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

3594

2015-2016 Regular Sessions

I N A S S E M B L Y

January 27, 2015

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

AN ACT to amend the insurance law, in relation to pet insurance

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 article 42-A to read as follows:

ARTICLE 42-A
PET INSURANCE

SECTION 4250. DEFINITIONS.
4251. APPLICABILITY.
4252. DISCLOSURES.
4253. PENALTIES.
4254. VIOLATIONS.
4255. RULES AND REGULATIONS.

S 4250. DEFINITIONS. FOR PURPOSES OF THIS ARTICLE, THE FOLLOWING DEFINITIONS SHALL APPLY:

(A) "CHRONIC CONDITION" SHALL MEAN A CONDITION THAT CAN BE TREATED OR MANAGED, BUT NOT CURED.

(B) "CONGENITAL ANOMALY OR DISORDER" SHALL MEAN A CONDITION THAT IS PRESENT FROM BIRTH, WHETHER INHERITED OR CAUSED BY THE ENVIRONMENT, WHICH MAY CAUSE OR OTHERWISE CONTRIBUTE TO ILLNESS OR DISEASE.

(C) "HEREDITARY DISORDER" SHALL MEAN AN ABNORMALITY THAT IS GENETICALLY TRANSMITTED FROM PARENT TO OFFSPRING AND MAY CAUSE ILLNESS OR DISEASE.

(D) "PET INSURANCE" SHALL MEAN AN INDIVIDUAL OR GROUP INSURANCE POLICY THAT PROVIDES COVERAGE FOR VETERINARY EXPENSES.

(E) "PREEXISTING CONDITION" SHALL MEAN ANY CONDITION FOR WHICH A VETERINARIAN PROVIDED MEDICAL ADVICE, THE PET RECEIVED TREATMENT FOR, OR THE PET DISPLAYED SIGNS OR SYMPTOMS CONSISTENT WITH THE STATED CONDITION

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

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PRIOR TO THE EFFECTIVE DATE OF A PET INSURANCE POLICY OR DURING ANY WAITING PERIOD.

(F) "VETERINARIAN" SHALL MEAN AN INDIVIDUAL WHO HOLDS A VALID LICENSE TO PRACTICE VETERINARY MEDICINE FROM AN APPROPRIATE LICENSING ENTITY IN THE JURISDICTION IN WHICH HE OR SHE PRACTICES.

(G) "VETERINARY EXPENSES" SHALL MEAN THE COSTS ASSOCIATED WITH MEDICAL ADVICE, DIAGNOSIS, CARE, OR TREATMENT PROVIDED BY A VETERINARIAN, INCLUDING, BUT NOT LIMITED TO, THE COST OF DRUGS PRESCRIBED BY A VETERINARIAN.

(H) "WAITING OR AFFILIATION PERIOD" SHALL MEAN THE PERIOD OF TIME SPECIFIED IN A PET INSURANCE POLICY THAT IS REQUIRED TO TRANSPIRE BEFORE SOME OR ALL OF THE COVERAGE IN THE POLICY CAN BEGIN.

S 4251. APPLICABILITY. A POLICY OF PET INSURANCE THAT IS MARKETED, ISSUED, AMENDED, RENEWED, OR DELIVERED, WHETHER OR NOT IN NEW YORK, TO A NEW YORK RESIDENT, ON AND AFTER JULY FIRST, TWO THOUSAND SIXTEEN, REGARDLESS OF THE SITUS OF THE CONTRACT OR GROUP POLICYHOLDER, OR THE JURISDICTION IN WHICH THE CONTRACT WAS ISSUED OR DELIVERED, IS SUBJECT TO THIS ARTICLE.

S 4252. DISCLOSURES. (A) AN INSURER TRANSACTING PET INSURANCE IN NEW YORK SHALL DISCLOSE ALL OF THE FOLLOWING TO CONSUMERS:

(1) IF THE POLICY EXCLUDES COVERAGE DUE TO ANY OF THE FOLLOWING:

(I) A PREEXISTING CONDITION.

(II) A HEREDITARY DISORDER.

(III) A CONGENITAL ANOMALY OR DISORDER.

(IV) A CHRONIC CONDITION.

(2) IF THE POLICY INCLUDES ANY OTHER EXCLUSION, THE FOLLOWING STATEMENT: "OTHER EXCLUSIONS MAY APPLY. PLEASE REFER TO THE EXCLUSIONS SECTION OF THE POLICY FOR MORE INFORMATION" SHALL BE INCLUDED IN A FONT LARGE ENOUGH TO BE EASILY VISIBLE.

(3) ANY POLICY PROVISION THAT LIMITS COVERAGE THROUGH A WAITING OR AFFILIATION PERIOD, A DEDUCTIBLE, COINSURANCE, OR AN ANNUAL OR LIFETIME POLICY LIMIT.

(4) WHETHER THE INSURER REDUCES COVERAGE OR INCREASES PREMIUMS BASED ON THE INSURED'S CLAIM HISTORY.

