

# STATE OF NEW YORK

3564

2021-2022 Regular Sessions

## IN SENATE

January 30, 2021

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:

1 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:

2 (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.

3 [~~(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.

4 (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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1 § 2. Section 3201 of the insurance law is amended by adding a new  
2 subsection (e) to read as follows:

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

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

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

10 a. is a fiduciary under the Employee Retirement Income Security Act of  
11 1974 (ERISA);

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

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

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

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

30 (2) Notwithstanding anything in this section to the contrary, policy  
31 forms delivered or issued for delivery in the state, policy forms deemed  
32 to have been delivered in the state regardless of the place of actual  
33 delivery, or policy forms specified in paragraph two of subsection (b)  
34 of this section which shall have been issued to a large group policy-  
35 holder as defined in subparagraph (A) of paragraph one of this  
36 subsection and that are issued to groups defined in section three thou-  
37 sand two hundred twenty-two of this article, except an agreement provid-  
38 ing for periodic payments in satisfaction of a claim, section four thou-  
39 sand two hundred sixteen of this chapter, other than policy forms to be  
40 issued pursuant to paragraph three or fourteen of subsection (b) of such  
41 section, and section four thousand two hundred thirty-eight of this  
42 chapter are exempt from filing and approval under paragraph one of  
43 subsection (b) of this section and filing for delivery outside this  
44 state under paragraph two of subsection (b) of this section.

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

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

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

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

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

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

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

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

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

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

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