ENFORCE THE PROVISIONS OF THIS ARTICLE AND PROTECT OWNERS AND RENTERS IN THIS STATE. UPON THE SUPERINTENDENT'S REQUEST, AN ADMINISTRATOR SHALL MAKE ALL ACCOUNTS, BOOKS, AND RECORDS CONCERNING THE PROGRAM AVAILABLE TO THE SUPERINTENDENT.

S 8103. REQUIREMENTS FOR DOING BUSINESS. (A) AN ADMINISTRATOR SHALL OBTAIN A GROUP POLICY FROM AN AUTHORIZED INSURER. THE GROUP POLICY SHALL PROVIDE FINANCIAL RESPONSIBILITY COVERAGE FOR EACH MOTOR VEHICLE IN THE PROGRAM.

(B) (1) A GROUP POLICY MAY PROVIDE:

(A) COVERAGE FOR LIMITS HIGHER THAN THE MINIMUM LIMITS REQUIRED UNDER THE LAW, WITH REGARD TO FINANCIAL RESPONSIBILITY COVERAGE;

(B) SUPPLEMENTARY UNINSURED/UNDERINSURED MOTORISTS INSURANCE FOR BODILY INJURY PURSUANT TO PARAGRAPH TWO OF SUBSECTION (F) OF SECTION THREE THOUSAND FOUR HUNDRED TWENTY OF THIS CHAPTER;

(C) SUPPLEMENTAL SPOUSAL LIABILITY INSURANCE PURSUANT TO SUBSECTION (G) OF SECTION THREE THOUSAND FOUR HUNDRED TWENTY OF THIS CHAPTER; AND

(D) MOTOR VEHICLE PHYSICAL DAMAGE COVERAGE AS DESCRIBED IN PARAGRAPH NINETEEN OF SUBSECTION (A) OF SECTION ONE THOUSAND ONE HUNDRED THIRTEEN OF THIS CHAPTER.

(2) FOR THE PURPOSES OF THIS ARTICLE, THE ADMINISTRATOR SHALL BE DEEMED TO BE THE INSURED UNDER PARAGRAPH TWO OF SUBSECTION (F) AND UNDER SUBSECTION (G) OF SECTION THREE THOUSAND FOUR HUNDRED TWENTY OF THIS CHAPTER.

(C) A GROUP POLICY SHALL PROVIDE COVERAGE FOR AN OWNER'S MOTOR VEHICLE REGISTERED OR REQUIRED TO BE REGISTERED IN THIS STATE STARTING THE LATER OF ONE HALF HOUR BEFORE THE SCHEDULED RESERVATION START TIME DESCRIBED IN THE ADMINISTRATOR'S RECORDS OR WHEN A RENTER TAKES POSSESSION OR CONTROL OF THE MOTOR VEHICLE AND UNTIL:

(1) THE MOTOR VEHICLE IS RETURNED TO A LOCATION SPECIFIED BY THE OWNER OR ADMINISTRATOR; AND THE EARLIEST OF:

(2) (A) THE TIME PERIOD ESTABLISHED FOR THE MOTOR VEHICLE RENTAL EXPIRES;

(B) THE INTENT TO TERMINATE RENTING THE MOTOR VEHICLE THROUGH THE PROGRAM IS VERIFIABLY COMMUNICATED TO THE ADMINISTRATOR; OR

(C) THE OWNER TAKES POSSESSION OR CONTROL OF THE MOTOR VEHICLE.

(D) A GROUP POLICY SHALL PROVIDE COVERAGE WHEN A DISPUTE EXISTS AS TO WHETHER THE RENTER WAS IN POSSESSION OR CONTROL OF A MOTOR VEHICLE WHEN THE LOSS, DAMAGE, OR INJURY OCCURRED. AN ADMINISTRATOR SHALL NOTIFY THE OWNER'S INSURERS OF ANY SUCH DISPUTE WITHIN TEN BUSINESS DAYS OF BECOMING AWARE THAT THAT SUCH A DISPUTE MAY EXIST. WHEN THERE IS SUCH A DISPUTE, THE GROUP INSURER LIABLE FOR THE PAYMENT OF BENEFITS UNDER A GROUP POLICY SHALL HAVE THE RIGHT TO RECOVER THE AMOUNT PAID FROM THE OWNER'S INSURERS TO THE EXTENT THAT THE OWNER WOULD HAVE BEEN LIABLE TO PAY DAMAGES IN AN ACTION AT LAW.

(E) (1) AN INSURER SHALL DELIVER A GROUP POLICY TO AN ADMINISTRATOR NO LATER THAN FIFTEEN DAYS AFTER THE POLICY'S EFFECTIVE DATE; PROVIDED, HOWEVER, THAT IF THE INSURER DOES NOT DELIVER THE GROUP POLICY TO THE ADMINISTRATOR PRIOR TO THE POLICY'S EFFECTIVE DATE, THEN THE INSURER SHALL PROVIDE EVIDENCE OF INSURANCE TO THE ADMINISTRATOR BEFORE THE POLICY'S EFFECTIVE DATE.

(2) THE ADMINISTRATOR SHALL SUBMIT TO THE SUPERINTENDENT A COPY OF THE GROUP POLICY THAT PROVIDES FINANCIAL RESPONSIBILITY COVERAGE BEFORE ALLOWING ANY OWNERS TO RENT OUT ANY VEHICLES REGISTERED OR REQUIRED TO BE REGISTERED IN THIS STATE, AND SHALL SUBMIT TO THE SUPERINTENDENT A COPY OF THE GROUP POLICY THAT PROVIDES COVERAGE AS DESCRIBED IN SUBSECTION (B) OF THIS SECTION BEFORE THE POLICY'S EFFECTIVE DATE; PROVIDED, HOWEVER, THAT IF THE INSURER HAS NOT DELIVERED THE GROUP POLICY TO THE ADMINISTRATOR PRIOR TO SUCH DATES, THEN THE ADMINISTRATOR SHALL SUBMIT THE EVIDENCE OF INSURANCE THE INSURER PROVIDED TO THE ADMINISTRATOR PURSUANT TO PARAGRAPH ONE OF THIS SUBSECTION AND SHALL SUBMIT A COPY OF THE GROUP POLICY WITHIN FIVE DAYS AFTER RECEIVING THE POLICY FROM THE INSURER.

(3) THE ADMINISTRATOR SHALL SUBMIT ANY CHANGE TO A GROUP POLICY WITHIN FIFTEEN DAYS OF THE CHANGE.

(F) IF THE GROUP INSURER OR ADMINISTRATOR NONRENEWS, CANCELS, OR OTHERWISE TERMINATES FINANCIAL RESPONSIBILITY COVERAGE UNDER THE GROUP POLICY, THEN THE ADMINISTRATOR SHALL:

(1) AT LEAST FIFTEEN DAYS PRIOR TO THE NONRENEWAL, CANCELLATION, OR TERMINATION, MAIL OR DELIVER WRITTEN NOTICE TO EACH OWNER ADVISING THE OWNER OF NONRENEWAL OR TERMINATION OF THE GROUP POLICY AND THE EFFECTIVE DATE OF NONRENEWAL, CANCELLATION, OR TERMINATION; AND

(2) CEASE OPERATING THE PROGRAM IN THIS STATE WITH RESPECT TO MOTOR VEHICLES REGISTERED OR REQUIRED TO BE REGISTERED IN THIS STATE UNTIL SUCH TIME AS THE ADMINISTRATOR OBTAINS SUCH COVERAGE UNDER A GROUP POLICY.

(G) AN ADMINISTRATOR SHALL:

(1) OBTAIN A RENTER'S CONSENT TO THE ADMINISTRATOR CHECKING THE RENTER'S DRIVER'S LICENSE STATUS AND VERIFY, PRIOR TO A RENTER'S FIRST RENTAL, THAT THE RENTER PARTICIPATING IN A PROGRAM HAS A VALID DRIVER'S LICENSE THAT IS APPROPRIATE FOR THE VEHICLE BEING RENTED, AND THAT IF ONE YEAR HAS ELAPSED SINCE THE RENTER'S LAST LICENSE VERIFICATION, THEN VERIFY AGAIN THE VALIDITY OF THE RENTER'S DRIVER'S LICENSE PRIOR TO THE RENTER'S NEXT RENTAL THROUGH THE PROGRAM;

(2) PROVIDE EVERY OWNER PARTICIPATING IN THE PROGRAM WITH AN INSURANCE IDENTIFICATION CARD, WHICH SHALL BE MAINTAINED IN THE MOTOR VEHICLE WHEN THE MOTOR VEHICLE IS BEING RENTED UNDER THE PROGRAM;

(3) FACILITATE THE INSTALLATION, OPERATION, AND MAINTENANCE OF SIGNAGE IDENTIFYING THE MOTOR VEHICLE AS PARTICIPATING IN A PROGRAM AND COMPUTER HARDWARE AND SOFTWARE TO THE EXTENT NECESSARY FOR THE MOTOR VEHICLE TO BE USED OR OPERATED AS PART OF THE PROGRAM IF THE ADMINISTRATOR REQUIRES THE INSTALLATION, OPERATION, OR MAINTENANCE OF THE FOREGOING AND IF REQUESTED BY THE OWNER, AND INDEMNIFY AND HOLD HARMLESS AN OWNER FOR LOSS OF OR DAMAGE TO INSTALLED SIGNAGE OR COMPUTER HARDWARE OR SOFTWARE OR FOR ANY DAMAGE SUSTAINED BY THE MOTOR VEHICLE AS A RESULT OF THE INSTALLATION, MAINTENANCE, OR OPERATION OF SIGNAGE OR COMPUTER HARDWARE OR SOFTWARE;

