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:

Section 1. This act shall be known and may be cited as the "Competitive Commercial Insurance Markets Act".

§ 2. Section 2302 of the insurance law, paragraphs 5 and 6 of subsection (a) as amended and paragraph 7 of subsection (a) as added by chapter 614 of the laws of 1997, is amended to read as follows:

§ 2302. Applicability. (a) This article shall apply to all kinds of insurance written on risks or operations in this state by an insurer authorized to do business in this state except:

(1) reinsurance (other than joint reinsurance to the extent stated in section two thousand three hundred seventeen of this article);

(2) accident and health insurance;

(3) annuities, life insurance, including provisions for non-cancellable disability benefits in conjunction therewith;

(4) marine insurance (other than **personal** inland marine insurance **covering property of individuals or households** and insurance upon automobiles[~~, airplanes, seaplanes, dirigibles or other aircraft~~]);

(5) marine protection and indemnity insurance;

(6) insurance issued by an assessment cooperative fire insurance company; [~~and~~]

(7) service contract reimbursement insurance**; and**

(8) commercial lines specialty insurance, which includes:

(i) aircraft liability and hull insurance;

(ii) surety and fidelity insurance;

(iii) commercial inland marine insurance;

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

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(iv) boiler and machinery insurance;
(v) environmental impairment/pollution liability insurance;
(vi) kidnap and ransom insurance;
(vii) political risk or expropriation insurance;
(viii) excess and umbrella liability insurance;
(ix) directors' and officers' liability insurance;
(x) fiduciary liability insurance;
(xi) employment practices liability insurance;
(xii) errors and omission and professional liability insurance (other than medical malpractice);
(xiii) media liability insurance;
(xiv) product liability, product recall or completed operations insurance;
(xv) cybersecurity insurance, including first and third party commercial lines coverage for losses arising out of or relating to data privacy breaches, network security, computer viruses and similar exposures, and including identity theft group insurance policies under section three thousand four hundred fifty-one of this chapter;
(xvi) highly protected commercial property insurance;
(xvii) commercial flood insurance (other than national flood insurance program);
(xviii) commercial lines travel insurance, including group property travel insurance policies under section three thousand four hundred fifty-two of this chapter;
(xix) all commercial lines kinds of insurance and classes of risk, other than workers' compensation and automobile insurance, when purchased by a commercial policyholder with aggregate annual commercial property and casualty insurance premiums of twenty-five thousand dollars or more excluding premiums paid for workers' compensation and automobile insurance; and
(xx) any other commercial lines kinds of insurance or classes of risk that the superintendent deems, pursuant to regulation, exempt from rate and policy form filing requirements in order to promote enhanced competition or to more effectively use the resources of the department that otherwise might be used to review commercial lines specialty policy insurance form or rate filings.

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

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

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

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

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

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