

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.

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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.