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

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I N A S S E M B L Y

February 4, 2016

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

AN ACT to amend the insurance law, in relation to catastrophic or reinsurance coverage issued to certain small groups; to amend a chapter of the laws of 2015 amending the insurance law relating to catastrophic or reinsurance coverage issued to certain small groups, as proposed in legislative bills numbers S. 6004 and A. 8300, in relation to the effectiveness of such chapter; and in relation to directing the superintendent of financial services to contract with an independent entity to conduct an assessment regarding the impact of the prohibition on the sale of stop loss, catastrophic and reinsurance coverage to the small group market; to amend a chapter of the laws of 2015 amending the insurance law relating to catastrophic or reinsurance coverage issued to certain small groups, as proposed in legislative bills numbers S.5928-A and A.8134-A, in relation to the effectiveness of such chapter; and to repeal section 4 of a chapter of the laws of 2015 amending the insurance law relating to catastrophic or reinsurance coverage issued to certain small groups, as proposed in legislative bills numbers S. 6004 and A. 8300, relating thereto

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

Section 1. Paragraph 1 of subsection (h) of section 3231 of the insurance law, as amended by a chapter of the laws of 2015 amending the insurance law relating to catastrophic or reinsurance coverage issued to certain small groups, as proposed in legislative bills numbers S.6004 and A.8300, is amended to read as follows:

(1) Notwithstanding any other provision of this chapter, no insurer, subsidiary of an insurer, or controlled person of a holding company system may act as an administrator or claims paying agent, as opposed to an insurer, on behalf of small groups which, if they purchased insurance, would be subject to this section. No insurer[, subsidiary of an insurer, or controlled person of a holding company] may provide stop loss, catastrophic or reinsurance coverage to small groups which, if they purchased insurance, would be subject to this section. Provided,

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

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however, the provisions of this paragraph shall not apply to: (A) THE RENEWAL OF stop loss, catastrophic or reinsurance coverage issued and in effect on [or before] January first, two thousand fifteen to small groups covering between fifty-one and one hundred employees or members of the group; AND (B) THE ISSUANCE BETWEEN JANUARY FIRST, TWO THOUSAND SIXTEEN AND DECEMBER THIRTY-FIRST, TWO THOUSAND SIXTEEN, OF STOP LOSS, CATASTROPHIC OR REINSURANCE COVERAGE, AND ANY RENEWAL THEREOF, TO A SMALL GROUP COVERING BETWEEN FIFTY-ONE AND ONE HUNDRED EMPLOYEES OR MEMBERS OF THE GROUP, PROVIDED THAT SUCH GROUP HAD STOP LOSS, CATASTROPHIC OR REINSURANCE COVERAGE ISSUED AND IN EFFECT ON JANUARY FIRST, TWO THOUSAND FIFTEEN.

S 2. Paragraph 1 of subsection (e) of section 4317 of the insurance law, as amended by a chapter of the laws of 2015 amending the insurance law relating to catastrophic or reinsurance coverage issued to certain small groups, as proposed in legislative bills numbers S.6004 and A.8300, is amended to read as follows:

(1) Notwithstanding any other provision of this chapter, no insurer, subsidiary of an insurer, or controlled person of a holding company system may act as an administrator or claims paying agent, as opposed to an insurer, on behalf of small groups which, if they purchased insurance, would be subject to this section. No insurer[, subsidiary of an insurer, or controlled person of a holding company] may provide stop loss, catastrophic or reinsurance coverage to small groups which, if they purchased insurance, would be subject to this section. Provided, however, the provisions of this paragraph shall not apply to: (A) THE RENEWAL OF stop loss, catastrophic or reinsurance coverage issued and in effect on [or before] January first, two thousand fifteen to small groups covering between fifty-one and one hundred employees or members of the group; AND (B) THE ISSUANCE BETWEEN JANUARY FIRST, TWO THOUSAND SIXTEEN, AND DECEMBER THIRTY-FIRST, TWO THOUSAND SIXTEEN, OF STOP LOSS, CATASTROPHIC OR REINSURANCE COVERAGE, AND ANY RENEWAL THEREOF, TO A SMALL GROUP COVERING BETWEEN FIFTY-ONE AND ONE HUNDRED EMPLOYEES OR MEMBERS OF THE GROUP, PROVIDED THAT SUCH GROUP HAD STOP LOSS, CATASTROPHIC OR REINSURANCE COVERAGE ISSUED AND IN EFFECT ON JANUARY FIRST, TWO THOUSAND FIFTEEN.