(4) COLLECT, MAINTAIN, AND MAKE AVAILABLE TO THE OWNER, OWNER'S INSURERS, RENTER, RENTER'S INSURERS, AND THE SUPERINTENDENT OR ANY OTHER GOVERNMENTAL AGENCY AS REQUIRED BY LAW, WITHIN TEN BUSINESS DAYS OF RECEIPT OF A REQUEST, THE FOLLOWING INFORMATION AT THE ADMINISTRATOR'S COST, PROVIDED THAT THE RENTER AND RENTER'S INSURERS SHALL BE ENTITLED ONLY TO RECORDS PERTAINING TO THE RENTER'S USE OR OPERATION OF A SPECIFIC MOTOR VEHICLE AND THE OWNER AND OWNER'S INSURERS SHALL BE ENTITLED ONLY TO RECORDS PERTAINING TO THE PARTICIPATION OF THE OWNER'S MOTOR VEHICLE IN THE PROGRAM:

(A) RECORDS DEMONSTRATING THE PERIOD OR PERIODS DURING WHICH THE MOTOR VEHICLE WAS USED OR OPERATED PURSUANT TO THE PROGRAM, PROVIDED THAT WITH REGARD TO A MOTOR VEHICLE WITH AN ELECTRONIC TRACKING DEVICE, THE RECORDS SHALL INCLUDE THE DATES AND TIMES DURING WHICH THE MOTOR VEHICLE WAS USED OR OPERATED PURSUANT TO THE PROGRAM, THE INITIAL AND FINAL LOCATIONS OF THE MOTOR VEHICLE, AND TO THE EXTENT COLLECTED, THE NUMBER OF MILES DRIVEN; AND

(B) WHERE AN INSURANCE CLAIM HAS BEEN SUBMITTED TO A GROUP INSURER OR TO THE ADMINISTRATOR UNDER A SELF-FUNDED MOTOR VEHICLE PHYSICAL DAMAGE INSURANCE CONTRACT, ANY AND ALL INFORMATION, INCLUDING PAYMENTS MADE BY THE GROUP INSURER OR ADMINISTRATOR, CONCERNING ACCIDENTS, DAMAGES, OR INJURIES ARISING OUT OF THE OWNER'S OR RENTER'S PARTICIPATION IN THE PROGRAM;

(5) PRIOR TO THE FIRST USE OR OPERATION OF A MOTOR VEHICLE PURSUANT TO A PROGRAM, PROVIDE AN OWNER OR A RENTER, AS APPLICABLE, WITH A CLEAR AND CONSPICUOUS WRITTEN NOTICE:

(A) THAT THE OWNER SHALL INFORM HIS OR HER INSURERS THAT HE OR SHE HAS ENROLLED IN A PROGRAM;

(B) THAT THE OWNER'S INSURERS MAY NOT HAVE ANY DUTY TO DEFEND OR INDEMNIFY ANY PERSON FOR LIABILITY FOR ANY LOSS, DAMAGE, OR INJURY THAT OCCURS DURING THE USE OR OPERATION OF THE MOTOR VEHICLE UNDER A PROGRAM;

(C) THAT THE OWNER OR RENTER MAY HAVE LIABILITY FOR CLAIMS THAT EXCEED THE LIMITS OF THE GROUP POLICY OR FOR CLAIMS THAT ARE NOT COVERED UNDER THE GROUP POLICY;

(D) THAT THE GROUP POLICY OR SELF-FUNDED MOTOR VEHICLE PHYSICAL DAMAGE INSURANCE CONTRACT MAY NOT PROVIDE COVERAGE IF A RENTER USES OR OPERATES A MOTOR VEHICLE OUTSIDE THE RENTAL PERIOD;

(E) THAT IF A MOTOR VEHICLE IS A FINANCED OR LEASED VEHICLE AND THE FINANCE OR LEASE AGREEMENT PROHIBITS THE OWNER FROM RENTING OUT THE MOTOR VEHICLE UNDER A PROGRAM, THEN THE OWNER MAY NOT RENT OUT SUCH A VEHICLE THROUGH THE PROGRAM;

(F) IF THE GROUP POLICY DOES NOT PROVIDE MOTOR VEHICLE PHYSICAL DAMAGE COVERAGE AND THE ADMINISTRATOR DOES NOT PROVIDE SELF-FUNDED MOTOR VEHICLE PHYSICAL DAMAGE INSURANCE PURSUANT TO SECTION EIGHT THOUSAND FIVE OF THIS ARTICLE, THAT THE GROUP POLICY DOES NOT PROVIDE MOTOR VEHICLE PHYSICAL DAMAGE COVERAGE AND THE OWNER'S INSURER MAY NOT PROVIDE COVERAGE FOR LOSS OF OR DAMAGE TO THE MOTOR VEHICLE THAT OCCURS WHILE THE MOTOR VEHICLE IS BEING RENTED OUT THROUGH THE PROGRAM; AND

(G) PROVIDING SUCH OTHER INFORMATION AS THE SUPERINTENDENT MAY PRESCRIBE BY REGULATION; AND

(6) MONITOR THAT THE OWNER IS RENTING OUT THE VEHICLE IN ACCORDANCE WITH PARAGRAPH TWO OF SUBSECTION (H) OF THIS SECTION AND SHALL MAKE A REASONABLE INQUIRY INTO WHETHER RENTERS AND OWNERS ARE ACTING IN COMPLIANCE WITH PARAGRAPH ONE OF SUBSECTION (H) OF THIS SECTION AND SHALL PROMPTLY REMOVE ANY OWNER OR RENTER FROM THE PROGRAM IF THE ADMINISTRATOR KNOWS OR HAS INFORMATION SUFFICIENT TO FORM A REASONABLE BELIEF THAT SUCH OWNER OR RENTER IS NOT IN COMPLIANCE WITH SUBSECTION (H) OF THIS SECTION, AS APPLICABLE.

(H) (1) NO OWNER SHALL BE ENGAGED IN THE BUSINESS OF RENTING OR LEASING MOTOR VEHICLES THROUGH A PROGRAM AND NO OWNER OR RENTER SHALL CARRY OR TRANSPORT PASSENGERS OR PROPERTY FOR HIRE IN A MOTOR VEHICLE RENTED DURING A RENTAL PERIOD UNDER A PROGRAM. A MOTOR VEHICLE WITH COMMERCIAL OR LIVERY LICENSE PLATES, A BUS AS DEFINED IN SECTION ONE HUNDRED FOUR OF THE VEHICLE AND TRAFFIC LAW, AND ANY MOTOR VEHICLE WEIGHING MORE THAN SIX THOUSAND FIVE HUNDRED POUNDS UNLOADED SHALL NOT BE RENTED THROUGH A PROGRAM.

(2) FOR PURPOSES OF THIS SECTION, AN OWNER SHALL NOT BE DEEMED TO BE ENGAGED IN THE BUSINESS OF RENTING OR LEASING MOTOR VEHICLES THROUGH A PROGRAM PROVIDED THAT:

(A) THE OWNER IS AN INDIVIDUAL;

(B) EACH RENTAL PERIOD DOES NOT EXCEED THIRTY DAYS;

(C) THE OWNER DOES NOT HAVE MORE THAN FOUR MOTOR VEHICLES IN THE PROGRAM AT ANY ONE TIME; AND

(D) THE OWNER DOES NOT RENT A MOTOR VEHICLE TO A RENTER THROUGH A PROGRAM FOR MORE THAN FOUR THOUSAND THREE HUNDRED HOURS IN ONE CALENDAR YEAR.

(I) AN AUTHORIZED DRIVER UNDER A PROGRAM SHALL BE:

(1) THE RENTER, IF A LICENSED DRIVER;

(2) THE RENTER'S SPOUSE, IF A LICENSED DRIVER AND MEETS THE ELIGIBILITY REQUIREMENTS OF THE PROGRAM;

(3) ANY PERSON WHO OPERATES THE VEHICLE DURING THE PERIOD SPECIFIED IN SUBSECTION (C) OF THIS SECTION IN AN EMERGENCY SITUATION WHEN IT WOULD BE HAZARDOUS TO THE HEALTH AND SAFETY OF THE RENTER OR THE PEOPLE OF THIS STATE FOR THE RENTER TO OPERATE THE VEHICLE; OR

(4) ANY LICENSED DRIVER WHO MEETS THE ELIGIBILITY REQUIREMENTS OF THE PROGRAM AND WHO OPERATES THE MOTOR VEHICLE DURING THE PERIOD SPECIFIED IN SUBSECTION (C) OF THIS SECTION WITH THE OWNER'S PERMISSION.

(J) PRIOR TO THE FIRST RENTAL OF A MOTOR VEHICLE UNDER A PROGRAM, AN OWNER SHALL INFORM HIS OR HER INSURERS THAT HE OR SHE IS PARTICIPATING IN A PROGRAM.

(K) NEITHER THE ADMINISTRATOR NOR THE OWNER SHALL ENTER INTO AN OPTIONAL VEHICLE PROTECTION AGREEMENT WITH THE RENTER.

