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

7167

I N S E N A T E

April 5, 2016

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

AN ACT to amend the insurance law and the financial services law, in relation to the establishment of a state insurance advisory board and assessments for the funding of the department (Part A); to amend the insurance law, in relation to the establishment of an administrative procedure for guidance, regulations, inquiries and examinations by the department (Part B); to amend the insurance law, in relation to policy form filing procedures (Part C); to amend the insurance law, in relation to direct response marketing of life insurance (Part D); to amend the insurance law, in relation to the valuation of life insurance policies and contracts (Part E); and to amend the education law, in relation to requiring secondary school students to complete a financial literacy and personal finances course (Part F)

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

Section 1. This act shall be known and may be cited as the "Life Insurance Market Revitalization Act".

S 2. Legislative findings and intent. The legislature finds that the products offered to the people of this state by life insurance companies offer important financial protection to those people in crucial times of need. Life insurance policies provide families and businesses with important financial protection that allows them to carry on after a personal loss. Annuities provide people with regular income in retirement. Disability income insurance protects people from a loss of some or all of their income resultant from an accident or infirmity that keep them from work. The benefits derived from these types of products provide the citizens of this state with vital financial proceeds in times of need. This protection allows them to continue to meet their financial obligations, such as keeping up on rent or mortgage payments, paying for a family member's education or paying for daily expenses in retirement, following a personal loss, an illness or accident or a loss of employment income. Despite their importance, these types of insurance products are not required as a matter of law or policy, as is the case

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

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with other types of insurance products such as automobile or homeowners insurance. People who purchase these products are choosing to do so with discretionary income and competing priorities and are also often lacking a clear understanding of the importance of the financial protection the products provide. The legislature further finds it is in the interest of this state to assist in the promotion of these products, which provide its citizens with the tools to protect their own financial futures. In turn, the purchase of these products by the citizens of this state alleviates or reduces their need for public assistance in times of need, which decreases financial stress on the state. The legislature further finds that the economic downturn of 2008, coupled with a challenging regulatory environment, particularly in New York, and a decreased focus on the encouragement of financial literacy by the people of this state has negatively impacted sales of these financial protection products, which is to the detriment of the citizens of this state.

The legislature therefore finds that it is in the interest of this state to implement into New York law amendments to the insurance, financial services and education law that will assist in revitalizing the market for life insurance products in this state and will, in turn, inure to the benefit of the people of this state.

S 3. This act enacts into law major components of legislation which are necessary to implement the "Life Insurance Market Revitalization Act". Each component is wholly contained within a Part identified as Parts A through F. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes a reference to section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found. Section five of this act sets forth the general effective date of this act.

PART A

Section 1. The insurance law is amended by adding a new section 201 to read as follows:

S 201. STATE INSURANCE ADVISORY BOARD. (A) THERE SHALL BE WITHIN THE DEPARTMENT A STATE INSURANCE ADVISORY BOARD TO WORK WITH THE SUPERINTENDENT IN PROMOTING THE DEVELOPMENT AND GROWTH OF THE INSURANCE INDUSTRY IN THE STATE. THERE SHALL BE FIFTEEN MEMBERS OF THE ADVISORY BOARD WHO SHALL BE APPOINTED BY THE SUPERINTENDENT. THE MEMBERSHIP SHALL CONSIST OF: NINE REPRESENTATIVES OF DOMESTIC INSURANCE COMPANIES; AND FIVE REPRESENTATIVES OF FOREIGN INSURANCE COMPANIES THAT, TO THE EXTENT PRACTICABLE, REFLECT A RANGE OF SIZE AND GEOGRAPHICAL LOCATION WITHIN THE STATE. THE MEMBERSHIP SHALL ALSO INCLUDE ONE REPRESENTATIVE OF CONSUMERS. THE SUPERINTENDENT SHALL MAKE RULES TO GOVERN THE METHOD BY WHICH INSURERS MAY NOMINATE PERSONS TO THE BOARD AND THE PROCESS FOR SELECTING SUCH MEMBERS, PROVIDED THAT THE REPRESENTATIVE OF CONSUMERS SHALL BE SELECTED BY THE SUPERINTENDENT. THE TERM OF EACH MEMBER OF SUCH ADVISORY BOARD SHALL BE THREE YEARS, OR UNTIL A SUCCESSOR IS APPOINTED AND VACANCIES SHALL BE FILLED FOR THE UNEXPIRED TERM ONLY. THE BOARD SHALL MEET AT LEAST THREE TIMES ANNUALLY PURSUANT TO THE CALL OF THE SUPERINTENDENT. THE MEMBERS OF THE ADVISORY BOARD SHALL RECEIVE NO COMPENSATION NOR REIMBURSEMENT FOR EXPENSES. THE ADVISORY BOARD SHALL:

(1) CONSIDER AND RECOMMEND WAYS TO MAINTAIN AND GROW THE INSURANCE INDUSTRY OF THE STATE, PARTICULARLY FOCUSING ON THE DOMESTIC INSURANCE

INDUSTRY, INCLUDING BRINGING TO THE SUPERINTENDENT'S ATTENTION ISSUES OF CONCERN TO THE INSURANCE INDUSTRY;

(2) CONSIDER AND RECOMMEND WAYS TO ENCOURAGE AND FACILITATE INSURANCE INSTITUTIONS IN OFFERING A DIVERSITY OF AFFORDABLE INSURANCE AND FINANCIAL PRODUCTS THROUGHOUT THE STATE;

(3) RECOMMEND TO THE SUPERINTENDENT THE ESTABLISHMENT OF SUCH LAWS AS MAY BE DEEMED NECESSARY, AND THE AMENDMENT OR REPEAL THEREOF, IN FURTHERANCE OF THESE GOALS;

(4) RECOMMEND TO THE SUPERINTENDENT THE PROMULGATION OF ANY GUIDANCE AND REGULATIONS, NOT INCONSISTENT WITH THE LAW, AS MAY BE DEEMED NECESSARY, AND THE AMENDMENT OR REPEAL THEREOF, IN FURTHERANCE OF THESE GOALS; AND

(5) REPORT WITHIN THIRTY DAYS AFTER RECEIPT, ON ANY PROPOSED REGULATIONS, AMENDMENTS THERETO, OR REPEAL THEREOF, PRIOR TO FINAL ACTION THEREON BY THE SUPERINTENDENT.