(B) (1) IF A PET INSURER USES ANY OF THE DEFINITIONAL TERMS OF THIS ARTICLE IN A POLICY OF PET INSURANCE, THE INSURER SHALL USE THE DEFINITION OF THOSE TERMS AS SET FORTH IN THIS ARTICLE AND INCLUDE THE DEFINITION OF THE TERM IN THE POLICY. THE PET INSURER SHALL ALSO MAKE THAT DEFINITION AVAILABLE THROUGH A LINK ON THE MAIN PAGE OF THE INSURER'S INTERNET WEBSITE.

(2) NOTHING IN THIS ARTICLE IN ANY WAY PROHIBITS OR LIMITS THE TYPES OF EXCLUSIONS PET INSURERS MAY USE IN THEIR POLICIES UNLESS OTHERWISE STIPULATED, NOR DOES IT REQUIRE PET INSURERS TO HAVE ANY OF THE LIMITATIONS OR EXCLUSIONS DEFINED IN THIS ARTICLE, UNLESS OTHERWISE STIPULATED.

(C) A PET INSURER SHALL CLEARLY DISCLOSE A SUMMARY DESCRIPTION OF THE BASIS OR FORMULA ON WHICH THE INSURER DETERMINES CLAIM PAYMENTS UNDER A PET INSURANCE POLICY WITHIN THE POLICY AND THROUGH A LINK ON THE MAIN PAGE OF THE INSURER'S INTERNET WEBSITE.

(D) A PET INSURER THAT USES A BENEFIT SCHEDULE TO DETERMINE CLAIM PAYMENTS UNDER A PET INSURANCE POLICY SHALL DO BOTH OF THE FOLLOWING:

(1) CLEARLY DISCLOSE THE APPLICABLE BENEFIT SCHEDULE IN THE POLICY; AND

(2) DISCLOSE ALL BENEFIT SCHEDULES USED BY THE INSURER UNDER ITS PET INSURANCE POLICIES THROUGH A LINK ON THE MAIN PAGE OF THE INSURER'S INTERNET WEBSITE.

(E) A PET INSURER THAT DETERMINES CLAIM PAYMENTS UNDER A PET INSURANCE POLICY BASED ON USUAL AND CUSTOMARY FEES, OR ANY OTHER REIMBURSEMENT LIMITATION BASED ON PREVAILING VETERINARY SERVICE PROVIDER CHARGES, SHALL DO BOTH OF THE FOLLOWING:

(1) INCLUDE A USUAL AND CUSTOMARY FEE LIMITATION PROVISION IN THE POLICY THAT CLEARLY DESCRIBES THE INSURER'S BASIS FOR DETERMINING USUAL AND CUSTOMARY FEES AND HOW THAT BASIS IS APPLIED IN CALCULATING CLAIM PAYMENTS; AND

(2) DISCLOSE THE INSURER'S BASIS FOR DETERMINING USUAL AND CUSTOMARY FEES THROUGH A LINK ON THE MAIN PAGE OF THE INSURER'S INTERNET WEBSITE.

(F) THE INSURER SHALL CREATE A SUMMARY OF ALL POLICY PROVISIONS REQUIRED IN THIS SECTION INTO A SEPARATE DOCUMENT TITLED "INSURER DISCLOSURE OF IMPORTANT POLICY PROVISIONS."

(G) THE INSURER SHALL POST THE "INSURER DISCLOSURE OF IMPORTANT POLICY PROVISIONS" DOCUMENT REQUIRED IN THIS SECTION THROUGH A LINK ON THE MAIN PAGE OF THE INSURER'S INTERNET WEBSITE.

(H) (1) IN CONNECTION WITH THE ISSUANCE OF A NEW PET INSURANCE POLICY, THE INSURER SHALL PROVIDE THE CONSUMER WITH A COPY OF THE "INSURER DISCLOSURE OF IMPORTANT POLICY PROVISIONS" DOCUMENT REQUIRED PURSUANT TO THIS SECTION IN AT LEAST TWELVE POINT TYPE WHEN IT DELIVERS THE POLICY.

(2) IN ADDITION, THE PET INSURANCE POLICY SHALL HAVE CLEARLY PRINTED THEREON OR ATTACHED THERETO A NOTICE STATING THAT, AFTER RECEIPT OF THE POLICY BY THE OWNER, THE POLICY MAY BE RETURNED BY THE INSURED FOR CANCELLATION BY DELIVERING IT OR MAILING IT TO THE INSURER OR TO THE AGENT THROUGH WHOM IT WAS PURCHASED.

(I) THE PERIOD OF TIME SET FORTH BY THE INSURER FOR RETURN OF THE POLICY SHALL BE CLEARLY STATED ON THE NOTICE, AND THIS FREE LOOK PERIOD SHALL BE NOT LESS THAN THIRTY DAYS. THE INSURED MAY RETURN THE POLICY TO THE INSURER OR THE AGENT THROUGH WHOM THE POLICY WAS PURCHASED AT ANY TIME DURING THE FREE LOOK PERIOD SPECIFIED IN THE NOTICE.