(L) AN OWNER'S INSURERS, INCLUDING THE INSURER THAT ISSUED THE INSURANCE POLICY USED TO REGISTER THE MOTOR VEHICLE:

(1) SHALL NOT RATE THE OWNER'S VEHICLE AS BUSINESS USE SOLELY BASED UPON ITS USAGE IN THE PROGRAM IF THE MOTOR VEHICLE IS USED IN ACCORDANCE WITH PARAGRAPH TWO OF SUBSECTION (H) OF THIS SECTION, AND SHALL NOT CANCEL OR NONRENEW THE OWNER'S INSURANCE POLICY ON THE BASIS THAT THE MOTOR VEHICLE HAS BEEN MADE AVAILABLE PURSUANT TO A PROGRAM THAT COMPLIES WITH THIS ARTICLE; AND

(2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, MAY EXCLUDE COVERAGE UNDER A POLICY THAT PROVIDES FINANCIAL RESPONSIBILITY COVERAGE WHILE THE MOTOR VEHICLE IS UNDER THE OPERATION OR CONTROL OF A RENTER PURSUANT TO A PROGRAM, PROVIDED THAT THE ADMINISTRATOR'S GROUP POLICY PROVIDES COVERAGE TO THE OWNER IN ACCORDANCE WITH THE PROVISIONS OF THIS ARTICLE.

(M) ADVERTISEMENTS OR OTHER PUBLIC ANNOUNCEMENTS FOR A PROGRAM SHALL BE TRUTHFUL AND NOT MISLEADING IN FACT OR IN IMPLICATION. THE FORMAT AND CONTENT OF AN ADVERTISEMENT OR OTHER PUBLIC ANNOUNCEMENT FOR A PROGRAM SHALL BE SUFFICIENTLY COMPLETE AND CLEAR TO AVOID DECEPTION OR THE CAPACITY OR TENDENCY TO MISLEAD OR DECEIVE.

S 8104. REVOCATION OR SUSPENSION OF REGISTRATION AND CERTIFICATE OF AUTHORITY. (A) THE SUPERINTENDENT MAY REFUSE TO RENEW, REVOKE, OR MAY SUSPEND FOR A PERIOD THE SUPERINTENDENT DETERMINES, THE REGISTRATION OR CERTIFICATE OF AUTHORITY OF ANY ADMINISTRATOR IF, AFTER NOTICE AND HEARING, THE SUPERINTENDENT DETERMINES THAT SUCH ACTION WOULD PROMOTE THE HEALTH, SAFETY, OR WELFARE OF THE PUBLIC OR THAT THE ADMINISTRATOR OR ANY PERSON WHO CONTROLS THE ADMINISTRATOR HAS:

(1) VIOLATED ANY PROVISION OF THIS CHAPTER TO WHICH THE ADMINISTRATOR IS SUBJECT, OR VIOLATED ANY REGULATION, SUBPOENA, OR ORDER OF THE SUPERINTENDENT OR OF ANOTHER STATE'S INSURANCE COMMISSIONER OR PROGRAM REGULATOR, OR ANY OTHER LAW IN THE COURSE OF THE ADMINISTRATOR'S DEALINGS IN SUCH CAPACITY;

(2) PROVIDED MATERIALLY INCORRECT, MATERIALLY MISLEADING, MATERIALLY INCOMPLETE, OR MATERIALLY UNTRUE INFORMATION IN THE REGISTRATION OR CERTIFICATE OF AUTHORITY APPLICATION OR RENEWAL APPLICATION;

(3) (A) USED FRAUDULENT, COERCIVE, OR DISHONEST PRACTICES;

(B) DEMONSTRATED INCOMPETENCE;

(C) DEMONSTRATED UNTRUSTWORTHINESS; OR

(D) DEMONSTRATED FINANCIAL IRRESPONSIBILITY IN THE CONDUCT OF BUSINESS IN THIS STATE OR ELSEWHERE;

(4) IMPROPERLY WITHHELD, MISAPPROPRIATED, OR CONVERTED ANY MONIES OR PROPERTIES RECEIVED IN THE COURSE OF BUSINESS IN THIS STATE OR ELSEWHERE;

(5) BEEN CONVICTED OF A FELONY, OR HAS BEEN GUILTY OF FRAUDULENT OR DISHONEST PRACTICES OR OTHER MISCONDUCT OR MALFEASANCE;

(6) HAD A REGISTRATION OR CERTIFICATE OF AUTHORITY, OR ITS EQUIVALENT, DENIED, SUSPENDED, OR REVOKED IN ANY OTHER STATE, PROVINCE, DISTRICT, OR TERRITORY; OR

(7) CEASED TO MEET THE REQUIREMENTS FOR REGISTRATION OR CERTIFICATION UNDER THIS ARTICLE.

(B) BEFORE REVOKING OR SUSPENDING THE REGISTRATION OR CERTIFICATE OF AUTHORITY OF ANY ADMINISTRATOR, THE SUPERINTENDENT SHALL GIVE NOTICE TO THE ADMINISTRATOR AND ANY PRINCIPAL OFFICER THEREOF, AND SHALL HOLD, OR

CAUSE TO BE HELD, A HEARING NOT LESS THAN TEN DAYS AFTER THE GIVING OF SUCH NOTICE.

(C) IF AN APPLICANT'S REGISTRATION OR CERTIFICATE OF AUTHORITY IS REVOKED OR SUSPENDED BY THE SUPERINTENDENT, THEN THE SUPERINTENDENT SHALL FORTHWITH GIVE NOTICE TO THE ADMINISTRATOR AND ANY PRINCIPAL OFFICER THEREOF, AND THE ADMINISTRATOR SHALL NOTIFY ALL OWNERS AND RENTERS 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.

(D) IF THE SUPERINTENDENT REVOKES A REGISTRATION, THEN THE SUPERINTENDENT ALSO SHALL REVOKE ANY CERTIFICATE OF AUTHORITY.

(E) NO ADMINISTRATOR WHOSE REGISTRATION OR CERTIFICATE OF AUTHORITY HAS BEEN REVOKED SHALL BE ENTITLED TO OBTAIN ANY REGISTRATION, LICENSE, OR CERTIFICATION UNDER THE PROVISIONS OF THIS CHAPTER FOR A PERIOD OF TWO YEARS AFTER SUCH REVOCATION, OR, IF SUCH REVOCATION BE JUDICIALLY REVIEWED, FOR TWO YEARS AFTER THE FINAL DETERMINATION THEREOF AFFIRMING THE ACTION OF THE SUPERINTENDENT IN REVOKING SUCH REGISTRATION OR CERTIFICATE OF AUTHORITY.

(F) AN ADMINISTRATOR SUBJECT TO THIS SECTION SHALL REPORT TO THE SUPERINTENDENT ANY ADMINISTRATIVE ACTION TAKEN AGAINST THE ADMINISTRATOR OR ANY PRINCIPAL OFFICER THEREOF IN ANOTHER JURISDICTION OR BY ANOTHER GOVERNMENTAL AGENCY IN THIS STATE WITHIN THIRTY DAYS OF THE FINAL DISPOSITION OF THE MATTER. THIS REPORT SHALL INCLUDE A COPY OF THE ORDER, CONSENT TO ORDER, OR OTHER RELEVANT LEGAL DOCUMENTS.

(G) WITHIN THIRTY DAYS OF THE INITIAL PRETRIAL HEARING DATE, AN ADMINISTRATOR SUBJECT TO THIS ARTICLE SHALL REPORT TO THE SUPERINTENDENT ANY CRIMINAL PROSECUTION OF THE ADMINISTRATOR OR ANY PRINCIPAL OFFICER THEREOF TAKEN IN ANY JURISDICTION. THE REPORT SHALL INCLUDE A COPY OF THE INITIAL COMPLAINT FILED, THE ORDER RESULTING FROM THE HEARING, AND ANY OTHER RELEVANT LEGAL DOCUMENTS.

S 8105. SELF-FUNDED MOTOR VEHICLE PHYSICAL DAMAGE INSURANCE. (A) THE SUPERINTENDENT MAY ISSUE A CERTIFICATE OF AUTHORITY TO AN ADMINISTRATOR TO PROVIDE TO OWNERS AND RENTERS SELF-FUNDED MOTOR VEHICLE PHYSICAL DAMAGE INSURANCE, IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION, IF THE ADMINISTRATOR:

(1) IS IN COMPLIANCE WITH THE PROVISIONS OF THIS ARTICLE; AND

(2) DEMONSTRATES TO THE SUPERINTENDENT THAT THE MOTOR VEHICLE PHYSICAL DAMAGE INSURANCE IS UNAVAILABLE FROM AN AUTHORIZED INSURER OR UNAFFORDABLE IN THIS STATE, OR THAT IT WOULD BE IN THE BEST INTERESTS OF THE PUBLIC FOR THE ADMINISTRATOR TO PROVIDE SUCH COVERAGE.

(B) AN ADMINISTRATOR GRANTED A CERTIFICATE OF AUTHORITY SHALL COMPLY WITH, IN THE SAME MANNER AS AN AUTHORIZED INSURER, AND SHALL BE TREATED AS SUCH FOR THE PURPOSES OF ARTICLES ONE, THREE, FOUR, TWENTY-THREE, TWENTY-FOUR, TWENTY-SIX, TWENTY-EIGHT, THIRTY-ONE, THIRTY-FOUR, AND SEVENTY-FOUR OF THIS CHAPTER, AND SUCH OTHER PROVISIONS THAT THE SUPERINTENDENT BY REGULATION DEEMS NECESSARY FOR THE PROTECTION OF THE PEOPLE OF THIS STATE. THE SUPERINTENDENT MAY PROMULGATE REGULATIONS TO MODIFY THE REQUIREMENTS APPLICABLE TO AN ADMINISTRATOR AS SET FORTH IN THIS SUBSECTION, SUBJECT TO SUCH LIMITATIONS AS THE SUPERINTENDENT SHALL DEEM NECESSARY OR APPROPRIATE.