(B) THE ADVISORY BOARD SHALL HAVE NO EXECUTIVE, ADMINISTRATIVE OR APPOINTIVE POWERS OR DUTIES.

S 2. Subsection (a) of section 206 of the financial services law is amended to read as follows:

(a) For each fiscal year commencing on or after April first, two thousand [twelve] SEVENTEEN, assessments to defray operating expenses, including all direct [and indirect] costs, of the department, except expenses incurred in the liquidation of banking organizations, shall be assessed by the superintendent in accordance with this subsection. Persons regulated under the insurance law shall be assessed by the superintendent for the operating expenses of the department that are solely attributable to regulating persons under the insurance law, which shall include any expenses that were permissible to be assessed in fiscal year two thousand nine-two thousand ten, with the assessments allocated pro rata upon all domestic insurers and all licensed United States branches of alien insurers domiciled in this state within the meaning of paragraph four of subsection (b) of section seven thousand four hundred eight of the insurance law, in proportion to the gross direct premiums and other considerations, written or received by them in this state during the calendar year ending December thirty-first immediately preceding the end of the fiscal year for which the assessment is made (less return premiums and considerations thereon) for policies or contracts of insurance covering property or risks resident or located in this state the issuance of which policies or contracts requires a license from the superintendent. Persons regulated under the banking law shall be assessed by the superintendent for the operating expenses of the department that are solely attributable to regulating persons under the banking law in such proportions as the superintendent shall deem just and reasonable. Operating expenses of the department not covered by the assessments set forth above shall be assessed by the superintendent in such proportions as the superintendent shall deem just and reasonable upon all domestic insurers and all licensed United States branches of alien insurers domiciled in this state within the meaning of paragraph four of subsection (b) of section seven thousand four hundred eight of the insurance law, and upon any regulated person under the banking law, other than mortgage loan originators, except as otherwise provided by sections one hundred fifty-one and two hundred twenty-eight of the workers' compensation law and by section sixty of the volunteer firefighters' benefit law. The provisions of this subsection shall not be applicable to a bank holding company, as that term is defined in article three-A of the banking law. Persons regulated under the banking law will

not be assessed for expenses that the superintendent deems to benefit solely persons regulated under the insurance law, and persons regulated under the insurance law will not be assessed for expenses that the superintendent deems to benefit solely persons regulated under the banking law.

S 3. This act shall take effect immediately.

PART B

Section 1. Section 301 of the insurance law is amended to read as follows:

S 301. Regulations by superintendent. (A) The superintendent shall have the power to prescribe and from time to time withdraw or amend, in writing, regulations, not inconsistent with the provisions of this chapter:

[(a)] (1) governing the duties assigned to the members of the staff of the department;

[(b)] (2) effectuating any power, given to him under the provisions of this chapter to prescribe forms or otherwise make regulations;

[(c)] (3) interpreting the provisions of this chapter; and

[(d)] (4) governing the procedures to be followed in the practice of the department.

(B) WHEN PROPOSING ANY REGULATION, RULE OR GUIDANCE, THE SUPERINTENDENT SHALL CONSIDER AND DETERMINE WHETHER OR NOT SUCH PROPOSAL WILL CAUSE UNDUE DELETERIOUS ECONOMIC EFFECT OR HAVE AN OVERLY BURDENSOME IMPACT UPON ANY LICENSED ENTITY UPON WHICH IT IS INTENDED TO BE IMPOSED, TAKING INTO PARTICULAR ACCOUNT ANY DISPROPORTIONATE IMPACT THAT IT MAY HAVE ON A DOMESTIC LICENSED ENTITY, AND WHETHER OR NOT THE PROPOSAL WILL NEGATIVELY IMPACT THE AFFORDABILITY OR AVAILABILITY OF A PRODUCT BEING OFFERED BY THE LICENSED ENTITY. IN MAKING THAT DETERMINATION, THE SUPERINTENDENT SHOULD SET FOURTH IN A WRITTEN STATEMENT THE PURPOSE OF, NECESSITY FOR AND EXPECTED BENEFITS TO BE DERIVED FROM THE PROPOSAL. SUCH STATEMENT SHALL ALSO DETAIL THE PROJECTED COSTS OF COMPLYING WITH THE PROPOSAL, WHICH SHALL INCLUDE:

(1) THE COSTS ASSOCIATED WITH IMPLEMENTING THE PROPOSAL BY THE LICENSED ENTITY, INCLUDING BUT NOT LIMITED TO HUMAN RESOURCE, TECHNOLOGY OR ADMINISTRATIVE COSTS, AND INCLUDING ANY ADDITIONAL COSTS THAT IT MIGHT IMPOSE UPON A DOMESTIC LICENSED ENTITY;