S 3. Paragraph 1 of subsection (g) of section 3231 of the insurance law, as amended by a chapter of the laws of 2015 amending the insurance law relating to catastrophic or reinsurance coverage issued to certain small groups, as proposed in legislative bills numbers S.5928-A and A.8134-A, is amended to read as follows:

(1) (A) This section shall also apply to policies issued to a group defined in subsection (c) of section four thousand two hundred thirty-five of this chapter, including but not limited to an association or trust of employers, if the group includes one or more member employers or other member groups [which have fifty] HAVING ONE HUNDRED or fewer employees or members exclusive of spouses and dependents. For [policies] A POLICY issued or renewed on or after January first, two thousand fourteen, if the group includes one or more member small group employers eligible for coverage subject to this section, then such member employers shall be classified as small groups for rating purposes and the remaining members shall be rated consistent with the rating rules applicable to such remaining members pursuant to paragraph two of this subsection. [Provided, however this subsection shall not apply to groups which have been issued a policy on or before July first, two thousand fifteen, and have member employers, who, on or after such date, have between fifty-one and one hundred employees, exclusive of spouses and

dependents, and] (B) SUBPARAGRAPH A OF THIS PARAGRAPH SHALL NOT APPLY TO EITHER THE RENEWAL OF A POLICY ISSUED TO A GROUP OR THE ISSUANCE, BETWEEN JANUARY FIRST, TWO THOUSAND SIXTEEN AND DECEMBER THIRTY-FIRST, TWO THOUSAND SIXTEEN, OF A POLICY, AND ANY RENEWAL THEREOF, TO A GROUP, PROVIDED THAT THE FOLLOWING THREE REQUIREMENTS ARE MET: (I) THE GROUP HAD BEEN ISSUED A POLICY THAT WAS IN EFFECT ON JULY FIRST, TWO THOUSAND FIFTEEN; (II) THE GROUP HAD MEMBER EMPLOYERS, WHO, ON OR AFTER JULY FIRST, TWO THOUSAND FIFTEEN, HAVE BETWEEN FIFTY-ONE AND ONE HUNDRED EMPLOYEES, EXCLUSIVE OF SPOUSES AND DEPENDENTS; AND (III) the group is either: (i) [organized pursuant to article five-G of the general municipal law and is] comprised entirely of one or more municipal corporations or districts (as such terms are defined in section one hundred nineteen-n of the general municipal law); or (ii) comprised entirely of nonpublic schools providing education in any grade from pre-kindergarten through twelfth grade. [For such groups which have been issued a policy on or before July first, two thousand fifteen, the applicability of this subsection shall continue irrespective of whether the group selects a policy from a different insurer or if the member employer selects a different group for such coverage.]

S 4. Paragraph 1 of subsection (d) of section 4317 of the insurance law, as amended by a chapter of the laws of 2015 amending the insurance law relating to catastrophic or reinsurance coverage issued to certain small groups, as proposed in legislative bills numbers S.5928-A and A.8134-A, is amended to read as follows:

(1) (A) This section shall also apply to a contract issued to a group defined in subsection (c) of section four thousand two hundred thirty-five of this chapter, including but not limited to an association or trust of employers, if the group includes one or more member employers or other member groups [which have fifty] HAVING ONE HUNDRED or fewer employees or members exclusive of spouses and dependents. For [contracts] A CONTRACT issued or renewed on or after January first, two thousand fourteen, if the group includes one or more member small group employers eligible for coverage subject to this section, then such member employers shall be classified as small groups for rating purposes and the remaining members shall be rated consistent with the rating rules applicable to such remaining members pursuant to paragraph two of this subsection. [Provided, however this subsection shall not apply to groups which have been issued a policy on or before July first, two thousand fifteen, and have member employers, who, on or after such date, have between fifty-one and one hundred employees, exclusive of spouses and dependents, and] (B) SUBPARAGRAPH A OF THIS PARAGRAPH SHALL NOT APPLY TO EITHER THE RENEWAL OF A CONTRACT ISSUED TO A GROUP OR THE ISSUANCE, BETWEEN JANUARY FIRST, TWO THOUSAND SIXTEEN AND DECEMBER THIRTY-FIRST, TWO THOUSAND SIXTEEN, OF A CONTRACT, AND ANY RENEWAL THEREOF, TO A GROUP, PROVIDED THAT THE FOLLOWING THREE REQUIREMENTS ARE MET: (I) THE GROUP HAD BEEN ISSUED A CONTRACT THAT WAS IN EFFECT ON JULY FIRST, TWO THOUSAND FIFTEEN; (II) THE GROUP HAD MEMBER EMPLOYERS, WHO, ON OR AFTER JULY FIRST, TWO THOUSAND FIFTEEN, HAVE BETWEEN FIFTY-ONE AND ONE HUNDRED EMPLOYEES, EXCLUSIVE OF SPOUSES AND DEPENDENTS; AND (III) the group is either: (i) [organized pursuant to article five-G of the general municipal law and are] comprised entirely of one or more municipal corporations or districts (as such terms are defined in section one hundred nineteen-n of the general municipal law); or (ii) comprised entirely of nonpublic schools providing education in any grade from pre-kindergarten through twelfth grade. [For such groups which have been issued a policy on or before July first, two thousand fifteen, the

applicability of this subsection shall continue irrespective of whether the group selects a policy from a different insurer or if the member employer selects a different group for such coverage.]