(C) AN ADMINISTRATOR SHALL DEPOSIT ONE HUNDRED THOUSAND DOLLARS WITH THE SUPERINTENDENT, WHICH SHALL BE MAINTAINED BY THE SUPERINTENDENT IN ACCORDANCE WITH THE PROVISIONS OF SECTION ONE THOUSAND THREE HUNDRED FOURTEEN OF THIS CHAPTER. THE DEPOSIT SHALL BE GOVERNED BY SECTIONS ONE THOUSAND THREE HUNDRED SIXTEEN, ONE THOUSAND THREE HUNDRED SEVENTEEN, ONE THOUSAND THREE HUNDRED EIGHTEEN, ONE THOUSAND THREE HUNDRED NINE-

TEEN, AND ONE THOUSAND THREE HUNDRED TWENTY OF THIS CHAPTER, AS APPROPRIATE.

(D) (1) AN ADMINISTRATOR MAY PROVIDE SELF-FUNDED MOTOR VEHICLE PHYSICAL DAMAGE INSURANCE PROVIDED THAT THE INSURANCE COVERS ALL OWNERS UNDER THE PROGRAM WHO MAINTAIN INDIVIDUAL MOTOR VEHICLE PHYSICAL DAMAGE INSURANCE POLICIES. THE INSURANCE SHALL NOT BE SUBJECT TO SUBSECTION (K) OF SECTION THREE THOUSAND FOUR HUNDRED ELEVEN OF THIS CHAPTER BUT SHALL PROVIDE FOR A DEDUCTIBLE ACCEPTABLE TO THE SUPERINTENDENT. THE COST OF PROVIDING THE COVERAGE SHALL BE TREATED AS PREMIUM FOR PURPOSES OF ARTICLE TWENTY-THREE OF THIS CHAPTER AND THE ADMINISTRATOR SHALL MAINTAIN RECORDS IDENTIFYING SUCH AMOUNT.

(2) AN ADMINISTRATOR ALSO MAY SELL OPTIONAL SELF-FUNDED MOTOR VEHICLE PHYSICAL DAMAGE INSURANCE TO A RENTER FOR A SEPARATELY IDENTIFIABLE AMOUNT ON A PER RENTAL BASIS. THE INSURANCE SHALL NOT BE SUBJECT TO SUBSECTION (K) OF SECTION THREE THOUSAND FOUR HUNDRED ELEVEN OF THIS CHAPTER BUT THE ADMINISTRATOR MAY OFFER THE COVERAGE TO THE RENTER WITH A DEDUCTIBLE OR CHOICE OF DEDUCTIBLES ACCEPTABLE TO THE SUPERINTENDENT. THE ADMINISTRATOR SHALL PROVIDE A CLEAR AND CONSPICUOUS WRITTEN NOTICE TO THE RENTER THAT THE COVERAGE MAY DUPLICATE COVERAGE ALREADY PROVIDED BY A RENTER'S INSURER.

(3) AN ADMINISTRATOR SHALL DELIVER TO AN OWNER AND RENTER, AS APPLICABLE, EVIDENCE OF MOTOR VEHICLE PHYSICAL DAMAGE INSURANCE THAT SETS FORTH ALL BENEFITS AND TERMS AND CONDITIONS. THE ADMINISTRATOR SHALL DELIVER EVIDENCE OF INSURANCE PRIOR TO THE MOTOR VEHICLE PHYSICAL DAMAGE INSURANCE CONTRACT'S EFFECTIVE DATE.

(4) A SELF-FUNDED MOTOR VEHICLE PHYSICAL DAMAGE INSURANCE CONTRACT SHALL BE SUBJECT TO SUBSECTIONS (C), (D), AND PARAGRAPH ONE OF SUBSECTION (F) OF SECTION EIGHT THOUSAND ONE HUNDRED THREE OF THIS ARTICLE IN THE SAME MANNER AS A GROUP POLICY.

(E) THE SELF-FUNDED MOTOR VEHICLE PHYSICAL DAMAGE INSURANCE MAY ONLY PROVIDE COVERAGE AS DESCRIBED IN PARAGRAPH NINETEEN OF SUBSECTION (A) OF SECTION ONE THOUSAND ONE HUNDRED THIRTEEN OF THIS CHAPTER WITH RESPECT TO MOTOR VEHICLES.

(F) (1) (A) AN ADMINISTRATOR SHALL MAINTAIN A FUNDED RESERVE ACCOUNT FOR PAYMENT OF CLAIMS UNDER A SELF-FUNDED MOTOR VEHICLE PHYSICAL DAMAGE INSURANCE CONTRACT 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 TWENTY-FIVE PERCENT OF THE ADMINISTRATOR'S EXPECTED INCURRED CLAIMS AND EXPENSES THEREON FOR THE CURRENT CONTRACT YEAR, OR SUCH OTHER AMOUNT THAT THE SUPERINTENDENT DETERMINES TO BE NECESSARY OR APPROPRIATE. THE ADMINISTRATOR MAY MAINTAIN A SINGLE FUNDED RESERVE ACCOUNT FOR CONTRACTS ISSUED TO OWNERS AND RENTERS. IF AT ANY TIME THE FUNDED RESERVE ACCOUNT FALLS BELOW THE REQUIRED MINIMUM AMOUNT, THEN THE ADMINISTRATOR SHALL NOTIFY THE SUPERINTENDENT OF SUCH DEFICIENCY WITHIN ONE BUSINESS DAY AFTER THE ADMINISTRATOR DISCOVERS THE DEFICIENCY. THE ADMINISTRATOR SHALL CURE THE DEFICIENCY WITHIN FIVE BUSINESS DAYS.

(B) THE ASSETS CONSTITUTING THE FUNDED RESERVE ACCOUNT 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, AND EIGHT 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 MONEYS DEPOSITED OR INVESTED SHALL ACCRUE TO AND BECOME PART OF THE FUNDED RESERVE ACCOUNT.

(C) THE REQUIREMENT FOR FUNDING THE FUNDED RESERVE ACCOUNT SHALL BE CALCULATED USING GENERALLY ACCEPTED ACCOUNTING PRINCIPLES.

(2) AN ADMINISTRATOR MAY PROVIDE ONE OF THE FOLLOWING IN SATISFACTION OF ANY AMOUNTS ABOVE FIVE HUNDRED THOUSAND DOLLARS THAT THE ADMINISTRATOR WOULD BE REQUIRED TO MAINTAIN IN THE FUNDED RESERVE ACCOUNT PURSUANT TO PARAGRAPH ONE OF THIS SUBSECTION, UPON THE SUPERINTENDENT'S APPROVAL AND IF IN A FORM ACCEPTABLE TO THE SUPERINTENDENT:

(A) A SURETY BOND ISSUED BY AN INSURER AUTHORIZED IN THIS STATE TO WRITE FIDELITY AND SURETY INSURANCE;

(B) A LETTER OF CREDIT ISSUED BY A QUALIFIED UNITED STATES FINANCIAL INSTITUTION;

(C) EVIDENCE THAT THE ADMINISTRATOR MAINTAINS A NET WORTH OR STOCKHOLDERS' EQUITY OF AT LEAST ONE HUNDRED MILLION DOLLARS; OR

(D) A STOP-LOSS MOTOR VEHICLE PHYSICAL DAMAGE INSURANCE POLICY ISSUED BY AN INSURER AUTHORIZED TO WRITE MOTOR VEHICLE PHYSICAL DAMAGE INSURANCE IN THIS STATE IN ACCORDANCE WITH SECTION EIGHT THOUSAND ONE HUNDRED SIX OF THIS ARTICLE.

(G) WITHIN ONE HUNDRED TWENTY DAYS OF THE CLOSE OF AN ADMINISTRATOR'S FISCAL YEAR, THE ADMINISTRATOR SHALL FILE WITH THE SUPERINTENDENT A REPORT THAT SHOWS HOW THE ADMINISTRATOR MEETS THE FUNDED RESERVE ACCOUNT REQUIREMENT SET FORTH IN SUBSECTION (F) OF THIS SECTION, INCLUDING THE AMOUNTS REPORTED, THE METHOD USED TO CALCULATE THE FUNDED RESERVE ACCOUNT REQUIREMENT, THE CHANGE IN THE RESERVES FROM THE BEGINNING OF THE ADMINISTRATOR'S FISCAL YEAR TO THE END OF THE ADMINISTRATOR'S FISCAL YEAR, AND THE ASSETS COMPRISING THE FUNDED RESERVE ACCOUNT.

(H) AN ADMINISTRATOR SHALL USE AN INDEPENDENT ADJUSTER LICENSED IN THIS STATE TO INVESTIGATE AND ADJUST THE CLAIMS SUBMITTED UNDER THE SELF-FUNDED MOTOR VEHICLE PHYSICAL DAMAGE INSURANCE CONTRACT.

(I) IN ANY CASE IN WHICH AN ADMINISTRATOR DETERMINES THAT THERE IS A REASON TO BELIEVE THAT THE SELF-FUNDED MOTOR VEHICLE PHYSICAL DAMAGE INSURANCE CONTRACT WILL TERMINATE, THE ADMINISTRATOR 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 CONTRACT. THE ADMINISTRATOR ALSO SHALL SUBMIT A PLAN WITH THE SUPERINTENDENT FOR THE SUPERINTENDENT'S APPROVAL FOR WINDING UP THE LIABILITIES IN AN ORDERLY MANNER DESIGNED TO RESULT IN TIMELY PAYMENT OF ALL BENEFITS, IN SUCH FORM AND MANNER AS THE SUPERINTENDENT MAY PRESCRIBE.