(2) WHETHER OR NOT THE PROPOSAL COULD NEGATIVELY IMPACT THE PRICING OR AVAILABILITY OF A PRODUCT BEING OFFERED BY THE LICENSED ENTITY;

(3) THE INFORMATION, INCLUDING THE SOURCE OR SOURCES OF SUCH INFORMATION, AND METHODOLOGY UPON WHICH THE COST ANALYSIS IS BASED; OR

(4) WHERE THE SUPERINTENDENT FINDS THAT IT CANNOT FULLY PROVIDE A STATEMENT OF SUCH COSTS, A STATEMENT SETTING FORTH ITS BEST ESTIMATE, WHICH SHALL INDICATE THE INFORMATION AND METHODOLOGY UPON WHICH SUCH BEST ESTIMATE IS BASED AND THE REASON OR REASONS WHY A COMPLETE COST STATEMENT CANNOT BE PROVIDED.

A COPY OF THE PROPOSED REGULATION, RULE OR GUIDANCE, ALONG WITH THE WRITTEN STATEMENT REQUIRED PURSUANT TO THIS SUBSECTION, SHALL BE MADE AVAILABLE TO THE LICENSED ENTITY UPON WHICH THE PROPOSAL WILL BE IMPOSED PRIOR TO A PROPOSED RULE OR REGULATION'S OFFICIAL PUBLICATION PURSUANT TO THE STATE ADMINISTRATIVE PROCEDURE ACT AND PRIOR TO THE ISSUANCE OF THE GUIDANCE.

S 2. Paragraph 1 of subsection (a) of section 308 of the insurance law, amended by chapter 499 of the laws of 2009, is amended to read as follows:

(1) The superintendent may also address to any health maintenance organization, life settlement provider, life settlement intermediary or its officers, or any authorized insurer or rate service organization, or officers thereof, any inquiry in relation to its transactions or condition or any matter connected therewith. (A) PRIOR TO IMPOSING ANY SUCH INQUIRY, THE SUPERINTENDENT SHALL CONSIDER AND DETERMINE WHETHER OR NOT THE INQUIRY WILL CAUSE UNDUE DELETERIOUS ECONOMIC EFFECT OR HAVE ON OVERLY BURDENSOME IMPACT UPON THE REGULATED PERSON INTENDED FOR RECEIPT OF THE INQUIRY. IN MAKING THAT DETERMINATION, THE SUPERINTENDENT SHOULD SET FORTH IN A WRITTEN STATEMENT THE PURPOSE OF, NECESSITY FOR AND EXPECTED BENEFITS TO BE DERIVED FROM THE INQUIRY. SUCH STATEMENT SHALL ALSO DETAIL THE PROJECTED COSTS OF RESPONDING TO THE INQUIRY WHICH SHALL INCLUDE:

(I) THE COSTS FOR PREPARING A RESPONSE TO THE INQUIRY BY THE REGULATED PERSON INTENDED FOR THE RECEIPT OF THE INQUIRY, INCLUDING BUT NOT LIMITED TO HUMAN RESOURCE, TECHNOLOGY OR ADMINISTRATIVE COSTS;

(II) THE INFORMATION, INCLUDING THE SOURCE OR SOURCES OF SUCH INFORMATION, AND METHODOLOGY UPON WHICH THE COST ANALYSIS IS BASED; OR

(III) WHERE THE SUPERINTENDENT FINDS THAT IT CANNOT FULLY PROVIDE A STATEMENT OF SUCH COSTS, A STATEMENT SETTING FORTH ITS BEST ESTIMATE, WHICH SHALL INDICATE THE INFORMATION AND METHODOLOGY UPON WHICH SUCH BEST ESTIMATE IS BASED AND THE REASON OR REASONS WHY A COMPLETE COST STATEMENT CANNOT BE PROVIDED. THE WRITTEN STATEMENT SHALL BE MADE AVAILABLE TO THE REGULATED PERSON INTENDED FOR RECEIPT OF THE INQUIRY PRIOR TO THE IMPOSITION OF THE INQUIRY.

(B) Every corporation or person so addressed shall reply in writing to such inquiry [promptly and] truthfully AND WITHIN A REASONABLE PERIOD OF TIME, and such reply shall be, if required by the superintendent, subscribed by such individual, or by such officer or officers of a corporation, as the superintendent shall designate, and affirmed by them as true under the penalties of perjury.

S 3. Section 311 of the insurance law is amended to read as follows:

S 311. Filing of report on examination. (a) Except as hereinafter provided the superintendent may withhold from public inspection for such time as he deems proper any report on examination made pursuant to section three hundred ten of this article.

(b) (1) AN EXAMINATION SHALL BE CONSIDERED CLOSED WHEN THE REPORT ON EXAMINATION IS ADOPTED BY THE SUPERINTENDENT. Before adopting any such report and filing it for public inspection, the superintendent shall notify the insurer or other person examined of its contents [and], WHETHER ANY FINE WILL BE IMPOSED OR ANY REGULATORY ACTION WILL BE TAKEN AS A RESULT OF THE EXAMINATION AND THE AMOUNT OF ANY FINE TO BE IMPOSED OR NATURE OF ANY REGULATORY ACTION TO BE TAKEN. THE SUPERINTENDENT shall ALSO afford such insurer or other person a reasonable opportunity to obtain further details and to demand a hearing with reference to facts, conclusions or recommendations [therein] contained IN THE REPORT, OR ANY FINE TO BE IMPOSED OR REGULATORY ACTION TO TAKEN AS A RESULT OF THE EXAMINATION.

