

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:

1 Section 1. The insurance law is amended by adding a new article 42-A  
2 to read as follows:

3 ARTICLE 42-A  
4 PET INSURANCE

5 SECTION 4250. DEFINITIONS.

6 4251. APPLICABILITY.

7 4252. DISCLOSURES.

8 4253. PENALTIES.

9 4254. VIOLATIONS.

10 4255. RULES AND REGULATIONS.

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

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

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

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

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

22 (E) "PREEXISTING CONDITION" SHALL MEAN ANY CONDITION FOR WHICH A  
23 VETERINARIAN PROVIDED MEDICAL ADVICE, THE PET RECEIVED TREATMENT FOR, OR  
24 THE PET DISPLAYED SIGNS OR SYMPTOMS CONSISTENT WITH THE STATED CONDITION  
25

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

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

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

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

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

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

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

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

22 (I) A PREEXISTING CONDITION.

23 (II) A HEREDITARY DISORDER.

24 (III) A CONGENITAL ANOMALY OR DISORDER.

25 (IV) A CHRONIC CONDITION.

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

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

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

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

41 (2) NOTHING IN THIS ARTICLE IN ANY WAY PROHIBITS OR LIMITS THE TYPES  
42 OF EXCLUSIONS PET INSURERS MAY USE IN THEIR POLICIES UNLESS OTHERWISE  
43 STIPULATED, NOR DOES IT REQUIRE PET INSURERS TO HAVE ANY OF THE LIMITA-  
44 TIONS OR EXCLUSIONS DEFINED IN THIS ARTICLE, UNLESS OTHERWISE STIPU-  
45 LATED.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

53 (B) THE PENALTY IMPOSED BY THIS SECTION SHALL BE IMPOSED BY AND DETER-  
54 MINED BY THE SUPERINTENDENT. THE PENALTY IMPOSED BY THIS SECTION IS  
55 APPEALABLE.

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

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

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

20 (D) PARTIES TO SUCH HEARINGS SHALL BE ENTITLED TO HAVE THE PROCEEDINGS  
21 AND THE ORDER REVIEWED BY MEANS OF ANY REMEDY PROVIDED BY THE SUPER-  
22 INTENDENT.

23 S 4255. RULES AND REGULATIONS. THE SUPERINTENDENT MAY ADOPT REASON-  
24 ABLE RULES AND REGULATIONS, AS ARE NECESSARY TO ADMINISTER THIS ARTICLE,  
25 IN ACCORDANCE WITH EXISTING PROCEDURES UNDER THIS CHAPTER.

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