

1092--A

2015-2016 Regular Sessions

I N S E N A T E

January 8, 2015

Introduced by Sens. AVELLA, HOYLMAN, KRUEGER, MARCHIONE, SAVINO -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the insurance law, in relation to providing protection to certain retirees from pension de-risking transactions; and to amend the civil practice law and rules, in relation to statutorily exempt payments

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 section 3219-a  
2 to read as follows:

3 S 3219-A. PENSION DE-RISKING TRANSACTIONS WITH AN ANNUITY. (A) ANY  
4 INSURER ISSUING AN ALLOCATED OR UNALLOCATED GROUP ANNUITY CONTRACT TO AN  
5 EMPLOYER OR AN EMPLOYEE DEFINED PENSION BENEFIT PLAN ON BEHALF OF AN  
6 EMPLOYER, FOR THE PURPOSE OF PROVIDING RETIREMENT BENEFITS TO EMPLOYEES  
7 OR FORMER EMPLOYEES ("RETIREEES") OF THE EMPLOYER, WHICH ANNUITY BENEFITS  
8 WILL NO LONGER BE PROTECTED UNDER THE FEDERAL EMPLOYEE RETIREMENT INCOME  
9 SECURITY ACT OF 1974 ("ERISA") AND THE FEDERAL PENSION BENEFIT GUARANTY  
10 CORPORATION ("PBGC") SHALL PROVIDE THE FOLLOWING INFORMATION TO THE  
11 RETIREEES PURSUANT TO REGULATIONS ADOPTED BY THE SUPERINTENDENT:

12 (1) A CLEAR STATEMENT THAT PAYMENTS TO ANNUITANTS UNDER AN ANNUITY  
13 CONTRACT ISSUED PURSUANT TO THIS SECTION ARE EXEMPT FROM THE CLAIMS OF  
14 CREDITORS;

15 (2) A STATEMENT THAT THE RETIREEES WILL NO LONGER HAVE PROTECTION UNDER  
16 ERISA AND THE PBGC;

17 (3) THE IDENTITY AND CONTACT INFORMATION FOR THE NEW YORK LIFE AND  
18 HEALTH INSURANCE GUARANTY ASSOCIATION, OR ANY SUBSTITUTE OR REPLACEMENT  
19 GUARANTY ASSOCIATION THAT PROVIDES COVERAGE TO ANNUITANTS RESIDING IN  
20 NEW YORK IN THE EVENT OF THE INSURER'S FINANCIAL IMPAIRMENT OR INSOLVEN-  
21 CY, AS SET FORTH ON A PUBLICLY AVAILABLE WEBSITE SUCH AS THE WEBSITE

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

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1 MAINTAINED BY THE LIFE INSURANCE COMPANY GUARANTY CORPORATION OF NEW  
2 YORK (WWW.NYLIFEGA.ORG); AND

3 (4) MANDATORY ANNUAL DISCLOSURES TO ALL RETIREES WHOSE BENEFITS ARE  
4 TRANSFERRED TO AN INSURANCE COMPANY OR ALTERNATIVE BENEFIT PROVIDER FOR  
5 THE PURPOSE OF PROVIDING RETIREMENT BENEFITS, OF THE FOLLOWING: FUNDING  
6 LEVELS OF ALL ASSETS RELATIVE TO EXPECTED LIABILITIES UNDER THE ASSUMED  
7 PENSION BENEFIT SCHEDULES, INVESTMENT PERFORMANCE SUMMARY BY ASSET  
8 CLASS, INVESTMENT PERFORMANCE DETAIL BY ASSET CLASS, EXPENSES ASSOCIATED  
9 WITH ANY GROUP ANNUITY CONTRACT, CHANGES IN ACTUARIAL ASSUMPTIONS, IF  
10 ANY.

