

7104

I N S E N A T E

March 28, 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, in relation to the definition of small group; and to repeal section 7 of chapter 12 of the laws of 2016 relating 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 relating thereto

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

1 Section 1. Paragraph 1 of subsection (a) of section 3231 of the insur-  
2 ance law, as amended by section 69 of part D of chapter 56 of the laws  
3 of 2013, is amended to read as follows:

4 (1) No individual health insurance policy and no group health insur-  
5 ance policy covering between one and fifty employees or members of the  
6 group [or between one and one hundred employees or members of the group  
7 for policies issued or renewed on or after January first, two thousand  
8 sixteen] exclusive of spouses and dependents, hereinafter referred to as  
9 a small group, providing hospital and/or medical benefits, including  
10 medicare supplemental insurance, shall be issued in this state unless  
11 such policy is community rated and, notwithstanding any other provisions  
12 of law, the underwriting of such policy involves no more than the im-  
13 position of a pre-existing condition limitation if otherwise permitted by  
14 this article.

15 S 2. Paragraph 3 of subsection (a) of section 3231 of the insurance  
16 law, as amended by section 69 of part D of chapter 56 of the laws of  
17 2013, is amended to read as follows:

18 (3) Once accepted for coverage, an individual or small group cannot be  
19 terminated by the insurer due to claims experience. Termination of an  
20 individual or small group shall be based only on one or more of the  
21 reasons set forth in subsection (g) of section three thousand two  
22 hundred sixteen or subsection (p) of section three thousand two hundred  
23 twenty-one of this article. Group hospital and/or medical coverage,  
24 including medicare supplemental insurance, obtained through an out-of-

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

LBD13988-03-6

1 state trust covering a group of fifty or fewer employees, [or between  
2 one and one hundred employees for policies issued or renewed on or after  
3 January first, two thousand sixteen,] or participating persons who are  
4 residents of this state must be community rated regardless of the situs  
5 of delivery of the policy. Notwithstanding any other provisions of law,  
6 the underwriting of such policy may involve no more than the imposition  
7 of a pre-existing condition limitation if permitted by this article, and  
8 once accepted for coverage, an individual or small group cannot be  
9 terminated due to claims experience. Termination of an individual or  
10 small group shall be based only on one or more of the reasons set forth  
11 in subsection (p) of section three thousand two hundred twenty-one of  
12 this article.

13 S 3. Paragraph 1 of subsection (h) of section 3231 of the insurance  
14 law, as amended by chapter 12 of the laws of 2016, is amended to read as  
15 follows:

16 (1) Notwithstanding any other provision of this chapter, no insurer,  
17 subsidiary of an insurer, or controlled person of a holding company  
18 system may act as an administrator or claims paying agent, as opposed to  
19 an insurer, on behalf of small groups which, if they purchased insur-  
20 ance, would be subject to this section. No insurer may provide stop  
21 loss, catastrophic or reinsurance coverage to small groups which, if  
22 they purchased insurance, would be subject to this section. [Provided,  
23 however, the provisions of this paragraph shall not apply to: (A) the  
24 renewal of stop loss, catastrophic or reinsurance coverage issued and in  
25 effect on January first, two thousand fifteen to small groups covering  
26 between fifty-one and one hundred employees or members of the group; and  
27 (B) the issuance between January first, two thousand sixteen and Decem-  
28 ber thirty-first, two thousand sixteen, of stop loss, catastrophic or  
29 reinsurance coverage, and any renewal thereof, to a small group covering  
30 between fifty-one and one hundred employees or members of the group,  
31 provided that such group had stop loss, catastrophic or reinsurance  
32 coverage issued and in effect on January first, two thousand fifteen.]

33 S 4. Paragraph 1 of subsection (a) of section 4317 of the insurance  
34 law, as amended by section 72 of part D of chapter 56 of the laws of  
35 2013, is amended to read as follows:

36 (1) No individual health insurance contract and no group health insur-  
37 ance contract covering between one and fifty employees or members of the  
38 group, [or between one and one hundred employees or members of the group  
39 for policies issued or renewed on or after January first, two thousand  
40 sixteen] exclusive of spouses and dependents, including contracts for  
41 which the premiums are paid by a remitting agent for a group, hereinaft-  
42 er referred to as a small group, providing hospital and/or medical bene-  
43 fits, including Medicare supplemental insurance, shall be issued in this  
44 state unless such contract is community rated and, notwithstanding any  
45 other provisions of law, the underwriting of such contract involves no  
46 more than the imposition of a pre-existing condition limitation if  
47 otherwise permitted by this article.

