

# STATE OF NEW YORK

4719

2017-2018 Regular Sessions

## IN SENATE

February 24, 2017

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 promoting competitive property and casualty insurance markets for business to business insurance transactions

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

- 1 Section 1. This act shall be known and may be cited as the "Competitive Commercial Insurance Markets Act".
- 2
- 3 § 2. Section 2302 of the insurance law, paragraphs 5 and 6 of
- 4 subsection (a) as amended and paragraph 7 of subsection (a) as added by
- 5 chapter 614 of the laws of 1997, is amended to read as follows:
- 6 § 2302. Applicability. (a) This article shall apply to all kinds of
- 7 insurance written on risks or operations in this state by an insurer
- 8 authorized to do business in this state except:
- 9 (1) reinsurance (other than joint reinsurance to the extent stated in
- 10 section two thousand three hundred seventeen of this article);
- 11 (2) accident and health insurance;
- 12 (3) annuities, life insurance, including provisions for non-cancellable disability benefits in conjunction therewith;
- 13 (4) marine insurance (other than personal inland marine insurance
- 14 covering property of individuals or households and insurance upon auto-
- 15 mobiles[~~, airplanes, seaplanes, dirigibles or other aircraft~~]);
- 16 (5) marine protection and indemnity insurance;
- 17 (6) insurance issued by an assessment cooperative fire insurance
- 18 company; [~~and~~]
- 19 (7) service contract reimbursement insurance; and
- 20 (8) commercial lines specialty insurance, which includes:
- 21 (i) aircraft liability and hull insurance;
- 22 (ii) surety and fidelity insurance;
- 23 (iii) commercial inland marine insurance;
- 24

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

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1 (iv) boiler and machinery insurance;  
2 (v) environmental impairment/pollution liability insurance;  
3 (vi) kidnap and ransom insurance;  
4 (vii) political risk or expropriation insurance;  
5 (viii) excess and umbrella liability insurance;  
6 (ix) directors' and officers' liability insurance;  
7 (x) fiduciary liability insurance;  
8 (xi) employment practices liability insurance;  
9 (xii) errors and omission and professional liability insurance  
10 (other than medical malpractice);  
11 (xiii) media liability insurance;  
12 (xiv) product liability, product recall or completed operations insur-  
13 ance;  
14 (xv) cybersecurity insurance, including first and third party commer-  
15 cial lines coverage for losses arising out of or relating to data priva-  
16 cy breaches, network security, computer viruses and similar exposures,  
17 and including identity theft group insurance policies under section  
18 three thousand four hundred fifty-one of this chapter;  
19 (xvi) highly protected commercial property insurance;  
20 (xvii) commercial flood insurance (other than national flood insurance  
21 program);  
22 (xviii) commercial lines travel insurance, including group property  
23 travel insurance policies under section three thousand four hundred  
24 fifty-two of this chapter;  
25 (xix) all commercial lines kinds of insurance and classes of risk,  
26 other than workers' compensation and automobile insurance, when  
27 purchased by a commercial policyholder with aggregate annual commercial  
28 property and casualty insurance premiums of twenty-five thousand dollars  
29 or more excluding premiums paid for workers' compensation and automobile  
30 insurance; and  
31 (xx) any other commercial lines kinds of insurance or classes of risk  
32 that the superintendent deems, pursuant to regulation, exempt from rate  
33 and policy form filing requirements in order to promote enhanced compe-  
34 tition or to more effectively use the resources of the department that  
35 otherwise might be used to review commercial lines specialty policy  
36 insurance form or rate filings.

37 (b) The superintendent may from time to time make investigations with  
38 respect to classes of risks of the kinds of insurance exempted in [~~para-~~  
39 ~~graph one hereof~~] subsection (a) of this section and may call upon all  
40 authorized insurers and rate service organizations making rates for such  
41 risks to furnish information relative thereto.

42 (c) With respect to the classes of risks of the kinds of insurance  
43 exempted in paragraph eight of subsection (a) of this section, the  
44 superintendent may temporarily reinstate, for a period of no longer than  
45 one year, the requirement for rate or form filings for a specific class  
46 of risk if, after a hearing, the superintendent makes a finding of fact  
47 that a reasonable degree of competition does not exist for that specific  
48 class of risk. Such a finding of fact by the superintendent must specify  
49 the relevant tests used to determine whether a lack of a reasonable  
50 degree of competition exists and the results thereof. In the absence of  
51 such specific findings of fact by the superintendent, a competitive  
52 market is presumed to exist.

53 § 3. Section 3201 of the insurance law is amended by adding a new  
54 subsection (e) to read as follows:

55 (e) Except for paragraphs one and three of subsection (c) of this  
56 section, this section shall not apply to commercial lines travel insur-

1 ance. However, with respect to commercial lines travel insurance, the  
2 superintendent may temporarily reinstate, for a period of no longer than  
3 one year, the requirement for policy form filings if, after a hearing,  
4 the superintendent makes a finding of fact that a reasonable degree of  
5 competition does not exist for that specific type of insurance. Such a  
6 finding of fact by the superintendent must specify the relevant tests  
7 used to determine whether a lack of a reasonable degree of competition  
8 exists and the results thereof. In the absence of such specific findings  
9 of fact by the superintendent, a competitive market is presumed to  
10 exist.

11 § 4. This act shall take effect on the first of January next succeed-  
12 ing the date on which it shall have become a law and shall apply to all  
13 property and casualty insurance policies issued, renewed or modified on  
14 or after such date.