(2) If a hearing is requested within ten days after [the giving] RECEIPT of [such] THE notice REQUIRED PURSUANT TO PARAGRAPH ONE OF THIS SUBSECTION, the superintendent shall give notice and a hearing in accordance with the provisions of this article. Such hearing shall be held before the superintendent or a deputy superintendent.

(c) The report on examination, with modifications thereof, if any, shall be [accepted] ADOPTED by the superintendent and filed for public inspection within six months after WRITTEN ACCEPTANCE OF THE REPORT BY

THE INSURER OR OTHER PERSON EXAMINED, OR THE final hearing thereon [and if he]. IF THE SUPERINTENDENT deems it in the public interest to do so, he OR SHE may publish any such report or any excerpt therefrom or summary thereof, in one or more newspapers in the state.

(d) In any action or proceeding in the name of the people against the insurer or other person examined, or any officer or agent thereof, such report, if adopted by the superintendent and filed for public inspection, shall be admissible in evidence and shall be presumptive evidence of the facts stated therein.

(e) NO FINE MAY BE IMPOSED ON OR REGULATORY ACTION TAKEN AGAINST AN INSURER AS A RESULT OF AN EXAMINATION UNLESS THE AMOUNT OF THE FINE OR THE NATURE OF THE REGULATORY ACTION WAS DISCLOSED IN THE NOTICE REQUIRED IN PARAGRAPH ONE OF SUBSECTION (B) OF THIS SECTION.

(F) Nothing herein contained shall preclude the superintendent from instituting any proceeding under article seventy-four of this chapter at any time or from using as proof in such proceeding any report on examination or part thereof, whether or not such report has been adopted and filed.

(G) THE SUPERINTENDENT SHALL NOT BEGIN AN EXAMINATION OF AN INSURER UNLESS AND UNTIL ALL PREVIOUS EXAMINATIONS OF THE INSURER HAVE BEEN CLOSED.

S 4. This act shall take effect immediately.

PART C

Section 1. Paragraphs 1, 2, 3 and 4 of subsection (c) of section 3201 of the insurance law, the opening paragraph of paragraph 4 as amended by chapter 275 of the laws of 2014, is amended to read as follows:

(1) The superintendent may disapprove any policy form for delivery or issuance for delivery in this state if he finds [that the same] IT contains any provision or has any title, heading, backing or other indication of the contents of any or all of its provisions, which is likely to mislead the policyholder, contract holder or certificate holder AND WHICH IS CONTRARY TO LAW OR REGULATION.

(2) The superintendent may disapprove any life insurance policy form, or any form of annuity contract or group annuity certificate, or any form of funding agreement for delivery or issuance for delivery in this state, if its issuance would be prejudicial to the interests of policyholders or members or it contains provisions which are unjust, unfair or inequitable AND ITS ISSUANCE WOULD BE CONTRARY TO LAW OR REGULATION.

(3) The superintendent may disapprove any accident and health insurance policy form for delivery or issuance for delivery in this state if the benefits provided therein are unreasonable in relation to the premium charged or any such form contains provisions which encourage misrepresentation or are unjust, unfair, inequitable, misleading[,] OR deceptive[, or] AND contrary to law or to the public policy of this state.

(4) The superintendent shall not approve any life insurance policy form containing any war or travel exclusion or restriction, for delivery or issuance for delivery in this state, unless such policy form shall have printed or stamped across its face in [red and in] BOLD capital letters not smaller than twelve point type[, or in an equally prominent manner established at the discretion of the superintendent and promulgated through regulations,] the following:

"Read your policy (certificate) carefully.

"Certain (war, travel) risks are not assumed.

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(state which or both)
In case of any doubt write your company (society) for further explanation."
S 2. This act shall take effect immediately.

PART D

Section 1. Section 3209 of the insurance law, as amended by chapter 616 of the laws of 1997, subsection (b) as amended by chapter 170 of the laws of 2008, subparagraph (H) as amended, subparagraph (I) as added and subparagraph (J) of paragraph 2 of subsection (b) as relettered by chapter 535 of the laws of 2013, paragraph 1 of subsection (d), paragraph 2 of subsection (e) and subsection (h) as amended by chapter 13 of the laws of 2002, is amended to read as follows:
S 3209. Life insurance, annuities and funding agreements disclosure requirements. (a) Except as hereafter exempted, this section shall apply to any solicitation, negotiation or procurement of life insurance, annuities or funding agreements occurring within this state. This section shall apply to any issuer of life insurance or annuity contracts or funding agreements, including fraternal benefit societies and the life insurance department of a savings and insurance bank. Unless otherwise specifically included, this section shall not apply to: credit life insurance; group life insurance; life insurance policies, annuity contracts, and funding agreements issued in connection with pension and welfare plans as defined by and to the extent covered by the federal Employee Retirement Income Security Act of 1974 (ERISA); funding agreements issued to other than individuals pursuant to subsection (b) of section three thousand two hundred twenty-two of this article; and any group annuity unless at least one certificate is subject to paragraph two of subsection (b) of section four thousand two hundred twenty-three of this chapter.
(b) (1) No policy of life insurance shall be delivered or issued for delivery in this state [after the applicable effective date, as set forth in subsection (n) of this section,] unless, AT OR PRIOR TO DELIVERY TO THE POLICY, the prospective purchaser has been provided with the following:
(A) a copy of the most recent buyer's guide; and [the preliminary information required by subsection (d) of this section, at or prior to the time an application is taken. When sales solicitations are made by mail, without the involvement of an agent or broker, each initial solicitation must include a copy of the buyer's guide unless the policy for which application is made provides for a period of at least thirty days within which the applicant may return the policy for an unconditional refund of the premiums paid, in which event the buyer's guide must be delivered with the policy or prior to delivery of the policy; in addition, such solicitation must alert the prospective purchaser of the right to receive, upon request, a buyer's guide and a policy summary prior to delivery of the policy; and]
(B) a policy summary [upon delivery of the policy], PROVIDED THAT THE POLICYHOLDER MAY RETURN THE POLICY FOR AN UNCONDITIONAL REFUND OF THE PREMIUMS PAID WITHIN THE PERIOD OF TIME PROVIDED UNDER PARAGRAPH ELEVEN OF SUBSECTION (A) OF SECTION THREE THOUSAND TWO HUNDRED THREE OF THIS ARTICLE AND PARAGRAPH THIRTEEN OF SUBSECTION (A) OF SECTION FOUR THOUSAND TWO HUNDRED FORTY OF THIS CHAPTER.
(2) No annuity contract or life insurance policy or certificate with an equity index account shall be delivered or issued for delivery in

