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

6505--B

Cal. No. 240

I N S E N A T E

January 31, 2014

Introduced by Sen. SEWARD -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, passed by Senate and delivered to the Assembly, recalled, vote reconsidered, restored to third reading, amended and ordered reprinted, retaining its place in the order of third reading

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:

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

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

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

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

(8) NOTWITHSTANDING THE FOREGOING, THE MAINTENANCE OF A WEBSITE OUTSIDE THE STATE BY AN UNAUTHORIZED FOREIGN OR ALIEN INSURER DULY LICENSED TO TRANSACT THE BUSINESS OF INSURANCE IN AND BY THE LAWS OF ITS DOMICILE, BY WHICH A MEMBER OF A GROUP MAY SELF-ENROLL, THROUGH AN AUTOMATED PROCESS, IN A GROUP LIFE, GROUP ANNUITY, OR GROUP ACCIDENT AND HEALTH INSURANCE POLICY OR CONTRACT, AS DEFINED IN PARAGRAPHS ONE, TWO,

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

LBD13607-07-4

AND THREE OF SUBSECTION (A) OF SECTION ONE THOUSAND ONE HUNDRED THIRTEEN OF THIS ARTICLE, SHALL NOT CONSTITUTE DOING AN INSURANCE BUSINESS IN THIS STATE, BUT SECTION ONE THOUSAND TWO HUNDRED THIRTEEN OF THIS CHAPTER NEVERTHELESS SHALL APPLY TO THE INSURER; PROVIDED THAT:

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

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

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

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

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

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

(D) THE INSURER DOES NOT HAVE ANY OTHER CONTACT OR INTERACTION WITH THE MEMBER OTHER THAN AS SPECIFIED AND IN THE MANNER PROVIDED IN PARAGRAPH TWO OF THIS SUBSECTION.

S 3. This act shall take effect immediately.