STATE OF NEW YORK

10229

IN ASSEMBLY

May 10, 2022

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Niou) -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law, in relation to making technical corrections to law references and eliminates certain gender-specific language relating to the superintendent of insurance

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

Section 1. Paragraph 3 of subsection (b) of section 314 of the insurance law is amended to read as follows:

(3) to make an examination into the affairs of every system, including compliance with the standards established pursuant to paragraph two [~~hereof~~] of this section, at least once in every five years in accordance with the provisions of sections three hundred ten, three hundred eleven and three hundred twelve of this article and to recover the expenses of such examination from such system in accordance with the provisions of subsection (f) of section [~~three hundred thirteen~~] two hundred six of [~~this article~~] the financial services law. A copy of each report on examination as filed for public inspection shall be forwarded to the governor, state comptroller and legislature and, in the case of systems of the city of New York, to the mayor, city comptroller and president of the city council.

§ 2. Paragraph 1 of subsection (c) of section 1218 of the insurance law is amended to read as follows:

(1) Whenever the superintendent believes this section is being violated, [~~he~~] the superintendent shall serve upon the insurer or insurers and the director or directors, as the case may be, a notice pursuant to section three hundred [~~three~~] four of [~~this chapter~~] the financial services law of a hearing before the superintendent to be held not less than thirty days after such service and requiring such insurer or insurers and such director or directors, as the case may be, to show cause why an order should not be made by the superintendent directing such insurer or insurers and such director or directors, as the case may be, to cease and desist from such violation.

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

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§ 3. Paragraph 2 of subsection (h) of section 2108 of the insurance law, as amended by chapter 257 of the laws of 1995, is amended to read as follows:

(2) Notwithstanding the requirement of subsection (f) of this section that each individual applicant for an independent adjuster's license or sub-license shall take and pass a personal written examination in order to satisfy the superintendent as to trustworthiness and competency, the superintendent may in the superintendent's discretion, if satisfied that the person applying for such temporary permit has in all other respects met the requirements of this section with respect to the licensing of independent adjusters and is qualified by training and experience to adjust claims as an employee of a licensed independent adjuster, authorized insurer, or any adjustment bureau or association owned and maintained by insurers to adjust or investigate motor vehicle body damage losses, issue such temporary permit to be effective for such period of time as the superintendent may specify therein but, in no event, for a period in excess of one hundred twenty days. The superintendent may summarily suspend or revoke any temporary permit issued pursuant to this subsection upon ten [~~days~~] days' notice in writing to the permittee of the superintendent's intention to do so, which notice shall be given in accordance with the applicable provisions of subsections (a) and (d) of section three hundred [~~three~~] four of [~~this chapter~~] the financial services law.

§ 4. Paragraph 3 of subsection (f) of section 2110 of the insurance law, as amended by chapter 687 of the laws of 2003, is amended to read as follows:

(3) Before revoking the license of any non-resident insurance producer in accordance with this section, the superintendent shall give ten days' notice in writing to such producer of the action proposed to be taken, which notice shall be given in accordance with the applicable provisions of subsections (a) and (d) of section three hundred [~~three~~] four of [~~this chapter~~] the financial services law.

§ 5. Section 2405 of the insurance law is amended to read as follows:

§ 2405. Hearings and reports on defined violations and determined violations. (a) Whenever the superintendent has reason to believe that a person has committed or is committing a defined violation or has been engaged in or is engaging in any method of competition, or any act or practice, [~~which~~] could become a determined violation and that a proceeding thereon would be in the interest of the public, [~~he~~] the superintendent shall serve upon the person in the manner provided by section three hundred [~~three~~] four of [~~this chapter~~] the financial services law, a statement of the charges and notice of a hearing to be held at a time not less than ten days after the date of service of the notice and at the place fixed in the notice.