this state unless, [no later than at the time of application] AT OR PRIOR TO DELIVERY OF THE CONTRACT, the prospective purchaser has been provided with a disclosure statement containing the following:

(A) a statement in bold type to the effect that the equity index account provides benefits linked to an external equity index and does not participate directly in the equity market;

(B) a statement identifying the equity index used in the equity index formula, together with a description of any alternate index should the initial index no longer be publicly available;

(C) a statement indicating whether paid dividends are included in changes in the equity index, together with a description of how such dividends, or lack thereof, would affect the changes in the equity index; the statement must provide the average dividend rate over the lesser of ten years or the calculable life of the index;

(D) a statement fully describing the equity index formula;

(E) a statement explaining and illustrating the equity index formula including any features of the equity index formula subject to change after issuance of the contract, policy or certificate;

(F) a statement identifying the initial minimum guaranteed interest rate for the minimum accumulation value of an equity index account and any withdrawal charge;

(G) a statement identifying the initial current and the minimum specified participation rate, i.e., how much of the increase in the index will be used to calculate the indexed linked interest rate, if any;

(H) a statement identifying the initial current and the minimum upper limit or cap on the indexed linked interest rate, if any;

(I) for a life insurance policy crediting additional amounts in accordance with an equity index less frequently than annually, a statement to the effect that: if the policyholder requests a full surrender of a policy prior to the expiration of the equity index crediting period, no additional interest based on the equity index will be credited and that only the guaranteed interest will be credited to the account; and the policyholder is advised to consider alternatives to a full surrender of the policy prior to the expiration of the equity index crediting period, such as a policy loan or, if available, a partial withdrawal of the policy; and

(J) other disclosure information the superintendent deems appropriate.

(c) Every insurer must provide, to any policyholder who so requests, a policy summary for each in-force premium-paying policy for which no policy summary has ever been furnished. The insurer may charge the policyholder a reasonable fee for preparation of this summary, subject to guidelines specified in rules promulgated by the superintendent.

(d) [The preliminary information shall be in writing and include, to the extent applicable, the following:

(1) the name and address of the insurance agent or broker or, if no agent or broker is involved, a statement of the procedure to be followed in order to receive responses to inquiries concerning the preliminary information;

(2) the full name and home office, administrative office or branch or agency office address of the company in whose name the life insurance policy is to be written;

(3) the date of the preliminary information and the generic name, the initial amount of insurance and the initial annual premium for the basic policy;

(4) the total guaranteed cash surrender values for the basic policy, at the end of the tenth and twentieth policy years or at the end of the

premium-paying period if earlier. These values may be shown on a per thousand or per unit basis;

(5) the effective policy loan annual percentage interest rate, if the policy would contain this provision, and whether this rate is applied in advance or in arrears, adjustable or fixed;

(6) for the life insurance policies described in paragraph one of subsection (n) of this section, life insurance cost indexes and the equivalent level annual dividend for the basic policy for ten and twenty years, but in no case beyond the premium-paying period;

(7) in addition, the applicant shall be advised that, when the policy is issued, a complete policy summary, including cost data, based on the benefits, premiums and dividends of the policy as issued, will be furnished; and that, following the receipt of the policy and policy summary, there will be a period of not less than ten days within which the applicant may return the policy for an unconditional refund of the premiums paid; and

(8) notwithstanding the foregoing, no applicant for life insurance shall be prevented or delayed in effecting or applying for coverage by the requirements of this section. In such cases where prior to application it is impractical to provide any items prescribed by this section, such items may be estimated in good faith or furnished as soon thereafter as practical prior to delivery of policy.

(e)] A policy summary shall include the following:

(1) a prominently placed title as follows:

"STATEMENT OF POLICY COST AND BENEFIT INFORMATION";

(2) the name and address of the insurance agent or broker, or, if no agent or broker is involved, a statement of the procedure to be followed in order to receive responses to inquiries regarding the policy summary;

(3) the full name and home office, administrative office or branch or agency office address of the company in whose name the life insurance policy is to be or has been written;

(4) the generic name of the basic policy and each rider;

(5) [for the life insurance policies described in paragraph one of subsection (n) of this section,] the following amounts, where applicable, for the first five policy years and representative policy years thereafter sufficient to clearly illustrate the premium and benefit patterns, including the years for which life insurance cost indexes are displayed and at least one age from sixty through sixty-five or maturity, whichever is earlier:

(A) the annual premium for the basic policy;

(B) the annual premium for each optional rider;

