

# STATE OF NEW YORK

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7861

2017-2018 Regular Sessions

## IN ASSEMBLY

May 17, 2017

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Introduced by M. of A. HUNTER, CAHILL -- (at request of the Department of Financial Services) -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law in relation to extending provisions of the property/casualty insurance availability act

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

1 Section 1. Section 2342 of the insurance law, as amended by section 6  
2 of part B of chapter 78 of the laws of 2014, is amended to read as  
3 follows:

4 § 2342. Expiration of certain provisions. The provisions of subsection  
5 (c) of section two thousand three hundred seven, section two thousand  
6 three hundred eight, subsection (a) of section two thousand three  
7 hundred ten, sections two thousand three hundred sixteen, two thousand  
8 three hundred twenty, two thousand three hundred twenty-three, two thou-  
9 sand three hundred twenty-six, and two thousand three hundred thirty-  
10 five, and subsection (b) of section two thousand three hundred thirty-  
11 six of this article shall cease to be of any force or effect during the  
12 period August third, two thousand one through the day before the effec-  
13 tive date of the property/casualty insurance availability act, and after  
14 June thirtieth, two thousand [~~seventeen~~] twenty.

15 § 2. Subsection (f) of section 2305 of the insurance law, as amended  
16 by section 4 of part B of chapter 78 of the laws of 2014, is amended to  
17 read as follows:

18 (f) Subsection (a) of this section shall be of no force or effect  
19 during the period August third, two thousand one through the day before  
20 the effective date of the property/casualty insurance availability act,  
21 and after June thirtieth, two thousand [~~seventeen~~] twenty. During the  
22 period August third, two thousand one through the day before the effec-  
23 tive date of the property/casualty insurance availability act, and again  
24 commencing on July first, two thousand [~~seventeen~~] twenty, all rates

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

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1 previously subject to subsection (a) of this section, other than rates  
2 that are not required to be filed pursuant to subsection (b) of section  
3 two thousand three hundred ten of this article or that have been  
4 suspended from the filing requirement pursuant to section two thousand  
5 three hundred eleven of this article, shall become subject to  
6 subsections (b), (c) and (d) of this section. All other provisions of  
7 this article applicable to kinds of insurance or insurance activities  
8 the rates for which are subject to prior approval under subsection (b)  
9 of this section shall apply to kinds of insurance the rates for which  
10 were previously subject to subsection (a) of this section or the rates  
11 for which are not required to be filed pursuant to subsection (b) of  
12 section two thousand three hundred ten of this article or the rates for  
13 which have been suspended from the filing requirement pursuant to  
14 section two thousand three hundred eleven of this article.

15 § 3. Subsection (h) of section 2344 of the insurance law, as amended  
16 by section 7 of part B of chapter 78 of the laws of 2014, is amended to  
17 read as follows:

18 (h) This section shall cease to be of any force or effect during the  
19 period August third, two thousand one through the day before the effec-  
20 tive date of the property/casualty insurance availability act, and after  
21 June thirtieth, two thousand [~~seventeen~~] twenty, except that rates shall  
22 reflect the likely reductive cost effects reasonably attributable to the  
23 statutory provisions specified in paragraph one of subsection (g) of  
24 this section.

25 § 4. Paragraphs 1 and 2 and the opening paragraph of paragraph 3 of  
26 subsection (m) of section 3425 of the insurance law, as amended by  
27 section 3 of part B of chapter 78 of the laws of 2014, are amended to  
28 read as follows:

29 (1) Paragraphs eight and nine of subsection (a), subsection (f) and  
30 subparagraphs (B) and (E) of paragraph one of subsection (j) of this  
31 section shall not apply to any new covered policy of automobile insur-  
32 ance voluntarily written on or after August first, nineteen hundred  
33 eighty-five and prior to January first, nineteen hundred eighty-six, and  
34 on or after August second, two thousand one and prior to the effective  
35 date of the property/casualty insurance availability act, and on or  
36 after June thirtieth, two thousand [~~seventeen~~] twenty, but the legal  
37 rights granted to insurers or policyholders under such provisions shall  
38 not be extinguished or impaired thereby.

39 (2) In lieu of such provisions, paragraph seven of subsection (a),  
40 subparagraph (A) of paragraph one of subsection (j) of this section and  
41 paragraph three of this subsection shall apply to such automobile insur-  
42 ance policies that are newly and voluntarily written to have an effec-  
43 tive date on or after August first, nineteen hundred eighty-five and  
44 prior to January first, nineteen hundred eighty-six, and on or after  
45 August second, two thousand one and prior to the effective date of the  
46 property/casualty insurance availability act, and on or after June thir-  
47 tieth, two thousand [~~seventeen~~] twenty.

