

STATE OF NEW YORK

3543

2023-2024 Regular Sessions

IN SENATE

January 31, 2023

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
2 read as follows:

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4 (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
5 domestic life insurer or fraternal benefit society for delivery outside
6 the state if its issuance would be prejudicial to the interests of its
7 policyholders or members.
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10 [~~(b)~~] (B) Except for the policy forms specified in paragraph two of
11 subsection (b) of this section, every domestic life insurer and fraternal
12 benefit society shall file annually with the superintendent a list
13 identifying and describing the policy forms issued by the insurer or
14 fraternal benefit society for delivery outside the state in a form
15 prescribed by the superintendent. If the superintendent determines that
16 the issuance of a policy form has been or may be prejudicial to the
17 interests of policyholders or members, the superintendent may take any
18 action he or she deems appropriate, including issuing an order, after a
19 hearing, to cease and desist issuing the policy form.

20 (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.
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EXPLANATION--Matter in italics (underscored) is new; matter in brackets [~~-~~] is old law to be omitted.

LBD00377-01-3

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 or 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.