

2904

2015-2016 Regular Sessions

I N A S S E M B L Y

January 20, 2015

Introduced by M. of A. WEPRIN -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law, in relation to removing the exemption of the state insurance fund from licensing and other requirements; to amend the workers' compensation law, in relation to requiring the superintendent of insurance to approve the rules adopted by the state insurance fund for the conduct of its business; and to amend the workers' compensation law, in relation to the requirement for policyholders to provide 30 days notice to withdraw from the state insurance fund

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

1 Section 1. Section 1108 of the insurance law, subsection (c) as  
2 amended by chapter 838 of the laws of 1985, subsection (j) as added by  
3 section 2 of part R of chapter 56 of the laws of 2010, subsection (k) as  
4 added by chapter 181 of the laws of 2012, subsection (l) as added by  
5 chapter 246 of the laws of 2012, subsection (l) as relettered and  
6 subsection (m) as added by chapter 203 of the laws of 2013 and  
7 subsection (n) as added by chapter 454 of the laws of 2014, is amended  
8 to read as follows:  
9 S 1108. Insurers exempt from licensing and other requirements. The  
10 following insurers, their officers, agents, representatives and employ-  
11 ees shall be exempt from licensing and other requirements imposed by the  
12 provisions of this chapter (except article seventy-four hereof) to the  
13 extent specified below:  
14 (a) Any charitable annuity society which complies with the require-  
15 ments of section one thousand one hundred ten of this article, to the  
16 extent therein stated.  
17 (b) Any fraternal benefit society, membership corporation or other  
18 organization exempted under the provisions of article forty-five of this  
19 chapter, to the extent therein stated.

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

LBD03339-01-5

1 [(c) The state insurance fund of this state, except as to the  
2 provisions of subsection (d) of section two thousand three hundred thir-  
3 ty-nine, section three thousand one hundred ten, subsection (a), para-  
4 graph one of subsection (b), paragraph three of subsection (c) and  
5 subsection (d) of section three thousand two hundred one, sections three  
6 thousand two hundred two, three thousand two hundred four, subsections  
7 (a) through (d) of section three thousand two hundred twenty-one,  
8 subsections (b) and (c) of section four thousand two hundred twenty-  
9 four, section four thousand two hundred twenty-six and subsections (a)  
10 and (b) and (g) through (j) of section four thousand two hundred thir-  
11 ty-five of this chapter and except as otherwise specifically provided by  
12 the laws of this state.

13 (d)] (C) Any corporate trustee or board of trustees acting pursuant to  
14 the banking law in relation to the fund for insurance of deposits in  
15 savings banks or the fund for insurance of shares of savings and loan  
16 associations.

17 [(e)] (D) Any corporation, organized under the laws of any state,  
18 solely to provide gratuitously for support or relief of the priests,  
19 clergy or ministers of any religious denomination, or their dependents,  
20 is exempt from all provisions of this chapter, except that any such  
21 corporation, created by special act of incorporation of this state,  
22 which by the provisions of such act is subject to the requirement of  
23 examination by, and making annual reports to, the superintendent, shall  
24 be subject to the provisions of article three of this chapter relating  
25 to examinations and statements or reports by insurers.

26 [(f)] (E) Any retirement system or pension fund that was doing busi-  
27 ness on January first, nineteen hundred forty under the education law,  
28 the civil service law, the mental hygiene law, any special act of incor-  
29 poration of this state, or any municipal charter adopted under the laws  
30 of this state, exclusively for the benefit of the members of such system  
31 or fund or for all or any classes of the employees of this state or any  
32 municipality thereof, shall be exempt from the provisions of this chap-  
33 ter, except that if the law under which such system or fund was organ-  
34 ized subjects it to examination by, and the making of annual reports to,  
35 the superintendent, such system or fund shall be subject to the  
36 provisions of article three of this chapter relating to examinations and  
37 statements or reports by insurers.

38 [(g)] (F) Any membership corporation or voluntary association organ-  
39 ized and operating in this state prior to January first, nineteen  
40 hundred thirty-nine and its members may act as indemnitors of a licensed  
41 property/casualty insurance company in respect to surety bonds or poli-  
42 cies of insurance required to be filed by such members pursuant to  
43 section three hundred seventy of the vehicle and traffic law and are  
44 exempted from the requirement of having an insurer's license; but no  
45 such membership corporation or association shall become a surety on any  
46 such bond or otherwise do an insurance business.

47 [(h)] (G) Any relief department or pension plan of any common carrier  
48 subject to the [the] Railroad Retirement Act of 1974 (45 U.S.C. S 31),  
49 whose privileges and membership are confined to employees or former  
50 employees of such carrier or its affiliated or subsidiary companies, or  
51 to any association of such common carriers which administers any such  
52 department or plan.