(C) guaranteed amount payable upon death at the beginning of the policy year regardless of the cause of death, other than suicide or other specifically enumerated exclusions, which is provided by the basic policy and each optional rider, with benefits provided under the basic policy and each rider shown separately;

(D) total guaranteed cash surrender values at the end of the year with values shown separately for the basic policy and each rider;

(E) cash dividends payable at the end of the year with values shown separately for the basic policy and each rider. Dividends need not be displayed beyond the twentieth policy year; and

(F) guaranteed endowment amounts payable under the policy which are not included in guaranteed cash surrender values above;

(6) the effective policy loan annual percentage interest rate if the policy contains this provision, specifying whether this rate is applied in advance or in arrears. If the policy provides for an adjustable loan

interest rate, the policy summary shall so state, shall set forth the frequency at which the rate is to be determined for that policy, and shall describe the index upon which the maximum rate is based at the time the policy is issued;

(7) [for the life insurance policies described in paragraph one of subsection (n) of this section:] (A) life insurance cost indexes for ten and twenty years but in no case beyond the premium-paying period. Separate indexes are to be displayed for the basic policy and for each optional term life insurance rider. Such indexes need not be included for optional riders which are limited to benefits such as accidental death benefits, disability waiver of premium, preliminary term life insurance coverage of less than twelve months and guaranteed insurability benefits, nor for basic policies or optional riders covering more than one life;

(B) the equivalent level annual dividend, in the case of participating policies and participating optional term life insurance riders, under the same circumstances and for the same durations at which life insurance cost indexes are displayed;

(8) a policy summary which includes dividends shall also include a statement that dividends are based on the company's current dividend scale and are not guaranteed; in addition, the summary shall[, for the life insurance policies described in paragraph one of subsection (n) of this section,] include a statement in close proximity to the equivalent level annual dividend as follows: "An explanation of the intended use of the equivalent level annual dividend is included in the buyer's guide";

(9) a statement in close proximity to the life insurance cost indexes as follows:

"AN EXPLANATION OF THE INTENDED USE OF THESE INDEXES IS PROVIDED IN THE BUYER'S GUIDE"; and

(10) the date on which the policy summary is prepared.

[(f)] (E) The policy summary must be a separate document. All information required to be disclosed must be set out in such a manner as not to minimize or render any portion thereof obscure. Any amounts which remain level for two or more years of the policy may be represented by a single number if it is clearly indicated what amounts are applicable for each policy year. Amounts in paragraph five of subsection [(e)] (D) of this section shall be listed in total, not on a per thousand or per unit basis. If more than one insured is covered under one policy or rider, guaranteed death benefits shall be displayed separately for each insured or for each class of insureds if death benefits do not differ within the class. Zero amounts shall be displayed as zero and shall not be displayed as a blank space.

[(g)] (F) Every insurer shall maintain, at its home office or principal office, a complete file containing one copy of each policy summary form authorized by the insurer for use pursuant to this section.

[(h)] (G) An agent or broker shall inform a prospective purchaser, prior to commencing a life insurance sales presentation, that he is acting as a life insurance agent or broker, and inform the prospective purchaser of the full name of the insurer which he is representing. In sale situations in which an agent or broker is not involved, the insurer shall identify its full name.

[(i)] (H) As used in this section, "buyer's guide" means a separate document published and disseminated by insurers. The language therein shall be promulgated by the superintendent, and shall, to the extent practicable and in the public interest as determined by the superinten-

dent, be consistent with the latest version of a buyer's guide as adopted by the national association of insurance commissioners.

[(j)] (I) For life insurance policies, except term life insurance policies, which are to be issued to qualify for special tax treatment under subsection (b) of section four hundred three of the Internal Revenue Code of 1986, as amended, a written notice shall be delivered to the proposed insured in a manner satisfactory to the superintendent at or prior to the time an application is taken and shall read as follows: "The purchase of a life insurance policy with cash value, which qualifies for special tax treatment under section 403(b) of the Internal Revenue Code of 1986, as amended, may not be appropriate for individuals seeking to maximize the accumulation of funds for retirement or for individuals seeking life insurance coverage primarily to provide a survivorship benefit for the spouse in the event of death prior to retirement. If an individual needs coverage to continue after retirement, current tax laws require the commencement of taxable distributions under the tax sheltered annuity plan (TSA) no later than age seventy and one-half which may necessitate some adjustment in the cash value life insurance policy or may result in increased insurance costs in future policy years. You should consult with your tax advisor before purchasing life insurance with cash value as part of a tax sheltered annuity (TSA)."

[(k)] (J) The superintendent shall promulgate by regulation the contents [and], allowable format [of the preliminary information] and [the] information to appear in the policy summary. The superintendent shall also promulgate by regulation standards governing the content, format and use of illustrations of individual life insurance policies and certain group life insurance policies and certificates, life insurance policies subject to section four thousand two hundred thirty-two of this chapter, variable life insurance policies under which the death benefits and cash values vary in accordance with the unit values of investments held in a separate account and individual annuities, individual funding agreements, variable annuities, and group annuity contracts if any certificate is issued to which paragraph two of subsection (b) of section four thousand two hundred twenty-three of this chapter applies. The illustration regulation shall be consistent, to the greatest extent practicable and in the public interest as determined by the superintendent, with the illustration regulations as adopted by the national association of insurance commissioners. The superintendent in developing regulations to govern the content and format of the [preliminary information,] policy summary and illustrations shall ensure that such forms are presented in an easy, concise and meaningful way to enable consumers to understand the operation of the policy or contract.