S 5. Section 4 of a chapter of the laws of 2015 amending the insurance law relating to catastrophic or reinsurance coverage issued to certain small groups, as proposed in legislative bills numbers S.6004 and A.8300 is REPEALED.

S 6. Section 5 of a chapter of the laws of 2015 amending the insurance law relating to catastrophic or reinsurance coverage issued to certain small groups, as proposed in legislative bills numbers S.6004 and A.8300, is amended to read as follows:

S 5. This act shall take effect on the same date and in the same manner as a chapter of the laws of 2015 amending the insurance law relating to catastrophic or reinsurance coverage issued to certain small groups, as proposed in legislative bills numbers S.5928-A and A.8134-A, takes effect AND SHALL BE DEEMED REPEALED THREE YEARS THEREAFTER.

S 6-a. Section 5 of a chapter of the laws of 2015 amending the insurance law relating to catastrophic or reinsurance coverage issued to certain small groups, as proposed in legislative bills numbers S.5928-A and A.8134-A, as amended by a chapter of the laws of 2015 amending the insurance law relating to catastrophic or reinsurance coverage issued to certain small groups, as proposed in legislative bills numbers S.6004 and A.8300, is amended to read as follows:

S 5. This act shall take effect immediately; and shall be deemed repealed [2] 3 years after it shall have become a law.

S 7. 1. The superintendent of financial services shall contract with an independent entity to conduct a review and draft a report assessing the impact of: (a) prohibiting the sale of stop loss coverage to the expanded small group market (groups sized 51 to 100); and (b) allowing the sale of stop loss coverage to groups that have between 51 and 100 employees or members and are exempt from paragraph 1 of subsection (h) of section 3231 of the insurance law or paragraph 1 of subsection (e) of section 4317 of the insurance law.

2. The report shall, to the extent information is available: (a) assess the impact of the above mentioned actions on the ability of employers of 51 to 100 employees to provide health insurance coverage. Such impact analysis shall compare the financial costs to employers with 51 to 100 employees of providing health coverage through purchasing a small group policy with providing self-funded benefit plans with stop loss coverage; (b) set forth the impact on the premiums within the small group comprehensive health insurance market from allowing such exempted groups to obtain stop loss coverage, including analysis as to whether allowing the sale of stop loss coverage to such exempted groups with between 51 and 100 members results in adverse selection within the small group comprehensive health insurance market by allowing such groups to select either stop loss or a small group comprehensive health insurance product; (c) survey and describe the number and features, including wellness programs, of health benefit packages available to employer purchasers of health insurance in the small group market and employers who provide self-funded benefits; (d) compare the differences between consumer protections provided under small group comprehensive health insurance products and consumer protections provided under self-funded benefit plans, including differences in limits on cost sharing, network adequacy, patient appeal rights, consumer review of rates during the prior approval process, examinations, audits, oversight, and insurer solvency requirements. The preparation of the report shall include a

review of insured rate filings, health insurance premium rating data, small group enrollment, and surveys of employers and stop loss carriers from New York.

3. The department of financial services shall submit its report to the governor, the temporary president of the senate, the speaker of the assembly, and the chairs of the senate and assembly standing committees on insurance no later than March 1, 2018.

4. Each authorized insurer that writes stop loss coverage in this state shall be responsible for the costs of the contract entered into pursuant to this section, in an amount in proportion to the gross direct stop loss premiums written or received by the insurer in this state during the 2015 calendar year.

S 8. This act shall take effect immediately; provided, however, that sections one, two, five and seven of this act shall take effect on the same date and in the same manner as a chapter of the laws of 2015 amending the insurance law relating to catastrophic or reinsurance coverage issued to certain small groups, as proposed in legislative bills numbers S.6004 and A.8300, takes effect; provided further that sections three and four of this act shall take effect on the same date and in the same manner as a chapter of the laws of 2015 amending the insurance law, relating to catastrophic or reinsurance coverage issued to certain small groups, as proposed in legislative bills numbers S.5928-A and A.8134-A, takes effect and further provided, however, that the amendments to sections 3231 and 4317 of the insurance law made by sections one, two, three and four of this act shall not affect the expiration of such provisions and shall be deemed to expire therewith.