53 [(i)] (H) Every blood credit system established by a city, pursuant to  
54 section twenty-one-d of the general city law.

55 [(j)] (I) Any group of employers authorized by the workers' compen-  
56 sation board to provide workers' compensation benefits for the employees

1 of all member employers pursuant to subdivision three-a of section fifty  
2 of the workers' compensation law.

3 [(k)] (J) A charitable bail organization holding a certificate issued  
4 by the superintendent pursuant to section six thousand eight hundred  
5 five of this chapter.

6 [(l)] (K) An institution of higher education, as defined in paragraph  
7 two of subsection (a) of section one thousand one hundred twenty-four of  
8 this article, that has a certificate of authority from the superinten-  
9 dent and complies with the requirements of section one thousand one  
10 hundred twenty-four of this article, to the extent therein stated.

11 [(m)] (L) A freelancers association, as defined in section one thou-  
12 sand one hundred twenty-five of this article, that obtains and maintains  
13 a demonstration program waiver from the superintendent and complies with  
14 the requirements of section one thousand one hundred twenty-five of this  
15 article, to the extent therein stated.

16 [(n)] (M) A resolution facility established pursuant to section seven  
17 thousand seven hundred nineteen of this chapter.

18 S 2. Paragraph 2 of subsection (a) of section 4522 of the insurance  
19 law is amended to read as follows:

20 (2) Organizations which limit their membership to the employees of a  
21 particular city or town, or of a designated business corporation or  
22 firm, or of one or more business corporations or firms having business  
23 interests in common, except as otherwise provided in subsection [(f)]  
24 (E) of section one thousand one hundred eight of this chapter. Any such  
25 organization which limits its membership to the employees of a corpo-  
26 ration having more than five thousand employees may provide for hospi-  
27 tal, surgical and medical benefits for the employee, his or her spouse,  
28 and his or her child or children not over eighteen years of age.

29 S 3. Section 83 of the workers' compensation law, as amended by chap-  
30 ter 34 of the laws of 2010, is amended to read as follows:

31 S 83. Rules. The [commissioner] COMMISSIONERS shall adopt rules for  
32 the conduct of the business of the state fund, and may from time to time  
33 alter, amend or repeal any rule therefore adopted. At least six affirma-  
34 tive votes shall be required for the adoption of any rule, or the amend-  
35 ment or repeal of any rule. No rule, and no resolution proposing to  
36 alter, amend or repeal any rule, shall be effective unless approved by  
37 the [commissioner of labor. If the commissioner of labor fails to act  
38 upon any such rule or resolution within thirty days after it is communi-  
39 cated to him or her, such rule or resolution shall be deemed to have  
40 been approved] SUPERINTENDENT OF FINANCIAL SERVICES.

41 The rules of the commissioners shall provide for the conduct of the  
42 business of the state insurance fund, including the issuance of policies  
43 and their terms and conditions, the fixing of premium rates, the keeping  
44 of records, auditing of payrolls, and the billing and collection of  
45 premiums therefor, the inspection of risks and the setting of the stand-  
46 ards of safety, the adjustment and payment of claims and awards, and the  
47 investigation of all matters relating thereto, the medical examination  
48 of persons claiming compensation and the furnishing and supervision of  
49 medical and surgical treatment to persons injured as set forth in this  
50 chapter, the conduct of the legal business of the fund and the enforce-  
51 ment of the subrogated rights of the fund against third parties, the  
52 investment of the surplus and reserves of the fund, and the collection  
53 and analysis of statistics of payrolls, premiums, losses and expenses  
54 and the actuarial consideration thereof.

1 S 4. Subdivision a of section 94 of the workers' compensation law, as  
2 amended by chapter 635 of the laws of 1996, is amended to read as  
3 follows:

4 a. Any employer may, upon complying with subdivision two or three of  
5 section fifty of this chapter, withdraw from the fund by turning in his  
6 insurance contract for cancellation, [provided he has given written  
7 notice to the fund of his intention to withdraw not less than thirty  
8 days before the effective date of such cancellation] ALONG WITH WRITTEN  
9 NOTICE OF THE EFFECTIVE DATE OF THE CANCELLATION. Upon receipt of such  
10 notice the fund shall[, at least ten days prior to the effective date]  
11 file in the office of the chairman a notice of such cancellation date.

12 [In no event shall the insurance contract be deemed cancelled until at  
13 least ten days after the date of such filing, any earlier date mentioned  
14 in the notice to the contrary notwithstanding.]

15 If an employer withdraws from the fund upon complying with subdivision  
16 two of section fifty of this chapter, the new insurance contract with  
17 the stock corporation, mutual corporation or reciprocal insurer shall be  
18 deemed not to take effect until the cancellation of such employer's  
19 contract with the state insurance fund has become effective.

20 S 5. This act shall take effect on the ninetieth day after it shall  
21 have become a law.