

9175--A

I N A S S E M B L Y

March 26, 2014

Introduced by M. of A. BRAUNSTEIN, SKOUFIS -- read once and referred to the Committee on Insurance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the insurance law, in relation to internet enrollment of employees

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

1 Section 1. The opening paragraph and subparagraph (D) of paragraph 1
2 of subsection (b) of section 1101 of the insurance law, the opening
3 paragraph as amended by section 1 of part I of chapter 61 of the laws of
4 2011, are amended to read as follows:

5 Except as OTHERWISE provided in [paragraph two, three, three-a, or
6 seven of] this subsection, any of the following acts in this state,
7 effected by mail from outside this state or otherwise, by any person,
8 firm, association, corporation or joint-stock company shall constitute
9 doing an insurance business in this state and shall constitute doing
10 business in the state within the meaning of section three hundred two of
11 the civil practice law and rules:

12 (D) doing any kind of business, including a reinsurance business,
13 specifically recognized as constituting the doing of an insurance busi-
14 ness within the meaning of this chapter; OR

15 S 2. Subsection (b) of section 1101 of the insurance law is amended by
16 adding a new paragraph 8 to read as follows:

17 (8) NOTWITHSTANDING THE FOREGOING, THE MAINTENANCE OF A WEBSITE
18 OUTSIDE THE STATE BY AN UNAUTHORIZED FOREIGN OR ALIEN INSURER DULY
19 LICENSED TO TRANSACT THE BUSINESS OF INSURANCE IN AND BY THE LAWS OF ITS
20 DOMICILE, BY WHICH A MEMBER OF A GROUP MAY SELF-ENROLL, THROUGH AN AUTO-
21 MATED PROCESS, IN A GROUP LIFE, GROUP ANNUITY, OR GROUP ACCIDENT AND
22 HEALTH INSURANCE POLICY OR CONTRACT, AS DEFINED IN PARAGRAPHS ONE, TWO,
23 AND THREE OF SUBSECTION (A) OF SECTION ONE THOUSAND ONE HUNDRED THIRTEEN
24 OF THIS ARTICLE, SHALL NOT CONSTITUTE DOING AN INSURANCE BUSINESS IN
25 THIS STATE, BUT SECTION ONE THOUSAND TWO HUNDRED THIRTEEN OF THIS CHAP-
26 TER NEVERTHELESS SHALL APPLY TO THE INSURER; PROVIDED THAT:

27 (A) THE GROUP CONFORMS TO THE DEFINITION OF ELIGIBILITY CONTAINED IN:

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

LBD13607-06-4

1 (I) PARAGRAPH ONE, TWO, FOUR (WITH RESPECT TO A POLICY ISSUED TO A
2 TRUSTEE OR TRUSTEES OF A FUND ESTABLISHED OR PARTICIPATED IN BY TWO OR
3 MORE EMPLOYERS, ONE OR MORE LABOR UNIONS, OR BY ONE OR MORE EMPLOYERS OR
4 LABOR UNIONS, PROVIDED THAT ALL SUCH EMPLOYERS OR LABOR UNIONS ARE IN
5 THE SAME INDUSTRY), OR FIVE OF SUBSECTION (B) OF SECTION FOUR THOUSAND
6 TWO HUNDRED SIXTEEN OF THIS CHAPTER;

7 (II) SUBPARAGRAPH (A), (B), (C), OR (D) (WITH RESPECT TO A POLICY
8 ISSUED TO A TRUSTEE OR TRUSTEES OF A FUND ESTABLISHED OR PARTICIPATED IN
9 BY TWO OR MORE EMPLOYERS, ONE OR MORE LABOR UNIONS, OR BY ONE OR MORE
10 EMPLOYERS OR LABOR UNIONS, PROVIDED THAT ALL SUCH EMPLOYERS OR LABOR
11 UNIONS ARE IN THE SAME INDUSTRY) OF PARAGRAPH ONE OF SUBSECTION (C) OF
12 SECTION FOUR THOUSAND TWO HUNDRED THIRTY-FIVE OF THIS CHAPTER; OR

13 (III) PARAGRAPHS ONE, TWO, THREE OR FOUR OF SUBSECTION (B) OF SECTION
14 FOUR THOUSAND TWO HUNDRED THIRTY-EIGHT OF THIS CHAPTER, BUT NOT INCLUD-
15 ING A GROUP ANNUITY CONTRACT: (I) FUNDING INDIVIDUAL RETIREMENT ACCOUNTS
16 OR INDIVIDUAL RETIREMENT ANNUITIES, AS DEFINED IN SECTION FOUR HUNDRED
17 EIGHT OF THE INTERNAL REVENUE CODE; (II) FUNDING ANNUITIES IN ACCORDANCE
18 WITH SUBDIVISION (B) OF SECTION FOUR HUNDRED THREE OF SUCH CODE; OR
19 (III) PROVIDING A PLAN OF RETIREMENT ANNUITIES UNDER WHICH THE PAYMENTS
20 ARE DERIVED WHOLLY FROM FUNDS CONTRIBUTED BY THE PERSONS COVERED.

21 (B) THE INSURER LAWFULLY ISSUED THE MASTER POLICY OR CONTRACT WITHOUT
22 THIS STATE IN A JURISDICTION WHERE THE INSURER WAS AUTHORIZED TO DO AN
23 INSURANCE BUSINESS;

24 (C) THE INSURER'S WEBSITE CLEARLY STATES THAT THE INSURER IS NOT
25 AUTHORIZED TO TRANSACT THE BUSINESS OF INSURANCE IN THIS STATE; AND

26 (D) THE INSURER DOES NOT HAVE ANY OTHER CONTACT OR INTERACTION WITH
27 THE MEMBER OTHER THAN AS SPECIFIED AND IN THE MANNER PROVIDED IN PARA-
28 GRAPH TWO OF THIS SUBSECTION.

29 S 3. This act shall take effect immediately.