S 8106. STOP-LOSS INSURANCE. (A) AN INSURER AUTHORIZED TO DO THE BUSINESS OF MOTOR VEHICLE PHYSICAL DAMAGE INSURANCE IN THIS STATE SHALL BE AUTHORIZED TO ISSUE STOP-LOSS INSURANCE AS PROVIDED IN THIS SECTION.

(B) "STOP-LOSS INSURANCE" MEANS AN INSURANCE POLICY WHEREBY THE INSURER AGREES TO PAY CLAIMS OR INDEMNIFY AN ADMINISTRATOR FOR LOSSES INCURRED UNDER A SELF-FUNDED MOTOR VEHICLE PHYSICAL DAMAGE INSURANCE CONTRACT ISSUED PURSUANT TO SECTION EIGHT THOUSAND ONE HUNDRED FIVE OF THIS ARTICLE.

(C) A STOP-LOSS INSURANCE POLICY SHALL PROVIDE THAT, UPON FAILURE OF THE ADMINISTRATOR TO PERFORM UNDER THE SELF-FUNDED MOTOR VEHICLE PHYSICAL DAMAGE INSURANCE CONTRACT, THE INSURER THAT ISSUED THE STOP-LOSS POLICY SHALL PAY ON BEHALF OF THE ADMINISTRATOR ANY SUMS THAT THE ADMINISTRATOR IS LEGALLY OBLIGATED TO PAY UNDER THE SELF-FUNDED MOTOR VEHICLE PHYSICAL DAMAGE INSURANCE CONTRACT.

(D) A STOP-LOSS INSURANCE POLICY AND RATES SHALL BE FILED WITH THE SUPERINTENDENT IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE TWENTY-THREE OF THIS CHAPTER. THE SUPERINTENDENT MAY PROMULGATE SUCH RULES AND REGULATIONS THAT THE SUPERINTENDENT DEEMS NECESSARY OR DESIRABLE TO ESTAB-

LISH FINANCIAL REQUIREMENTS AND STANDARDS FOR THE FORM AND CONTENT OF STOP-LOSS INSURANCE POLICIES.

S 8107. RECORDKEEPING. AN ADMINISTRATOR SHALL MAINTAIN ITS RECORDS IN ACCORDANCE WITH REGULATIONS PROMULGATED BY THE SUPERINTENDENT.

S 8108. PENALTIES. IF THE SUPERINTENDENT DETERMINES AFTER NOTICE AND HEARING THAT A PERSON HAS WILLFULLY VIOLATED THE PROVISIONS OF THIS ARTICLE OR ANY REGULATION PROMULGATED THEREUNDER, THEN, IN ADDITION TO SUSPENSION, REVOCATION, OR ANY OTHER PENALTY PROVIDED BY LAW, THE SUPERINTENDENT MAY ORDER THE PERSON TO PAY TO THE PEOPLE OF THIS STATE A PENALTY IN A SUM NOT EXCEEDING ONE THOUSAND DOLLARS FOR THE FIRST VIOLATION AND TWO THOUSAND FIVE HUNDRED DOLLARS FOR EACH SUBSEQUENT VIOLATION. THE SUPERINTENDENT ALSO MAY ORDER THE PERSON TO MAKE RESTITUTION ON BEHALF OF PERSONS AGGRIEVED BY A VIOLATION OF THIS ARTICLE OR REGULATIONS PROMULGATED THEREUNDER.

S 8109. REGULATIONS. THE SUPERINTENDENT MAY PROMULGATE REGULATIONS AS THE SUPERINTENDENT DEEMS NECESSARY OR DESIRABLE TO IMPLEMENT THE PROVISIONS OF THIS ARTICLE.

S 3. Section 1108 of the insurance law is amended by adding a new subsection (n) to read as follows:

(N) A CONSUMER MOTOR VEHICLE RENTAL PROGRAM ADMINISTRATOR, AS DEFINED IN SUBSECTION (A) OF SECTION EIGHT THOUSAND ONE HUNDRED ONE OF THIS CHAPTER, THAT HAS A CERTIFICATE OF AUTHORITY FROM THE SUPERINTENDENT AUTHORIZING THE ADMINISTRATOR TO PROVIDE SELF-FUNDED MOTOR VEHICLE PHYSICAL DAMAGE INSURANCE AND COMPLIES WITH THE REQUIREMENTS OF ARTICLE EIGHTY-ONE OF THIS CHAPTER, TO THE EXTENT THEREIN STATED.

S 4. Paragraph 13 of subsection (b) of section 2305 of the insurance law, as amended by chapter 136 of the laws of 2008, is amended to read as follows:

(13) Private passenger automobile insurance, INCLUDING A GROUP POLICY ISSUED PURSUANT TO SECTION THREE THOUSAND FOUR HUNDRED FIFTY-FIVE OF THIS CHAPTER, except as provided in section two thousand three hundred fifty of this article.

S 5. Subsection (b) of section 3440 of the insurance law, as amended by chapter 66 of the laws of 1989, is amended to read as follows:

(b) Subject to subsection (d) of this section, every motor vehicle liability insurance policy [which] THAT insures less than five private passenger motor vehicles registered in this state shall by endorsement, provide coverage for the obligation of the insured for actual damage to, or loss of, vehicles (including loss of use) rented by an insured in the United States, its territories or possessions and Canada under a rental agreement with a term of thirty continuous days or less, regardless of where within those areas such rental vehicle is registered, rented, or operated, subject to such maximum coverage limitations as the superintendent may by regulation prescribe or any other applicable limits in the policy, whichever is higher. The term "rental vehicle" shall be used as defined in section one hundred thirty-seven-a of the vehicle and traffic law, if a private passenger motor vehicle and not used for the transportation of persons or property for hire, AND SHALL INCLUDE A MOTOR VEHICLE RENTED UNDER A CONSUMER MOTOR VEHICLE RENTAL PROGRAM PURSUANT TO ARTICLE EIGHTY-ONE OF THIS CHAPTER.

S 6. The insurance law is amended by adding a new section 3455 to read as follows:

S 3455. GROUP INSURANCE POLICY FOR CONSUMER MOTOR VEHICLE RENTAL PROGRAM. (A) FOR PURPOSES OF THIS SECTION, THE FOLLOWING DEFINITIONS SHALL APPLY:

(1) "CONSUMER MOTOR VEHICLE RENTAL PROGRAM" OR "PROGRAM" MEANS A PROGRAM THAT FACILITATES THE USE OR OPERATION OF A MOTOR VEHICLE WHERE THE VEHICLE IS RENTED TO A RENTER WITHOUT A DRIVER.

(2) "CONSUMER MOTOR VEHICLE RENTAL PROGRAM ADMINISTRATOR" OR "ADMINISTRATOR" MEANS A PERSON OR OTHER ENTITY THAT ADMINISTERS A CONSUMER MOTOR VEHICLE RENTAL PROGRAM.

(3) "FINANCIAL RESPONSIBILITY COVERAGE" MEANS COVERAGE IN SATISFACTION OF THE FINANCIAL RESPONSIBILITY REQUIREMENTS SET FORTH IN SUBDIVISION FOUR OF SECTION THREE HUNDRED ELEVEN OF THE VEHICLE AND TRAFFIC LAW, SECTION THREE THOUSAND FOUR HUNDRED TWENTY OF THIS CHAPTER, AND ARTICLE FIFTY-ONE OF THIS CHAPTER, AND REGULATIONS PROMULGATED THEREUNDER, AND SUCH OTHER REQUIREMENTS THAT MAY APPLY FOR THE PURPOSES OF SATISFYING THE FINANCIAL RESPONSIBILITY REQUIREMENTS WITH RESPECT TO THE USE OR OPERATION OF THE MOTOR VEHICLE.

(4) "GROUP POLICYHOLDER" MEANS A CONSUMER MOTOR VEHICLE RENTAL PROGRAM ADMINISTRATOR.

(5) "GROUP POLICY MEMBER" MEANS AN OWNER PARTICIPATING IN A CONSUMER MOTOR VEHICLE RENTAL PROGRAM.

(6) "MOTOR VEHICLE" OR "VEHICLE" SHALL HAVE THE MEANING SET FORTH IN SUBSECTION (G) OF SECTION EIGHT THOUSAND ONE HUNDRED ONE OF THIS CHAPTER.

(7) "OWNER" MEANS A PERSON, OTHER THAN A LIEN HOLDER, HAVING THE PROPERTY IN OR TITLE TO A MOTOR VEHICLE AND SHALL INCLUDE A PERSON ENTITLED TO THE USE AND POSSESSION OF A MOTOR VEHICLE SUBJECT TO A SECURITY INTEREST IN ANOTHER PERSON, AND ALSO SHALL INCLUDE ANY LESSEE OR BAILEE OF A MOTOR VEHICLE HAVING THE EXCLUSIVE USE THEREOF, UNDER A LEASE OR OTHERWISE, FOR A PERIOD GREATER THAN THIRTY DAYS.

(B) AN INSURER MAY ISSUE OR ISSUE FOR DELIVERY IN THIS STATE A GROUP POLICY TO AN ADMINISTRATOR AS A GROUP POLICYHOLDER ONLY IN ACCORDANCE WITH THE PROVISIONS OF THIS SECTION.