(II) THE DELIVERY OR MAILING OF THE POLICY BY THE INSURED PURSUANT TO THIS SECTION SHALL VOID THE POLICY FROM THE BEGINNING, AND THE PARTIES SHALL BE IN THE SAME POSITION AS IF A POLICY OR CONTRACT HAD NOT BEEN ISSUED.

(III) ALL PREMIUMS PAID AND ANY POLICY FEE PAID FOR THE POLICY SHALL BE REFUNDED TO THE INSURED WITHIN THIRTY DAYS FROM THE DATE THAT THE INSURER IS NOTIFIED OF THE CANCELLATION. HOWEVER, IF THE INSURER HAS PAID ANY CLAIM, OR HAS ADVISED THE INSURED IN WRITING THAT A CLAIM WILL BE PAID, THE THIRTY DAY FREE LOOK RIGHT PURSUANT TO THIS SECTION IS INAPPLICABLE AND INSTEAD THE POLICY PROVISIONS RELATING TO CANCELLATION APPLY TO ANY REFUND.

(I) THE DISCLOSURES REQUIRED IN THIS SECTION SHALL BE IN ADDITION TO ANY OTHER DISCLOSURE REQUIREMENTS REQUIRED BY LAW OR REGULATION.

S 4253. PENALTIES. (A) A PERSON WHO VIOLATES A PROVISION OF THIS ARTICLE IS LIABLE TO THE STATE FOR A CIVIL PENALTY TO BE DETERMINED BY THE SUPERINTENDENT, NOT TO EXCEED FIVE THOUSAND DOLLARS FOR EACH VIOLATION, OR, IF THE VIOLATION WAS WILLFUL, A CIVIL PENALTY NOT TO EXCEED TEN THOUSAND DOLLARS FOR EACH VIOLATION. THE SUPERINTENDENT MAY ESTABLISH THE ACTS THAT CONSTITUTE A DISTINCT VIOLATION FOR PURPOSES OF THIS SECTION. HOWEVER, WHEN THE ISSUANCE, AMENDMENT, OR SERVICING OF A POLICY OR ENDORSEMENT IS INADVERTENT, ALL OF THOSE ACTS CONSTITUTE A SINGLE VIOLATION FOR PURPOSES OF THIS SECTION.

(B) THE PENALTY IMPOSED BY THIS SECTION SHALL BE IMPOSED BY AND DETERMINED BY THE SUPERINTENDENT. THE PENALTY IMPOSED BY THIS SECTION IS APPEALABLE.

S 4254. VIOLATIONS. (A) WHENEVER THE SUPERINTENDENT SHALL HAVE REASON TO BELIEVE THAT A PERSON HAS ENGAGED OR IS ENGAGING IN THIS STATE IN A VIOLATION OF THIS ARTICLE, AND THAT A PROCEEDING BY THE SUPERINTENDENT IN RESPECT THERETO WOULD BE TO THE INTEREST OF THE PUBLIC, HE OR SHE SHALL ISSUE AND SERVE UPON THAT PERSON AN ORDER TO SHOW CAUSE CONTAINING A STATEMENT OF THE CHARGES IN THAT RESPECT, A STATEMENT OF THAT PERSON'S POTENTIAL LIABILITY UNDER THIS PART, AND A NOTICE OF A HEARING THEREON TO BE HELD AT A TIME AND PLACE FIXED THEREIN, WHICH SHALL NOT BE LESS THAN THIRTY DAYS AFTER THE SERVICE THEREOF, FOR THE PURPOSE OF DETERMINING WHETHER THE SUPERINTENDENT SHOULD ISSUE AN ORDER TO THAT PERSON TO PAY THE PENALTY IMPOSED BY THIS ARTICLE AND TO CEASE AND DESIST THOSE METHODS, ACTS, OR PRACTICES, OR ANY OF THEM, THAT VIOLATE THIS ARTICLE.

(B) IF THE CHARGES ARE FOUND TO BE JUSTIFIED, THE SUPERINTENDENT SHALL ISSUE AND CAUSE TO BE SERVED UPON THAT PERSON AN ORDER REQUIRING THAT PERSON TO PAY THE PENALTY IMPOSED BY THIS ARTICLE AND TO CEASE AND DESIST FROM ENGAGING IN THOSE METHODS, ACTS, OR PRACTICES FOUND TO BE IN VIOLATION OF THIS ARTICLE.

(C) HEARINGS SHALL BE CONDUCTED ACCORDING TO THE PROCEDURE DESIGNATED BY THE SUPERINTENDENT.

(D) PARTIES TO SUCH HEARINGS SHALL BE ENTITLED TO HAVE THE PROCEEDINGS AND THE ORDER REVIEWED BY MEANS OF ANY REMEDY PROVIDED BY THE SUPERINTENDENT.

S 4255. RULES AND REGULATIONS. THE SUPERINTENDENT MAY ADOPT REASONABLE RULES AND REGULATIONS, AS ARE NECESSARY TO ADMINISTER THIS ARTICLE, IN ACCORDANCE WITH EXISTING PROCEDURES UNDER THIS CHAPTER.

S 2. This act shall take effect on the one hundred eightieth day after it shall have become a law.