[(l)] (K) An insurer of any life insurance policy or annuity contract subject to this section shall notify the superintendent whether its policies or contract forms have been or will be marketed with or without an illustration. For those policies and contracts marketed with an illustration which complies with the regulations promulgated pursuant to subsection [(k)] (J) of this section, no [preliminary information or] policy summary shall be required. For those policies which are not marketed with an illustration, the [preliminary information and] policy summary shall be provided pursuant to the provisions of this section.

[(m)] (L) The superintendent, by regulation, shall determine the applicability of the illustration regulation promulgated pursuant to subsection [(k)] (J) of this section to group life insurance policies and group annuities and funding agreements. Such determination shall be

consistent, to the greatest extent practicable and in the public interest, with the illustration regulations as adopted by the national association of insurance commissioners.

[(n) The effective dates of this section as applied to policies of life insurance, annuity contracts, and funding agreements shall be as follows:

(1) for individual life insurance policies, certain group life insurance policies and certificates and life insurance policies subject to section four thousand two hundred thirty-two of this chapter, January first, nineteen hundred ninety-eight;

(2) for annuities and funding agreements, the date of promulgation of regulations by the superintendent pursuant to subsection (k) of this section but not later than June thirty, nineteen hundred ninety-eight;

(3) for variable life insurance policies and variable annuities, the date of promulgation of regulations by the superintendent but not later than January first, nineteen hundred ninety-nine.

No less than three months prior to promulgating the regulations required to implement subsection (k) of this section pursuant to paragraphs two and three of this subsection, the superintendent shall hold public hearings on such regulations.]

S 2. Paragraph 3 of subsection (a) of section 2123 of the insurance law, as amended by section 37-a of part D of chapter 56 of the laws of 2013, is amended and a new paragraph 4 is added to read as follows:

(3) Any replacement of individual life insurance policies or individual annuity contracts of an insurer by an agent, representative of the same or different insurer or broker shall conform to standards promulgated by regulation by the superintendent. Such regulation shall:

(A) specify what constitutes the replacement of a life insurance policy or annuity contract and the proper disclosure and notification procedures to replace a policy or contract;

(B) require notification of the proposed replacement to the insurer whose policies or contracts are intended to be replaced;

(C) IN THE CASE OF AN APPLICATION THAT IS INITIATED AS A RESULT OF A DIRECT RESPONSE SOLICITATION, INCLUDE PROVISIONS RELATING TO THE DUTIES OF INSURERS WITH RESPECT TO DIRECT RESPONSE SOLICITATIONS THAT ARE CONSISTENT WITH THE LIFE INSURANCE AND ANNUITIES REPLACEMENT REGULATION AS ADOPTED BY THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS;

(D) require the timely exchange of illustrative and cost information required by section three thousand two hundred nine of this chapter and necessary for completion of a comparison of the proposed and replaced coverage; and

[(D)] (E) provide for a sixty-day period following issuance of the replacement policies or contracts during which the policy or contract owner may return the policies or contracts and reinstate the replaced policies or contracts.

(4) FOR PURPOSES OF PARAGRAPH THREE OF THIS SUBSECTION, "DIRECT RESPONSE SOLICITATION" MEANS A SOLICITATION THROUGH A SPONSORING OR ENDORSING ENTITY OR INDIVIDUALLY SOLELY THROUGH THE MAIL, TELEPHONE, THE INTERNET OR OTHER MASS COMMUNICATION MEDIA.

S 3. Paragraph 6 of subsection (a) of section 4226 of the insurance law, as added by chapter 616 of the laws of 1997 is amended and a new subsection (e) is added to read as follows:

(6) replace the individual life insurance policies or individual annuity contracts of an insurer by the same or different insurer without conforming to the standards promulgated by regulation by the superintendent. Such regulation shall:

(A) specify what constitutes the replacement of a life insurance policy or annuity contract and the proper disclosure and notification procedures to replace a policy or contract;

(B) require notification of the proposed replacement to the insurer whose policies or contracts are intended to be replaced;

(C) IN THE CASE OF AN APPLICATION THAT IS INITIATED AS A RESULT OF A DIRECT RESPONSE SOLICITATION, INCLUDE PROVISIONS RELATING TO THE DUTIES OF INSURERS WITH RESPECT TO DIRECT RESPONSE SOLICITATIONS THAT ARE CONSISTENT WITH THE LIFE INSURANCE AND ANNUITIES REPLACEMENT REGULATION AS ADOPTED BY THE NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS;

(D) require the timely exchange of illustrative and cost information required by section three thousand two hundred nine of this chapter and necessary for completion of a comparison of the proposed and replaced coverage; and

[(D)] (E) provide for a sixty-day period following issuance of the replacement policies or contracts during which the policy or contract owner may return the policies or contracts and reinstate the replaced policies or contracts.

(E) FOR PURPOSES OF PARAGRAPH SIX OF SUBSECTION (A) OF THIS SECTION, "DIRECT RESPONSE SOLICITATION" MEANS A SOLICITATION THROUGH A SPONSORING OR ENDORSING ENTITY OR INDIVIDUAL SOLELY THROUGH THE MAIL, TELEPHONE, THE INTERNET OR OTHER MASS COMMUNICATION MEDIA.

S 4. This act shall take effect immediately.