(C) (1) A GROUP POLICY SHALL PROVIDE COVERAGE FOR AN OWNER'S MOTOR VEHICLE REGISTERED OR REQUIRED TO BE REGISTERED IN THIS STATE DURING THE PERIOD SPECIFIED IN SUBSECTION (C) OF SECTION EIGHT THOUSAND ONE HUNDRED THREE OF THIS CHAPTER. A GROUP POLICY SHALL PROVIDE FINANCIAL RESPONSIBILITY COVERAGE FOR EACH MOTOR VEHICLE.

(2) A GROUP POLICY MAY PROVIDE:

(A) COVERAGE FOR LIMITS HIGHER THAN THE MINIMUM LIMITS REQUIRED UNDER THE LAW, WITH REGARD TO FINANCIAL RESPONSIBILITY COVERAGE;

(B) SUPPLEMENTARY UNINSURED/UNDERINSURED MOTORISTS INSURANCE FOR BODILY INJURY PURSUANT TO PARAGRAPH TWO OF SUBSECTION (F) OF SECTION THREE THOUSAND FOUR HUNDRED TWENTY OF THIS CHAPTER;

(C) SUPPLEMENTAL SPOUSAL LIABILITY INSURANCE PURSUANT TO SUBSECTION (G) OF SECTION THREE THOUSAND FOUR HUNDRED TWENTY OF THIS CHAPTER; AND

(D) MOTOR VEHICLE PHYSICAL DAMAGE COVERAGE AS DESCRIBED IN PARAGRAPH NINETEEN OF SUBSECTION (A) OF SECTION ONE THOUSAND ONE HUNDRED THIRTEEN OF THIS CHAPTER.

(3) THE COVERAGE DESCRIBED IN PARAGRAPHS ONE AND TWO OF THIS SUBSECTION MAY BE PROVIDED IN ONE GROUP POLICY OR IN SEPARATE GROUP POLICIES.

(4) A GROUP POLICY, INCLUDING CERTIFICATES, SHALL BE ISSUED ONLY BY AN INSURER AUTHORIZED TO WRITE SUCH KINDS OF INSURANCE IN THIS STATE AND SHALL NOT BE ELIGIBLE FOR PLACEMENT BY AN EXCESS LINE BROKER LICENSED PURSUANT TO ARTICLE TWENTY-ONE OF THIS CHAPTER.

(5) A POLICYHOLDER ALSO MAY BE AN INSURED UNDER A GROUP POLICY.

(D) THE PREMIUM FOR THE GROUP POLICY, INCLUDING CERTIFICATES, MAY BE PAID BY THE GROUP POLICYHOLDER FROM THE FUNDS CONTRIBUTED:

(1) WHOLLY BY THE GROUP POLICYHOLDER;
(2) WHOLLY BY THE GROUP POLICY MEMBERS; OR
(3) JOINTLY BY THE GROUP POLICYHOLDER AND THE GROUP POLICY MEMBERS.
(E) THE INSURER SHALL NOT ISSUE A GROUP POLICY UNLESS IT REASONABLY EXPECTS TO INSURE AT LEAST ONE HUNDRED OWNERS WITHIN SIX MONTHS OF THE FIRST RENTAL PERIOD COVERED UNDER THE GROUP POLICY, EXCEPT THAT IF PART OF THE PREMIUM IS TO BE DERIVED FROM FUNDS TO BE CONTRIBUTED BY THE GROUP POLICY MEMBERS SPECIFICALLY FOR THEIR INSURANCE, THEN THE INSURER SHALL NOT ISSUE A GROUP POLICY UNLESS IT REASONABLY EXPECTS TO INSURE AT LEAST TWO HUNDRED OWNERS WITHIN SIX MONTHS OF THE FIRST RENTAL PERIOD COVERED UNDER THE GROUP POLICY.
(F) (1) ANY POLICY DIVIDEND, RETROSPECTIVE PREMIUM CREDIT, OR RETROSPECTIVE PREMIUM REFUND IN RESPECT OF PREMIUMS PAID BY THE GROUP POLICYHOLDER MAY:
(A) BE APPLIED TO REDUCE THE PREMIUM CONTRIBUTION OF THE GROUP POLICYHOLDER, BUT NOT IN EXCESS OF THE PROPORTION TO ITS CONTRIBUTION; OR
(B) BE RETAINED BY THE GROUP POLICYHOLDER.
(2) ANY POLICY DIVIDEND, RETROSPECTIVE PREMIUM CREDIT, OR RETROSPECTIVE PREMIUM REFUND NOT DISTRIBUTED UNDER PARAGRAPH ONE OF THIS SUBSECTION SHALL BE:
(A) APPLIED TO REDUCE FUTURE PREMIUMS AND, ACCORDINGLY, FUTURE CONTRIBUTIONS, OF EXISTING OR FUTURE GROUP POLICY MEMBERS, OR BOTH; OR
(B) PAID OR REFUNDED TO THOSE GROUP POLICY MEMBERS INSURED ON THE DATE THE PAYMENT OR REFUND IS MADE TO THE GROUP POLICYHOLDER, IF DISTRIBUTED BY THE GROUP POLICYHOLDER, OR ON THE DATE OF MAILING, IF DISTRIBUTED DIRECTLY BY THE INSURER, SUBJECT TO THE FOLLOWING REQUIREMENTS:
(I) THE INSURER SHALL BE RESPONSIBLE FOR DETERMINING THE ALLOCATION OF THE PAYMENT OR REFUND TO THE GROUP POLICY MEMBERS;
(II) IF THE GROUP POLICYHOLDER DISTRIBUTES THE PAYMENT OR REFUND, THEN THE INSURER SHALL BE RESPONSIBLE FOR AUDIT TO ASCERTAIN THAT THE PAYMENT OR REFUND IS ACTUALLY MADE IN ACCORDANCE WITH THE ALLOCATION PROCEDURE; AND
(III) IF THE GROUP POLICYHOLDER FAILS TO MAKE THE PAYMENT OR REFUND, THEN THE INSURER SHALL MAKE THE PAYMENT OR REFUND DIRECTLY OR USE THE METHOD PROVIDED IN SUBPARAGRAPH (A) OF THIS PARAGRAPH.
(3) NOTWITHSTANDING PARAGRAPHS ONE AND TWO OF THIS SUBSECTION, IF A DIVIDEND ACCRUES UPON TERMINATION OF COVERAGE UNDER A GROUP POLICY, THE PREMIUM FOR WHICH WAS PAID OUT OF FUNDS CONTRIBUTED BY GROUP POLICY MEMBERS SPECIFICALLY FOR THE COVERAGE, THEN THE DIVIDEND SHALL BE PAID OR REFUNDED BY THE GROUP POLICYHOLDER TO THE GROUP POLICY MEMBERS INSURED ON THE DATE THE PAYMENT OR REFUND IS MADE TO THE GROUP POLICYHOLDER NET OF REASONABLE EXPENSES INCURRED BY THE GROUP POLICYHOLDER IN PAYING OR REFUNDING THE DIVIDEND TO SUCH GROUP POLICY MEMBERS.
(4) FOR THE PURPOSES OF THIS SUBSECTION, "DIVIDEND" MEANS A RETURN BY AN INSURER TO A GROUP POLICYHOLDER OF EXCESS PREMIUMS PAID BY THAT GROUP POLICYHOLDER IN LIGHT OF FAVORABLE LOSS EXPERIENCE, INCLUDING RETROSPECTIVE PREMIUM CREDITS OR RETROSPECTIVE PREMIUM REFUNDS. THE TERM "DIVIDEND" DOES NOT INCLUDE REIMBURSEMENTS OR FEES RECEIVED BY A GROUP POLICYHOLDER IN CONNECTION WITH THE OPERATION OR ADMINISTRATION OF A GROUP POLICY, INCLUDING ADMINISTRATIVE REIMBURSEMENTS, FEES FOR SERVICES PROVIDED BY THE GROUP POLICYHOLDER, OR TRANSACTIONAL SERVICE FEES.
(G) THE INSURER MUST TREAT IN LIKE MANNER ALL ELIGIBLE GROUP POLICY MEMBERS OF THE SAME CLASS AND STATUS.
(H) (1) THE INSURER SHALL BE RESPONSIBLE FOR THE MAILING OR DELIVERY OF A CERTIFICATE OF INSURANCE TO EACH GROUP POLICY MEMBER, PROVIDED, HOWEVER, THAT THE INSURER MAY DELEGATE THE MAILING OR DELIVERY TO THE

ADMINISTRATOR. THE INSURER ALSO SHALL BE RESPONSIBLE FOR MAILING OR DELIVERY TO EACH GROUP POLICY MEMBER AN AMENDED CERTIFICATE OF INSURANCE, OR ENDORSEMENT TO THE CERTIFICATE, WHENEVER THERE IS A CHANGE OF LIMITS; CHANGE IN TYPE OF COVERAGE; ADDITION, REDUCTION, OR ELIMINATION OF COVERAGE; OR ADDITION OF EXCLUSION, UNDER THE GROUP POLICY OR CERTIFICATE.

(2) THE CERTIFICATE SHALL CONTAIN IN SUBSTANCE ALL MATERIAL TERMS AND CONDITIONS OF COVERAGE AFFORDED TO THE GROUP POLICY MEMBER, UNLESS THE GROUP POLICY IS INCORPORATED BY REFERENCE AND A COPY OF THE GROUP POLICY ACCOMPANIES THE CERTIFICATE.