(b) The person shall have an opportunity at the hearing to be heard personally or by counsel, and, in the case of a defined violation, to show cause why an order should not be made by the superintendent requiring the person to cease and desist from the charged defined violation. Upon good cause shown, the superintendent shall permit anyone to intervene, appear and be heard at the hearing personally or by counsel.

(c) After the hearing, the superintendent shall make a written report containing [~~his~~] the superintendent's findings, and shall serve a copy of the report upon the person and any intervenor.

§ 6. Subsection (e) of section 4308 of the insurance law, as amended by chapter 107 of the laws of 2010, is amended to read as follows:

(e) Notwithstanding any other provision of law, the superintendent shall have the power to require independent management and financial audits of corporations subject to the provisions of this article whenever in the judgment of the superintendent, losses sustained by a corporation jeopardize its ability to provide meaningful coverage at affordable rates or when such audit would be necessary to protect the interests of subscribers. The audit shall include, but not be limited to, an investigation of the corporation's provision of benefits to senior citizens, individual and family, and small group and small business subscribers in relation to the needs of those subscribers. The audit shall also include an evaluation of the efficiency of the corporation's management, particularly with respect to lines of business [~~which~~] **that** are experiencing losses. In every case in which the superintendent chooses to require an audit provided for in this subsection, the superintendent shall have the authority to select the auditor. Any costs incurred as a result of the operation of this subsection shall be assessed on all domestic insurers in the same manner as provided for in section [~~three~~] **two** hundred [~~thirty-two~~] **six** of [~~this chapter~~] **the financial services law**.

§ 7. Subsection (b) of section 4315 of the insurance law is amended to read as follows:

(b) Except as provided in subsection (a) [~~hereof~~] **of this section**, all orders of the superintendent and all final orders or decisions of the commissioner of health made under the provisions of this article shall be subject to judicial review as provided in section three hundred [~~twenty-six~~] **eight** of [~~this chapter~~] **the financial services law**.

§ 8. Section 4521 of the insurance law is amended to read as follows:

§ 4521. Grounds for revocation or suspension of license. The superintendent may revoke or suspend the license to do business in this state of any domestic, foreign or alien society, if, after notice to and hearing of such society in accordance with sections three hundred [~~three~~] **four**, three hundred [~~four~~] **five** and three hundred [~~five~~] **six** of [~~this chapter~~] **the financial services law**, [~~he~~] **the superintendent** finds any one or more of the following grounds therefor:

(a) that such society has exceeded its powers under its charter or under its license to do business;

(b) that such society has failed to comply with any requirement of this chapter applicable thereto;

(c) that such society is conducting its insurance business fraudulently or in a way hazardous to its members, its creditors or the public;

(d) that such society is not carrying out its contracts in good faith; and

(e) in the case of a foreign or alien society, that the society is not conforming in substance to all of the requirements imposed on domestic societies, and in such a case, the revocation may be in addition to, or in lieu of, a proceeding under article seventy-four of this chapter in the circumstances specified in section four thousand five hundred nineteen of this article.

§ 8. Section 4521 of the insurance law is amended to read as follows:

§ 4521. Grounds for revocation or suspension of license. The superintendent may revoke or suspend the license to do business in this state of any domestic, foreign or alien society, if, after notice to and hearing of such society in accordance with sections three hundred [~~three~~] **four**, three hundred [~~four~~] **five** and three hundred [~~five~~] **six** of [~~this~~

~~chapter~~] the financial services law, [~~he~~] the superintendent finds any one or more of the following grounds therefor:

(a) that such society has exceeded its powers under its charter or under its license to do business;

(b) that such society has failed to comply with any requirement of this chapter applicable thereto;

(c) that such society is conducting its insurance business fraudulently or in a way hazardous to its members, its creditors or the public;

(d) that such society is not carrying out its contracts in good faith; and

(e) in the case of a foreign or alien society, that the society is not conforming in substance to all of the requirements imposed on domestic societies, and in such a case, the revocation may be in addition to, or in lieu of, a proceeding under article seventy-four of this chapter in the circumstances specified in section four thousand five hundred nineteen of this article.

