STATE OF NEW YORK

5432

2019-2020 Regular Sessions

IN SENATE

May 1, 2019

Introduced by Sen. BRESLIN -- 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 approval of policy forms

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

Section 1. Paragraph 6 of subsection (c) of section 3201 of the insurance law, as amended by chapter 341 of the laws of 2006, is amended to read as follows:

(6) [~~(a) The~~] **(A) Except as otherwise provided for in subsection (e) of this section, the** superintendent may disapprove any policy form specified in paragraph two of subsection (b) of this section issued by a domestic life insurer or fraternal benefit society for delivery outside the state if its issuance would be prejudicial to the interests of its policyholders or members.

[~~(b)~~] **(B)** Except for the policy forms specified in paragraph two of subsection (b) of this section, every domestic life insurer and fraternal benefit society shall file annually with the superintendent a list identifying and describing the policy forms issued by the insurer or fraternal benefit society for delivery outside the state in a form prescribed by the superintendent. If the superintendent determines that the issuance of a policy form has been or may be prejudicial to the interests of policyholders or members, the superintendent may take any action he or she deems appropriate, including issuing an order, after a hearing, to cease and desist issuing the policy form.

(C) Any insurer or fraternal benefit society who shall issue a policy form which shall be exempt from the filing and approval requirements of paragraphs one and two of subsection (b) of this section, shall file annually with the superintendent a list identifying and describing such policy forms in a manner prescribed by the superintendent pursuant to paragraph one of subsection (e) of this section.

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

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

(e)(1) For purposes of this section, the following terms shall have the following meanings:

(A) "Large group policyholder" shall mean a group with a minimum of five hundred employees or members that either employ or contract with a qualified benefits manager that shall satisfy the criteria set forth in this subsection.

(B) (i) "Qualified benefits manager" means an individual that:

a. is a fiduciary under the Employee Retirement Income Security Act of 1974 (ERISA);

b. holds a bachelor's degree or higher from an accredited college or university;

c. has a minimum of five years' experience analyzing, designing, or advising groups defined herein regarding group benefit programs that include, but are not limited to, life insurance, accident and health insurance or annuity products; or

d. has a designation as a certified benefit plan administrator, certified employee benefit specialist from the international foundation of employee benefit plans, certified benefits professional from world at work, retirement plan professional issued by the american society of pension professionals and actuaries, any other similar designation issued by an accredited college or university, chartered life underwriter (C.L.U.), or is a licensed insurance agent or broker pursuant to article twenty-one of the this chapter; and

(ii) A qualified benefits manager shall not include an individual that shall be employed by the insurer or fraternal benefit society issuing the group policy or any person in the insurers' or fraternal benefit society's holding company system.

(2) Notwithstanding anything in this section to the contrary, policy forms delivered or issued for delivery in the state, policy forms deemed to have been delivered in the state regardless of the place of actual delivery, or policy forms specified in paragraph two of subsection (b) of this section which shall have been issued to a large group policyholder as defined in subparagraph (A) of paragraph one of this subsection and that are issued to groups defined in section three thousand two hundred twenty-two of this article, except an agreement providing for periodic payments in satisfaction of a claim, section four thousand two hundred sixteen of this chapter, other than policy forms to be issued pursuant to paragraph three or fourteen of subsection (b) of such section, and section four thousand two hundred thirty-eight of this chapter are exempt from filing and approval under paragraph one of subsection (b) of this section and filing for delivery outside this state under paragraph two of subsection (b) of this section.

(3) The superintendent shall not have the authority to disapprove any such policy form, but shall have the authority, after notice and a hearing shall have been given to the insurer or fraternal benefit society which issued any such policy form, to issue a cease and desist order to such insurer or fraternal benefit society if the use of such form is contrary to the requirements of this chapter or inconsistent with law at the time of such order.

(4) The superintendent shall have authority to issue a cease and desist order to such insurer of fraternal benefit society in the case of any such policy form:

(A) pertaining to life insurance, annuity contract, group annuity certificate, or funding agreement for a policy form issued for delivery

outside the state, if its issuance would be prejudicial to the interests of policyholders or members;

(B) pertaining to life insurance, annuity contract, group annuity certificate, or funding agreement for a policy form delivered or issued for delivery within the state, if such form contains provisions which are unjust, unfair or inequitable; or

(C) pertaining to certificates deemed to be delivered in this state regardless of the place of actual delivery, if such certificate fails to afford insureds protections substantially similar to those which shall be provided by certificates delivered in the state.

(5) Any such cease and desist order shall be effective not less than ninety days after such order is issued.

(6) Notwithstanding anything in this article or article forty-two of this chapter to the contrary, any schedule of premium rates, commissions or fees which shall relate to a group identified in this subsection and are required to be filed pursuant to such articles, may immediately be used by an insurer upon the mailing of such schedule to the superintendent.

(7) Notwithstanding anything in this section to the contrary, any group policy form which shall be exempt from filing or approval under paragraph two of this subsection, may contain provisions which are, at the minimum, as favorable as the provisions required by this article and article forty-two of this chapter as determined by the issuer of such group policy form.

(8) Every policy issued pursuant to this subsection shall contain a notice to the group policyholder that such policy forms shall not be subject to the filing and approval requirements of the state.

§ 3. This act shall take effect on the thirtieth day after it shall have become a law.