(3) IF COVERAGE AFFORDED TO THE GROUP POLICY MEMBER IS IN EXCESS OF OTHER APPLICABLE INSURANCE COVERAGE, THEN THE CERTIFICATE SHALL CONTAIN A NOTICE ADVISING THE GROUP POLICY MEMBER THAT IF THE MEMBER HAS OTHER INSURANCE COVERAGE, SPECIFIED COVERAGES UNDER THE GROUP POLICY WILL BE EXCESS OVER THE OTHER INSURANCE.

(I) A GROUP POLICYHOLDER SHALL COMPLY WITH THE PROVISIONS OF SECTION TWO THOUSAND ONE HUNDRED TWENTY-TWO OF THIS CHAPTER, IN THE SAME MANNER AS AN INSURANCE AGENT OR INSURANCE BROKER, IN ANY ADVERTISEMENT, SIGN, PAMPHLET, CIRCULAR, CARD, OR OTHER PUBLIC ANNOUNCEMENT REFERRING TO COVERAGE UNDER A GROUP POLICY OR CERTIFICATE.

(J) EXCEPT AS PROVIDED IN SUBSECTION (K) OF THIS SECTION, A GROUP POLICY OR CERTIFICATE SHALL NOT BE SUBJECT TO SECTION THREE THOUSAND FOUR HUNDRED TWENTY-FIVE OR SECTION THREE THOUSAND FOUR HUNDRED TWENTY-SIX OF THIS ARTICLE.

(K) (1) AN INSURER MAY TERMINATE A GROUP POLICY ONLY IF CANCELLATION IS BASED ON ONE OR MORE OF THE REASONS SET FORTH IN SUBPARAGRAPHS (A) THROUGH (D) OR (F) THROUGH (H) OF PARAGRAPH ONE OF SUBSECTION (C) OF SECTION THREE THOUSAND FOUR HUNDRED TWENTY-SIX OF THIS ARTICLE, OR IF THE SUPERINTENDENT SUSPENDS OR REVOKES THE ADMINISTRATOR'S REGISTRATION FOR SIXTY OR MORE DAYS.

(2) AN INSURER MAY TERMINATE AN INDIVIDUAL CERTIFICATE ONLY IF CANCELLATION IS BASED ON ONE OR MORE OF THE REASONS SET FORTH IN SUBPARAGRAPHS (B) OR (C) OF PARAGRAPH ONE OF SUBSECTION (C) OF SECTION THREE THOUSAND FOUR HUNDRED TWENTY-FIVE OF THIS ARTICLE, PROVIDED, HOWEVER THAT WHERE THE PREMIUM IS DERIVED WHOLLY OR PARTIALLY FROM FUNDS CONTRIBUTED BY THE GROUP POLICYHOLDER, AN INSURER ALSO MAY CANCEL THE INDIVIDUAL CERTIFICATE IF CANCELLATION IS BASED ON THE REASON SET FORTH IN SUBPARAGRAPH (A) OF PARAGRAPH ONE OF SUBSECTION (C) OF SECTION THREE THOUSAND FOUR HUNDRED TWENTY-FIVE OF THIS ARTICLE.

(3) IF AN INSURER TERMINATES AN INDIVIDUAL CERTIFICATE PURSUANT TO PARAGRAPH TWO OF THIS SUBSECTION, THEN THE INSURER SHALL NOTIFY THE GROUP POLICYHOLDER IN WRITING THAT THE INSURER HAS TERMINATED THE INDIVIDUAL CERTIFICATE AND THE GROUP POLICYHOLDER SHALL, WITHIN FIVE DAYS OF RECEIPT OF NOTICE FROM THE INSURER, REMOVE THE GROUP POLICY MEMBER FROM THE PROGRAM.

(4) AN INSURER'S CANCELLATION OF A GROUP POLICY, INCLUDING ALL CERTIFICATES, SHALL NOT BECOME EFFECTIVE UNTIL TWENTY DAYS AFTER THE INSURER MAILS OR DELIVERS WRITTEN NOTICE OF CANCELLATION TO THE GROUP POLICYHOLDER AT THE MAILING ADDRESS SHOWN IN THE POLICY, EXCEPT FIFTEEN DAYS WRITTEN NOTICE SHALL BE SUFFICIENT WHERE THE CANCELLATION IS FOR NON-PAYMENT OF PREMIUM.

(L) CANCELLATION BY THE GROUP POLICYHOLDER. A GROUP POLICYHOLDER MAY CANCEL A GROUP POLICY FOR ANY REASON UPON TWENTY DAYS WRITTEN NOTICE TO THE INSURER AND EACH GROUP POLICY MEMBER.

(M) CANCELLATION BY THE GROUP POLICY MEMBER. A GROUP POLICY MEMBER MAY CANCEL OPTIONAL COVERAGE UPON PROVIDING NOTICE TO THE INSURER AND THE

GROUP POLICYHOLDER. FOR THE PURPOSES OF THIS SUBSECTION, "OPTIONAL COVERAGE" MEANS COVERAGE OTHER THAN FINANCIAL RESPONSIBILITY COVERAGE THAT AN INDIVIDUAL GROUP POLICY MEMBER PURCHASES ON AN OPTIONAL BASIS.

(N) (1) A GROUP POLICY AND ALL CERTIFICATES SHALL BE ISSUED OR RENEWED FOR A ONE-YEAR POLICY PERIOD UNLESS THE GROUP POLICY PROVIDES FOR A LONGER POLICY PERIOD.

(2) A GROUP POLICYHOLDER SHALL BE ENTITLED TO RENEW THE GROUP POLICY AND ALL CERTIFICATES UPON TIMELY PAYMENT OF THE PREMIUM BILLED TO THE GROUP POLICYHOLDER FOR THE RENEWAL, UNLESS THE INSURER MAILS OR DELIVERS TO THE GROUP POLICYHOLDER WRITTEN NOTICE OF NONRENEWAL, OR CONDITIONAL RENEWAL, AT LEAST FORTY-FIVE BUT NOT MORE THAN SIXTY DAYS PRIOR TO THE EXPIRATION DATE SPECIFIED IN THE POLICY OR, IF NO DATE IS SPECIFIED, THEN THE NEXT ANNIVERSARY DATE OF THE POLICY.

(O) EVERY NOTICE OF CANCELLATION, NONRENEWAL, OR CONDITIONAL RENEWAL FROM AN INSURER SHALL SET FORTH THE SPECIFIC REASON OR REASONS FOR CANCELLATION, NONRENEWAL, OR CONDITIONAL RENEWAL.

(P) TERMINATION FROM THE GROUP SHALL TERMINATE THE GROUP POLICY MEMBER'S COVERAGE EXCEPT AS PROVIDED IN SUBSECTION (Q) OF THIS SECTION.

(Q) IF, PRIOR TO THE EFFECTIVE DATE OF CANCELLATION, NONRENEWAL, OR CONDITIONAL RENEWAL OF THE GROUP POLICY, OR A CERTIFICATE, WHETHER INITIATED BY THE INSURER, GROUP POLICYHOLDER, OR BY THE GROUP POLICY MEMBER IN REGARD TO THE GROUP POLICY MEMBER'S CERTIFICATE, COVERAGE ATTACHES PURSUANT TO THE TERMS OF A GROUP POLICY, THEN THE COVERAGE SHALL BE EFFECTIVE UNTIL EXPIRATION OF THE APPLICABLE PERIOD OF COVERAGE PROVIDED IN THE GROUP POLICY NOTWITHSTANDING THE CANCELLATION, NONRENEWAL, OR CONDITIONAL NONRENEWAL OF THE GROUP POLICY.

(R) RATES AND FORMS FOR ANY GROUP POLICY ISSUED OR ISSUED FOR DELIVERY IN THIS STATE PURSUANT TO THIS SECTION SHALL BE FILED WITH THE SUPERINTENDENT IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE TWENTY-THREE OF THIS CHAPTER.

S 7. Subsection (b) of section 5103 of the insurance law is amended by adding a new paragraph 4 to read as follows:

(4) IS INJURED WHILE THE MOTOR VEHICLE IS UNDER THE OPERATION OR CONTROL OF A RENTER PURSUANT TO A CONSUMER MOTOR VEHICLE RENTAL PROGRAM OPERATING PURSUANT TO ARTICLE EIGHTY-ONE OF THIS CHAPTER, PROVIDED THAT THE CONSUMER MOTOR VEHICLE RENTAL PROGRAM ADMINISTRATOR'S GROUP POLICY PROVIDES COVERAGE TO THE OWNER IN ACCORDANCE WITH SECTION THREE THOUSAND FOUR HUNDRED FIFTY-FIVE OF THIS CHAPTER.

S 8. The vehicle and traffic law is amended by adding a new section 124 to read as follows:

S 124. CONSUMER MOTOR VEHICLE RENTAL PROGRAM. A PROGRAM THAT FACILITATES THE USE OR OPERATION OF A MOTOR VEHICLE WHERE THE VEHICLE IS RENTED TO A RENTER WITHOUT A DRIVER.

S 9. Subdivision 4 of section 311 of the vehicle and traffic law is amended by adding a new paragraph (e) to read as follows:

(E) IN THE CASE OF A VEHICLE RENTED PURSUANT TO A CONSUMER MOTOR VEHICLE RENTAL PROGRAM, A GROUP INSURANCE POLICY ISSUED BY AN INSURER DULY AUTHORIZED TO TRANSACT BUSINESS IN THIS STATE, PURSUANT TO SECTION THREE THOUSAND FOUR HUNDRED FIFTY-FIVE OF THE INSURANCE LAW, THAT PROVIDES COVERAGE IN SATISFACTION OF THE FINANCIAL RESPONSIBILITY REQUIREMENTS SET FORTH IN THIS SUBDIVISION, WHEN THE VEHICLE IS BEING RENTED PURSUANT TO THE CONSUMER MOTOR VEHICLE RENTAL PROGRAM.