§ 9. Subsection (a) of section 4523 of the insurance law is amended to read as follows:

(a) Any person, firm, association or corporation who or which shall solicit a member or members for, or in any way assist in procuring a member or members for, or collect payments or dues for or in connection with the membership of, any fraternal benefit society [~~which~~] that is not licensed to do business in this state and [~~which~~] that is not exempted under the provisions of section four thousand five hundred twenty-two of this article shall be guilty of a misdemeanor, and in addition, such person, firm, association or corporation shall be liable to a penalty of one hundred dollars for each person so solicited or so procured to become a member in such unauthorized society, and may in addition to either of the foregoing, be enjoined from doing any such unlawful acts, in the manner specified in section three hundred [~~twenty-seven~~] nine of [~~this chapter~~] the financial services law.

§ 10. Subsection (b) of section 4711 of the insurance law, as added by chapter 689 of the laws of 1994, is amended to read as follows:

(b) In connection with such examinations, the superintendent may exercise the powers set forth in sections [~~three hundred four, three hundred five,~~] three hundred six, three hundred eight, three hundred ten, three hundred eleven, and three hundred twelve[~~, and three hundred thirteen~~] of this chapter and subsection (f) of section two hundred six and sections three hundred five and three hundred six of the financial services law, and may also require special reports from a municipal cooperative health benefit plan as specified in section three hundred eight of this chapter.

§ 11. Section 5409 of the insurance law is amended to read as follows:

§ 5409. Examinations. The superintendent may, in accordance with article three of this chapter, make an examination into the affairs of the association whenever [~~he~~] the superintendent deems it expedient. The expenses of every such examination shall be borne and paid by the association in the manner prescribed by subsection (f) of section [~~three~~] two hundred [~~thirteen~~] six of [~~this chapter~~] the financial services law.

§ 12. Subsection (a) of section 5603 of the insurance law, as added by chapter 266 of the laws of 1986, is amended to read as follows:

(a) There is established within the department an arbitration administration fund which shall be considered to be an expense of the department and shall be funded by order of the superintendent, pursuant to section [~~three~~] two hundred [~~thirty-two~~] six of [~~this chapter~~] the

financial services law in such amount as shall be sufficient to defray the actual administrative expenses of the department and the arbitration administrator for the projected number of arbitration proceedings for a [~~twelve month~~] twelve-month period, after taking into consideration any excessive or insufficient amounts from the previous assessments, any appropriation of public funds for this purpose and any funds collected from claimants participating in the arbitration. If the amount assessed for any [~~twelve month~~] twelve-month period is insufficient to defray expenses during that period, a further assessment may be ordered by the superintendent. The arbitration administrator shall establish reasonable fees for claimants who participate in the arbitration, subject to the approval of the superintendent.

§ 13. Subsection (a) of section 6707 of the insurance law, as added by chapter 598 of the laws of 2000, is amended to read as follows:

(a) Every nonprofit property/casualty insurance company subject to the provisions of this article shall be exempt from any fees, taxes, special ad valorem levies or assessments of any kind, including, but not limited to, franchise taxes, sales taxes or other taxes, upon or with respect to any property owned by it or under its jurisdiction, control or supervision, or upon the uses thereof, or upon or with respect to its activities or operations in furtherance of the powers conferred upon it by this article, or upon or with respect to any revenues or other income received by the nonprofit property/casualty insurance company, except that every nonprofit property/casualty insurance company licensed pursuant to this article shall be subject to the assessment upon domestic insurers under section [~~three~~] two hundred [~~thirty-two~~] six of [~~this chapter~~] the financial services law, the assessments upon insurance carriers under sections one hundred fifty-one and two hundred twenty-eight of the workers' compensation law and all special fund assessments upon insurance carriers under the workers' compensation law.