48 S 5. Paragraph 1 of subsection (e) of section 4317 of the insurance  
49 law, as amended by chapter 12 of the laws of 2016, is amended to read as  
50 follows:

51 (1) Notwithstanding any other provision of this chapter, no insurer,  
52 subsidiary of an insurer, or controlled person of a holding company  
53 system may act as an administrator or claims paying agent, as opposed to  
54 an insurer, on behalf of small groups which, if they purchased insur-  
55 ance, would be subject to this section. No insurer may provide stop  
56 loss, catastrophic or reinsurance coverage to small groups which, if

1 they purchased insurance, would be subject to this section. [Provided,  
2 however, the provisions of this paragraph shall not apply to: (A) the  
3 renewal of stop loss, catastrophic or reinsurance coverage issued and in  
4 effect on January first, two thousand fifteen to small groups covering  
5 between fifty-one and one hundred employees or members of the group; and  
6 (B) the issuance between January first, two thousand sixteen, and Decem-  
7 ber thirty-first, two thousand sixteen, of stop loss, catastrophic or  
8 reinsurance coverage, and any renewal thereof, to a small group covering  
9 between fifty-one and one hundred employees or members of the group,  
10 provided that such group had stop loss, catastrophic or reinsurance  
11 coverage issued and in effect on January first, two thousand fifteen.]

12 S 6. Paragraph 1 of subsection (g) of section 3231 of the insurance  
13 law, as amended by chapter 12 of the laws of 2016, is amended to read as  
14 follows:

15 (1) [(A)] This section shall also apply to policies issued to a group  
16 defined in subsection (c) of section four thousand two hundred thirty-  
17 five of this chapter, including but not limited to an association or  
18 trust of employers, if the group includes one or more member employers  
19 or other member groups having [one hundred] FIFTY or fewer employees or  
20 members exclusive of spouses and dependents. For a policy issued or  
21 renewed on or after January first, two thousand fourteen, if the group  
22 includes one or more member small group employers eligible for coverage  
23 subject to this section, then such member employers shall be classified  
24 as small groups for rating purposes and the remaining members shall be  
25 rated consistent with the rating rules applicable to such remaining  
26 members pursuant to paragraph two of this subsection. [(B) Subparagraph  
27 A of this paragraph shall not apply to either the renewal of a policy  
28 issued to a group or the issuance, between January first, two thousand  
29 sixteen and December thirty-first, two thousand sixteen, of a policy,  
30 and any renewal thereof, to a group, provided that the following three  
31 requirements are met: (I) the group had been issued a policy that was in  
32 effect on July first, two thousand fifteen; (II) the group had member  
33 employers, who, on or after July first, two thousand fifteen, have  
34 between fifty-one and one hundred employees, exclusive of spouses and  
35 dependents; and (III) the group is either: (i) comprised entirely of one  
36 or more municipal corporations or districts (as such terms are defined  
37 in section one hundred nineteen-n of the general municipal law); or (ii)  
38 comprised entirely of nonpublic schools providing education in any grade  
39 from pre-kindergarten through twelfth grade.]

40 S 7. Paragraph 1 of subsection (d) of section 4317 of the insurance  
41 law, as amended by chapter 12 of the laws of 2016, is amended to read as  
42 follows:

43 (1) [(A)] This section shall also apply to a contract issued to a  
44 group defined in subsection (c) of section four thousand two hundred  
45 thirty-five of this chapter, including but not limited to an association  
46 or trust of employers, if the group includes one or more member employ-  
47 ers or other member groups having [one hundred] FIFTY or fewer employees  
48 or members exclusive of spouses and dependents. For a contract issued or  
49 renewed on or after January first, two thousand fourteen, if the group  
50 includes one or more member small group employers eligible for coverage  
51 subject to this section, then such member employers shall be classified  
52 as small groups for rating purposes and the remaining members shall be  
53 rated consistent with the rating rules applicable to such remaining  
54 members pursuant to paragraph two of this subsection. [(B) Subparagraph  
55 A of this paragraph shall not apply to either the renewal of a contract  
56 issued to a group or the issuance, between January first, two thousand

1 sixteen and December thirty-first, two thousand sixteen, of a contract,  
2 and any renewal thereof, to a group, provided that the following three  
3 requirements are met: (I) the group had been issued a contract that was  
4 in effect on July first, two thousand fifteen; (II) the group had member  
5 employers, who, on or after July first, two thousand fifteen, have  
6 between fifty-one and one hundred employees, exclusive of spouses and  
7 dependents; and (III) the group is either: (i) comprised entirely of one  
8 or more municipal corporations or districts (as such terms are defined  
9 in section one hundred nineteen-n of the general municipal law); or (ii)  
10 comprised entirely of nonpublic schools providing education in any grade  
11 from pre-kindergarten through twelfth grade.]

12 S 8. Section 7 to chapter 12 of the laws of 2016 relating to directing  
13 the superintendent of financial services to contract with an independent  
14 entity to conduct an assessment regarding the impact of the prohibition  
15 on the sale of stop loss, catastrophic and reinsurance coverage to the  
16 small group market, is REPEALED.

17 S 9. This act shall take effect immediately; provided, however that  
18 the amendments to paragraph 1 of subsection (g) and paragraph 1 of  
19 subsection (h) of section 3231, and paragraph 1 of subsection (d) and  
20 paragraph 1 of subsection (e) of section 4317 of the insurance law made  
21 by sections six, three, seven and five of this act respectively shall  
22 not affect the expiration and reversion of such paragraphs and shall  
23 expire and be deemed repealed therewith.