PART E

Section 1. Paragraph 1 of subsection (a) of section 4217 of the insurance law, as amended by chapter 22 of the laws of 1994, is amended to read as follows:

(1) The superintendent shall annually [value, or] cause EVERY LIFE INSURANCE COMPANY DOING BUSINESS IN THIS STATE to [be valued,] VALUE the reserve liabilities (hereinafter called reserves) for all ITS outstanding insurance policies and contracts [of every life insurance company doing business in this state], except that, in the case of an alien company, such valuation shall be limited to its United States business[, and may]. THE SUPERINTENDENT SHALL certify the amount of any such reserves, specifying the mortality table or tables, rate or rates of interest and methods (net level premium method or other) used in the calculation of such reserves, UNLESS THE SUPERINTENDENT DETERMINES THAT THE MEMORANDUM PREPARED PURSUANT TO PARAGRAPH THREE OF SUBSECTION (E) OF THIS SECTION TO SUPPORT THE ACTUARIAL OPINION OF RESERVES REQUIRED BY PARAGRAPH ONE OF SUBSECTION (E) OF THIS SECTION FAILS TO MEET THE STANDARDS PRESCRIBED BY REGULATION. In calculating such reserves, [the superintendent] LIFE INSURANCE COMPANIES may use group methods and approximate averages for fractions of a year or otherwise.

S 2. Paragraph 1 of subsection (e) of section 4217 of the insurance law, as added by chapter 22 of the laws of 1994, is amended to read as follows:

(1) General. Every life insurance company doing business in this state shall annually submit the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the superintendent by regulation are computed appropriately, are based on assumptions which satisfy contractual provisions, are consistent with prior reported amounts and comply with applicable laws of this state. The superintendent [by regulation] shall

define the specifics of this opinion and add any other items deemed to be necessary to its scope SOLELY BY REGULATION.

S 3. Subparagraph (C) of paragraph 4 of subsection (e) of section 4217 of the insurance law, as added by chapter 22 of the laws of 1994, is amended to read as follows:

(C) The opinion shall be based on standards adopted from time to time by the Actuarial Standards Board and on such additional standards as the superintendent may by regulation prescribe. THE SUPERINTENDENT SHALL NOT PRESCRIBE ANY ASSUMPTIONS OR OTHER ADDITIONAL STANDARDS TO BE USED BY THE QUALIFIED ACTUARY WHEN FORMING THE OPINION BEYOND THOSE PRESCRIBED BY REGULATION.

S 4. Paragraph 4 of subsection (f) of section 4217 of the insurance law, as added by chapter 22 of the laws of 1994, is amended to read as follows:

(4) [Without the specific approval of the superintendent subject to such conditions as he may prescribe and as provided by regulation, an insurer shall not] AN INSURER MAY aggregate the reserves referred to in [two or more of paragraph] PARAGRAPHS one, two [or] AND three of this subsection. [Such regulation may prescribe the conditions under which the valuation of two or more classes of business of insurance or the valuation of all of its insurance business to which this section applies may be combined.] THE SUPERINTENDENT MAY, SOLELY BY REGULATION, REQUIRE INSURERS TO SHOW THE RESULTS OF ASSET ADEQUACY ANALYSIS AS TO THE ADEQUACY OF RESERVES REFERRED TO IN PARAGRAPHS ONE, TWO AND THREE OF THIS SUBSECTION SEPARATELY IN THE ACTUARIAL MEMORANDUM PREPARED PURSUANT TO PARAGRAPH THREE OF SUBSECTION (E) OF THIS SECTION, BUT MAY NOT PROHIBIT INSURERS FROM AGGREGATING THE RESERVES REFERRED TO IN PARAGRAPHS ONE, TWO AND THREE OF THIS SUBSECTION FOR THE PURPOSES OF MEETING THE MINIMUM STANDARDS FOR THE VALUATION OF LIFE INSURANCE POLICIES, ANNUITIES AND GUARANTEED INVESTMENT CONTRACTS, AND INDIVIDUAL AND GROUP ACCIDENT AND HEALTH INSURANCE POLICIES.

S 5. This act shall take effect immediately.

PART F

Section 1. Section 305 of the education law is amended by adding a new subdivision 53-a to read as follows:

53-A. THE COMMISSIONER IS AUTHORIZED AND DIRECTED TO DEVELOP AN CONCISE COURSE OF INSTRUCTION IN FINANCIAL LITERACY AND PERSONAL FINANCES, AND REQUIRE THAT SUCH COURSE BE COMPLETED BY PUPILS IN GRADES ELEVEN AND TWELVE. SUCH COURSE OF INSTRUCTION MAY BE INCORPORATED INTO OTHER CLASS WORK OR COURSES OF INSTRUCTION PROVIDED TO SUCH PUPILS. THE FINANCIAL LITERACY COURSE MAY INCLUDE, BUT NEED NOT BE LIMITED TO INSTRUCTION ON USING CHECKING AND SAVINGS ACCOUNTS, OBTAINING SHORT OR LONG TERM CREDIT, SECURING A LOAN FOR HIGH COST ITEMS SUCH AS A MOTOR VEHICLE OR A HOME, OBTAINING AND USING CREDIT AND DEBIT CARDS, PURCHASING FINANCIAL PROTECTION INSURANCE PRODUCTS AND INVESTING AND SAVING MONEY, AND PLANNING FOR RETIREMENT.

S 2. This act shall take effect on the first of September in the calendar year commencing after the date it shall have become law; and, provided, however, that the commissioner of education is immediately authorized and directed to promulgate, amend and/or repeal any rules and regulations necessary to implement the provisions on this act on its effective date.

S 4. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by a court of compe-

tent jurisdiction to be invalid, such judgement shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgement shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

S 5. This act shall take effect immediately provided, however, that the applicable effective date of Parts A through F of this act shall be as specifically set forth in the last section of such Parts.