11 (B) NO ALLOCATED OR UNALLOCATED GROUP ANNUITY CONTRACT ISSUED BY AN  
12 INSURER TO AN EMPLOYER OR AN EMPLOYEE DEFINED PENSION BENEFIT PLAN ON  
13 BEHALF OF AN EMPLOYER, FOR THE PURPOSE OF PROVIDING RETIREMENT BENEFITS  
14 TO EMPLOYEES OR FORMER EMPLOYEES OF THE EMPLOYER, WHICH ANNUITY BENEFITS  
15 WILL NO LONGER BE PROTECTED UNDER THE FEDERAL EMPLOYEE RETIREMENT INCOME  
16 SECURITY ACT OF 1974 AND THE FEDERAL PENSION BENEFIT GUARANTY CORPO-  
17 RATION MAY BE FURTHER TRANSFERRED OR ASSUMED BY ANOTHER INSURER WITHOUT  
18 CONFIRMATION BY THE SUPERINTENDENT THAT THE INSURER ASSUMING THE OBLI-  
19 GATIONS OF SUCH ALLOCATED OR UNALLOCATED GROUP ANNUITY CONTRACT HAS THE  
20 FINANCIAL STRENGTH TO FULFILL ITS OBLIGATIONS UNDER SUCH CONTRACT.

21 (C) THE PROCEEDS OF ANY ALLOCATED OR UNALLOCATED GROUP ANNUITY  
22 CONTRACT ISSUED BY AN INSURER TO AN EMPLOYER OR AN EMPLOYEE DEFINED  
23 PENSION BENEFIT PLAN ON BEHALF OF AN EMPLOYER, FOR THE PURPOSE OF  
24 PROVIDING RETIREMENT BENEFITS TO RETIREES OF THE EMPLOYER, WHICH ANNUITY  
25 BENEFITS WILL NO LONGER BE PROTECTED UNDER ERISA AND THE FEDERAL PBGC  
26 SHALL BE EXEMPT FROM APPLICATION TO THE SATISFACTION OF MONEY JUDGMENTS  
27 UNDER SECTION FIFTY-TWO HUNDRED FIVE OF THE CIVIL PRACTICE LAW AND  
28 RULES.

29 (D) FOR PURPOSES OF THIS SECTION: (1) "EMPLOYER" MEANS ANY PERSON  
30 ENGAGED IN BUSINESS IN THIS STATE WHO HAS TWO OR MORE EMPLOYEES, BUT  
31 DOES NOT INCLUDE THE STATE OR ANY POLITICAL SUBDIVISION THEREOF; AND

32 (2) "EMPLOYEE PENSION BENEFIT PLAN" MEANS AN "EMPLOYEE PENSION BENEFIT  
33 PLAN", AS DEFINED IN 29 USC 1002(2)(A).

34 S 2. Paragraph 2 of subdivision (1) of section 5205 of the civil prac-  
35 tice law and rules, as amended by chapter 24 of the laws of 2009, is  
36 amended to read as follows:

37 2. For purposes of this article, "statutorily exempt payments" means  
38 any personal property exempt from application to the satisfaction of a  
39 money judgment under any provision of state or federal law. Such term  
40 shall include, but not be limited to, payments from any of the following  
41 sources: social security, including retirement, survivors' and disabili-  
42 ty benefits, supplemental security income or child support payments;  
43 veterans administration benefits; public assistance; workers' compen-  
44 sation; unemployment insurance; public or private pensions; railroad  
45 retirement; and black lung benefits. "STATUTORILY EXEMPT PAYMENTS"  
46 SHALL SPECIFICALLY INCLUDE ANY ANNUITY PROCEEDS WHOSE BENEFITS ARE  
47 TRANSFERRED TO AN INSURANCE COMPANY OR ALTERNATIVE BENEFIT PROVIDER FOR  
48 THE PURPOSE OF PROVIDING RETIREMENT BENEFITS PURSUANT TO SECTION THREE  
49 THOUSAND TWO HUNDRED NINETEEN-A OF THE INSURANCE LAW IN A PENSION  
50 DE-RISKING TRANSFER.

51 S 3. This act shall take effect on the one hundred twentieth day after  
52 it shall have become a law and shall apply to all policies and contracts  
53 issued, renewed, modified, altered, or amended on or after such date.