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

6150

I N S E N A T E

(PREFILED)

January 8, 2014

Introduced by Sen. AVELLA -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance

AN ACT to amend the insurance law, in relation to providing protection to certain retirees from pension de-risking transactions

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

Section 1. The insurance law is amended by adding a new section 3219-a to read as follows:

S 3219-A. PENSION DE-RISKING TRANSACTIONS WITH AN ANNUITY. (A) ANY ANNUITY ISSUED BY AN INSURANCE COMPANY LICENSED TO DO BUSINESS IN THIS STATE WHICH SELLS AN ANNUITY INTENDED TO PROVIDE PENSION BENEFITS TO RETIREES OF ANY COMPANY, CORPORATION, LIMITED LIABILITY COMPANY OR ASSOCIATION SHALL INCLUDE THE FOLLOWING PROVISIONS, INCLUDING BUT NOT LIMITED TO:

(1) MANDATORY DISCLOSURES, REGULATORY APPROVAL AND AN OPPORTUNITY TO CHALLENGE OR OPT OUT OF ANY PENSION DE-RISKING TRANSACTION THAT ATTEMPTS TO TRANSFER RETIREE BENEFITS FROM A FEDERAL EMPLOYEE RETIREMENT INCOME SECURITY ACT ("ERISA") PROTECTED PLAN TO A SUBSTITUTE BENEFIT PROVIDER NOT COVERED UNDER ERISA;

(2) SUPPLEMENTAL PROTECTIONS IN THE FORM OF A THIRD PARTY GUARANTEE OR REINSURANCE CONTRACT SO AS TO EQUAL THE SCOPE OF COVERAGE OFFERED BY THE PENSION BENEFIT GUARANTY CORPORATION ("PBGC") AFTER AN ANNUITY PROVIDER INSOLVENCY AND SUBSEQUENT DETERMINATION OF ANY SHORTFALLS THAT MIGHT ARISE AFTER NEW YORK LIFE AND HEALTH INSURANCE GUARANTY ASSOCIATION ("NYLHIGA") CONTRIBUTIONS ARE DETERMINED SO SELECT RETIREES WITHIN A PLAN ARE NOT UNFAIRLY DISCRIMINATED AGAINST;

(3) THE PROVISION OF ADDITIONAL PROTECTIONS INCLUDING, BUT NOT LIMITED TO, MANDATORY DISCLOSURES BY THE TRANSFERRING ENTITY AND THE SUBSTITUTE PENSION BENEFIT PROVIDER, UNIFORM FIDUCIARY STANDARDS AND DISCLOSURES, UNIFORM AND EQUIVALENT PROTECTION FROM CREDITORS AND BANKRUPTCY TRUSTEES;

(4) ALLOWING RETIREES RECEIVING PENSION BENEFITS THE OPTION TO REQUEST A LUMP SUM CASH OUT OPTION SUBJECT TO CERTAIN MANDATORY DISCLOSURES

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

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REGARDING THE TAX CONSEQUENCES AND DISSIPATION RISKS ASSOCIATED WITH LUMP SUM DISTRIBUTIONS AND INDEPENDENT LEGAL OR FINANCIAL ADVISOR OVERSIGHT;

(5) THAT ALL DE-RISKING TRANSACTIONS BE VETTED AND APPROVED BY AN INDEPENDENT THIRD PARTY CREATED BY AND WITH THE APPROVAL OF THE SUPERINTENDENT; AND

(6) THAT ALL SUBSEQUENT TRANSFERS OF GROUP ANNUITY CONTRACTS BE VETTED AND APPROVED BY AN INDEPENDENT THIRD PARTY CREATED BY AND WITH THE APPROVAL OF THE SUPERINTENDENT.

(B) THE SUPERINTENDENT SHALL PROMULGATE ANY NECESSARY RULES OR REGULATIONS NECESSARY FOR THE IMPLEMENTATION OF THIS SECTION.

S 2. This act shall take effect on the one hundred twentieth day after it shall have become a law and shall apply to all policies and contracts issued, renewed, modified, altered, or amended on or after such date.