48 On and after August first, nineteen hundred eighty-five and prior to  
49 January first, nineteen hundred eighty-six, and on or after August  
50 second, two thousand one and prior to the effective date of the  
51 property/casualty insurance availability act, and on or after June thir-  
52 tieth, two thousand [~~seventeen~~] twenty, no notice of nonrenewal or  
53 conditional renewal of such covered automobile insurance policies  
54 referred to in this subsection shall be issued to become effective  
55 during the required policy period unless it is based upon a ground for  
56 which the policy could have been cancelled or unless it is based upon

1 one or more of the following grounds that occurred during the thirty-six  
2 month period ending on the last day of the fourth month preceding the  
3 month of the effective date of such notice of nonrenewal or conditional  
4 renewal:

5 § 5. Sections 2328 and 2329 of the insurance law, as amended by  
6 section 1 of part B of chapter 78 of the laws of 2014, are amended to  
7 read as follows:

8 § 2328. Certain motor vehicle insurance rates; prior approval. For the  
9 periods February first, nineteen hundred seventy-four through August  
10 second, two thousand one, and the effective date of the  
11 property/casualty insurance availability act through June thirtieth, two  
12 thousand [~~seventeen~~] twenty, no changes in rates, rating plans, rating  
13 rules and rate manuals applicable to motor vehicle insurance, including  
14 no-fault coverages under article fifty-one of this chapter, shall be  
15 made effective until approved by the superintendent, notwithstanding any  
16 inconsistent provisions of this article; provided, however, that changes  
17 in such rates, rating plans, rating rules and rate manuals may be made  
18 effective without such approval if the rates that result from such  
19 changes are no higher than the insurer's rates last approved by the  
20 superintendent. This section shall apply only to policies covering loss-  
21 es or liabilities arising out of ownership of a motor vehicle used prin-  
22 cipally for the transportation of persons for hire, including a bus or a  
23 school bus as defined in sections one hundred four and one hundred  
24 forty-two of the vehicle and traffic law.

25 § 2329. Motor vehicle insurance rates; excess profits. In accordance  
26 with regulations prescribed by the superintendent, each insurer issuing  
27 policies that are subject to article fifty-one of this chapter, includ-  
28 ing policies of motor vehicle personal injury liability insurance or  
29 policies of motor vehicle property damage liability insurance or insur-  
30 ance for loss or damage to a motor vehicle, shall establish a fair,  
31 practicable, and nondiscriminatory plan for refunding or otherwise cred-  
32 iting to those purchasing such policies their share of the insurer's  
33 excess profit, if any, on such policies. An excess profit shall be a  
34 profit beyond a percentage rate of return on net worth attributable to  
35 such policies, computed in accordance with the regulation required by  
36 section two thousand three hundred twenty-three of this article, and  
37 determined by the superintendent to be so far above a reasonable average  
38 profit as to amount to an excess profit, taking into consideration the  
39 fact that losses or profits below a reasonable average profit will not  
40 be recouped from such policyholders. Each plan shall apply to policy  
41 periods for the periods January first, nineteen hundred seventy-four  
42 through August second, two thousand one, and the effective date of the  
43 property/casualty insurance availability act through June thirtieth, two  
44 thousand [~~seventeen~~] twenty. In prescribing such regulations the super-  
45 intendent may limit the duration of such plans, waive any requirement  
46 for refund or credit that he or she determines to be de minimis or  
47 impracticable, adopt forms of returns that shall be made to him or her  
48 in order to establish the amount of any refund or credit due, establish  
49 periods and times for the determination and distribution of refunds and  
50 credits, and shall provide that insurers receive appropriate credit  
51 against any refunds or credits required by any such plan for policyhold-  
52 er dividends and for return premiums that may be due under rate credit  
53 or retrospective rating plans based on experience.

54 § 6. Subsection (g) of section 5412 of the insurance law, as amended  
55 by section 8 of part B of chapter 78 of the laws of 2014, is amended to  
56 read as follows:

1 (g) The provisions of this section shall cease to be of any force or  
2 effect on or after June thirtieth, two thousand [~~seventeen~~ twenty,  
3 except that policies issued or other obligations incurred by the associ-  
4 ation shall not be impaired by the expiration of this section and the  
5 association shall continue for the purpose of servicing such policies  
6 and performing such obligations.  
7 § 7. This act shall take effect immediately.