S 10. Section 311 of the vehicle and traffic law is amended by adding a new subdivision 11 to read as follows:

11. THE TERM "INSURED" SHALL MEAN THE FIRST NAMED INSURED, EXCEPT THE TERM SHALL MEAN THE GROUP POLICYHOLDER WITH REGARD TO A GROUP INSURANCE

POLICY ISSUED PURSUANT TO SECTION THREE THOUSAND FOUR HUNDRED FIFTY-FIVE OF THE INSURANCE LAW.

S 11. Subdivision 3 of section 370 of the vehicle and traffic law, as amended by chapter 232 of the laws of 2001, is amended to read as follows:

3. [A] (A) EXCEPT AS PROVIDED IN PARAGRAPH (E) OF THIS SUBDIVISION, A person, firm, association or corporation engaged in the business of renting or leasing rental vehicles to be operated upon the public highways for carrying passengers shall be subject to the provisions of this section in the same manner and to the same extent as if such person, firm, association or corporation were actually engaged in the business of carrying or transporting passengers for hire.

(B) Notwithstanding the provisions of subdivision one of this section, a person, firm, association or corporation engaged in the business of renting or leasing motor vehicles, having registered in this state more than twenty-five motor vehicles subject to the provisions of this section and who qualifies as hereinafter provided, may file a certificate of self-insurance. The commissioner of motor vehicles in his discretion may, upon the application of such a person, firm, association or corporation issue a certificate of self-insurance when he is reasonably satisfied that such person is possessed and will continue to be possessed of financial ability to respond to judgments obtained against such person, arising out of the ownership, maintenance, use or operation of any such person's motor vehicle. Upon due notice and hearing, the commissioner may, in his discretion and upon reasonable grounds, cancel a certificate of self-insurance.

(C) As a condition to the issuance of a certificate of self-insurance under this subdivision the registrant shall pay annually in addition to any other fee prescribed by this chapter, a fee of one dollar and fifty cents for each motor vehicle registered in his name and the aggregate amount of such fees shall be applied in reduction of the assessment levied pursuant to section three hundred seventeen.

(D) As a further condition to the issuance of a certificate of self-insurance, the registrant shall pay annually in addition to any other fee prescribed by this chapter, an amount per vehicle to be determined by the Motor Vehicle Accident Indemnification Corporation pursuant to section five thousand two hundred seven of the insurance law and the aggregate amount of such fees shall be transmitted by the commissioner to the Motor Vehicle Accident Indemnification Corporation continued pursuant to section five thousand two hundred three of the insurance law to be applied in reduction of assessments levied by said corporation pursuant to section five thousand two hundred seven of the insurance law.

(E) THIS SECTION SHALL NOT APPLY TO A CONSUMER MOTOR VEHICLE RENTAL PROGRAM ADMINISTRATOR OR AN OWNER UNDER A CONSUMER MOTOR VEHICLE RENTAL PROGRAM REGISTERED WITH THE SUPERINTENDENT OF FINANCIAL SERVICES PURSUANT TO ARTICLE EIGHTY-ONE OF THE INSURANCE LAW PROVIDED THAT:

(A) THE OWNER IS AN INDIVIDUAL;

(B) EACH RENTAL PERIOD DOES NOT EXCEED THIRTY DAYS;

(C) THE OWNER DOES NOT HAVE MORE THAN FOUR MOTOR VEHICLES IN CONSUMER MOTOR VEHICLE RENTAL PROGRAMS AT ANY ONE TIME;

(D) THE OWNER DOES NOT RENT MOTOR VEHICLES THROUGH CONSUMER MOTOR VEHICLE RENTAL PROGRAMS FOR MORE THAN FOUR THOUSAND THREE HUNDRED HOURS IN ONE CALENDAR YEAR; AND

(E) THE OWNER IS NOT OTHERWISE SUBJECT TO THE PROVISIONS OF THIS SECTION.

S 12. Section 388 of the vehicle and traffic law is amended by adding a new subdivision 5 to read as follows:

5. (A) NOTWITHSTANDING ANY PROVISION OF THIS SECTION, AN OWNER OF A MOTOR VEHICLE THAT RENTS (INCLUDING UNDER A CONSUMER MOTOR VEHICLE RENTAL PROGRAM) OR LEASES THE VEHICLE TO A PERSON (OR AN AFFILIATE OF THE OWNER) SHALL NOT BE LIABLE FOR HARM TO PERSONS OR PROPERTY THAT RESULTS OR ARISES OUT OF THE USE, OPERATION, OR POSSESSION OF THE VEHICLE DURING THE PERIOD OF THE RENTAL OR LEASE, IF:

(1) THE OWNER (OR AN AFFILIATE OF THE OWNER) IS ENGAGED IN THE TRADE OR BUSINESS OF RENTING OR LEASING MOTOR VEHICLES, OR PARTICIPATES IN A CONSUMER MOTOR VEHICLE RENTAL PROGRAM; AND

(2) THERE IS NO NEGLIGENCE OR CRIMINAL WRONGDOING ON THE PART OF THE OWNER (OR AN AFFILIATE OF THE OWNER).

(B) IN THIS SUBDIVISION, THE TERM "AFFILIATE" MEANS A PERSON OTHER THAN THE OWNER WHO DIRECTLY OR INDIRECTLY CONTROLS, IS CONTROLLED BY, OR IS UNDER COMMON CONTROL WITH, THE OWNER. IN THE PRECEDING SENTENCE, THE TERM "CONTROL" MEANS THE POWER TO DIRECT THE MANAGEMENT AND POLICIES OF A PERSON WHETHER THROUGH OWNERSHIP OF VOTING SECURITIES OR OTHERWISE.

S 13. Paragraph (c) of subdivision 1 of section 396-z of the general business law, as amended by chapter 731 of the laws of 2006, is amended to read as follows:

(c) "Rental vehicle company" means any person or organization, or any subsidiary or affiliate, including a franchisee, in the business of providing rental vehicles to the public from locations in this state, BUT SHALL NOT INCLUDE A CONSUMER MOTOR VEHICLE RENTAL PROGRAM ADMINISTRATOR OR AN OWNER UNDER A CONSUMER MOTOR VEHICLE RENTAL PROGRAM REGISTERED WITH THE SUPERINTENDENT OF FINANCIAL SERVICES PURSUANT TO ARTICLE EIGHTY-ONE OF THE INSURANCE LAW PROVIDED THAT:

(A) THE OWNER IS AN INDIVIDUAL;

(B) EACH RENTAL PERIOD DOES NOT EXCEED THIRTY DAYS;

(C) THE OWNER DOES NOT HAVE MORE THAN FOUR MOTOR VEHICLES IN CONSUMER MOTOR VEHICLE RENTAL PROGRAMS AT ANY ONE TIME;

(D) THE OWNER DOES NOT RENT MOTOR VEHICLES THROUGH CONSUMER MOTOR VEHICLE RENTAL PROGRAMS FOR MORE THAN FOUR THOUSAND THREE HUNDRED HOURS IN ONE CALENDAR YEAR; AND

(E) THE OWNER IS NOT OTHERWISE SUBJECT TO THE PROVISIONS OF THIS SECTION.

S 14. Paragraph (c) of subdivision 1 of section 396-z of the general business law, as amended by chapter 656 of the laws of 2002, is amended to read as follows:

(c) "Rental vehicle company" means any person or organization, or any subsidiary or affiliate, including a franchisee, in the business of providing rental vehicles to the public from locations in this state, BUT SHALL NOT INCLUDE A CONSUMER MOTOR VEHICLE RENTAL PROGRAM ADMINISTRATOR OR AN OWNER UNDER A CONSUMER MOTOR VEHICLE RENTAL PROGRAM REGISTERED WITH THE SUPERINTENDENT OF FINANCIAL SERVICES PURSUANT TO ARTICLE EIGHTY-ONE OF THE INSURANCE LAW PROVIDED THAT:

(A) THE OWNER IS AN INDIVIDUAL;

(B) EACH RENTAL PERIOD DOES NOT EXCEED THIRTY DAYS;

(C) THE OWNER DOES NOT HAVE MORE THAN FOUR MOTOR VEHICLES IN CONSUMER MOTOR VEHICLE RENTAL PROGRAMS AT ANY ONE TIME;

(D) THE OWNER DOES NOT RENT MOTOR VEHICLES THROUGH CONSUMER MOTOR VEHICLE RENTAL PROGRAMS FOR MORE THAN FOUR THOUSAND THREE HUNDRED HOURS IN ONE CALENDAR YEAR; AND

(E) THE OWNER IS NOT OTHERWISE SUBJECT TO THE PROVISIONS OF THIS SECTION.

S 15. This act shall take effect on the one hundred twentieth day after it shall have become a law, provided, however, that effective immediately, the addition, amendment, or repeal of any rule or regulation necessary for the implementation of this act on its effective date is authorized and directed to be made and completed on or before such effective date; provided, however the amendments to paragraph (c) of subdivision one of section 396-z of the general business law made by section thirteen of this act shall be subject to the expiration and reversion of such subdivision pursuant to section 4 of chapter 656 of the laws of 2002, as amended, when upon such date the provisions of section fourteen of this act shall take effect.