§ 14. Subsection (b) of section 7001 of the insurance law, as added by section 146 of part A of chapter 389 of the laws of 1997, is amended to read as follows:

(b) In addition to the provisions of this article and this chapter specifically referred to in this article, the following provisions of this chapter shall apply to captive insurance companies:

(1) article one of this chapter, pertaining to general provisions;

(2) sections three hundred one, [~~three hundred two, three hundred three, three hundred four, three hundred five,~~] three hundred six, three hundred eight, three hundred ten, three hundred eleven, three hundred twelve[~~, three hundred thirteen, three hundred twenty-six, three hundred twenty-seven,~~] and three hundred twenty-nine[~~, and three hundred thirty-two~~] of this chapter and sections two hundred six, three hundred three, three hundred four, three hundred five, three hundred six, three hundred eight, and three hundred nine of the financial services law, pertaining to certain administrative and procedural provisions; and

(3) article seventy-four of this chapter, pertaining to rehabilitation, liquidation, conservation and dissolution of insurers.

§ 15. Paragraph 4 of subsection (c) of section 7003 of the insurance law, as added by section 146 of part A of chapter 389 of the laws of 1997, is amended to read as follows:

(4) In order to provide for the review of the application submitted pursuant to this subsection in a timely manner, the superintendent may engage such other qualified persons and services as may be necessary. Prior to retaining any such persons and services, the superintendent shall notify the applicant and provide an estimate of the cost of such

services. The superintendent shall recover such costs in the manner prescribed in subsection (f) of section [~~three~~] two hundred [~~thirteen~~] six of [~~this chapter~~] the financial services law.

§ 16. Section 7007 of the insurance law, as added by section 146 of part A of chapter 389 of the laws of 1997, is amended to read as follows:

§ 7007. Examinations. The superintendent may make an examination into the affairs of any captive insurance company licensed to do a captive insurance business in this state whenever it is deemed necessary for the protection of the interests of the people of this state but the superintendent shall conduct at least one examination every five years. Such examinations shall be conducted in accordance with the provisions of sections three hundred ten, three hundred eleven, three hundred twelve [~~and three hundred thirteen~~] of this chapter and subsection (f) of section two hundred six of the financial services law.

§ 17. Subsection (x) of section 7312 of the insurance law, as added by chapter 683 of the laws of 1988, is amended to read as follows:

(x) Effect on department personnel. Notwithstanding subsection (a) of section [~~two~~] five hundred [~~four~~] one of [~~this chapter~~] the financial services law, the superintendent, any deputy or other employee of the department shall be permitted to receive and exercise any rights received as a policyholder in connection with a reorganization.

§ 18. Subparagraph (C) of paragraph 1 of subsection (b) of section 7910 of the insurance law, as added by chapter 614 of the laws of 1997, is amended to read as follows:

(C) At the hearing, the burden shall be on the superintendent to show why the order issued pursuant to this paragraph is justified. The provisions of section three hundred [~~four~~] five of [~~this chapter~~] the financial services law shall apply to a hearing requested under this paragraph.

§ 19. Paragraph 1 of subsection (b) of section 9109 of the insurance law is amended to read as follows:

(1) If a company, association or person fails within the prescribed time to file any report or statement required by this article or by section two thousand one hundred eighteen of this chapter, or to make any payment due under the provisions of this article or sections [~~three hundred thirteen, three hundred thirty-two,~~] three hundred thirty-three, one thousand one hundred twelve, two thousand one hundred five, two thousand one hundred eighteen or four thousand four hundred seven of this chapter or section two hundred six of the financial services law, the superintendent may order such company, association or person to pay to the people of this state the following penalties:

(A) not less than one hundred nor more than five hundred dollars for each and every failure to file a report or statement within the time prescribed;

(B) five percent of the principal amount of any payment due plus an additional one percent of said sum for the second and subsequent months or fractions thereof during which payment has not been made.

§ 20. This act shall take effect immediately.