STATE OF NEW YORK

4862

2023-2024 Regular Sessions

IN SENATE

February 16, 2023

Introduced by Sen. COMRIE -- 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 establishing a captive insurance program for commuter vans; and to amend the state finance law, in relation to establishing the commuter van trust fund

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

Section 1. The insurance law is amended by adding a new section 7013 to read as follows:

§ 7013. Captive insurance program for commuter vans utilizing existing moneys provided via New York state commuter van stabilization pilot program. (a) The superintendent shall utilize and implement a captive insurance program for commuter vans that are engaged in the business of carrying or transporting passengers for hire. The program shall include, but shall not be limited to:

(1) identifying and licensing a captive insurance company or companies to provide necessary insurance coverage to commuter vans;

(2) standards for enrollment of eligible commuter vans, including mechanisms for determining eligibility; and

(3) standards for monitoring the performance of such captive insurance company or companies in providing affordable insurance coverage to commuter vans participating in the program pursuant to subsection (c) of this section.

(b) For the purposes of this section, the term "commuter van" shall mean a commuter van service having a seating capacity of nine passengers but not more than twenty-four passengers or such greater capacity as the superintendent may establish by rule and carrying passengers for hire.

(c) Insurance companies shall maintain requirements, including but not limited to: $500,000 combined single limits (CSL); $50,000 personal injury protection (PIP) (Basic); and $25,000/$50,000 uninsured motorist coverage (UM/UIM). In addition, all no fault insurance related to

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

LBD09645-01-3

commuter vans insured in this program will rely on the medical treatment guidelines promulgated in existing workers' compensation law.

§ 2. The state finance law is amended by adding a new section 89-dd to read as follows:

§ 89-dd. Commuter van trust fund. 1. There is hereby established in the custody of the comptroller and the superintendent or its designated agency, a special fund to be known as the "commuter van trust fund".

2. Such fund shall consist of the eleven million two hundred fifty thousand dollars allocated in the fiscal year two thousand twenty-three New York state budget for the New York State Commuter Van Stabilization Pilot Program, in addition to all other grants, bequests or other moneys appropriated, credited or transferred thereto from any other fund or source pursuant to law.

3. Moneys in the commuter van trust fund shall be kept separate and apart and shall not be commingled with any other moneys in the custody of the comptroller and shall only be expended herein and in such amounts as approved by the division of the budget.

4. The moneys received by such fund shall be expended to pay for losses in excess of two hundred fifty thousand dollars.

5. Empire state development shall authorize three or more insurance companies, which have a bidding window that will close thirty days from the effective date of this section to participate in this program. At the end of the thirty days, in the event there is not a minimum of three, empire state development shall designate the most well funded commercial auto insurance companies currently operating in New York to work with empire state development and the commuter van trust fund, to issue commuter van drivers in New York insurance policies with limits provided herein.

6. In the event of claims in excess of two hundred fifty thousand dollars, insurance companies designated to provide insurance policies will maintain custody at an annual proportionally gradiated incline with an initial assigned risk payout rate of twenty percent of the overall claim in the first year, with an additional ten percent each fiscal year. For the first year, the commuter van trust fund shall maintain custody at an assigned risk of eighty percent, and an annual proportionally gradiated decline of ten percent.

7. After five years the claims activity shall be actuarially analyzed and if the rates can maintain an underwriting profit and a large claim would not put the program into a negative combined ratio, the amount of moneys maintained in the fund shall be reduced.

(a) After five years of the effective date of this section, empire state development shall revisit the stabilization of the commuter van market relative to section seven thousand thirteen of the insurance law in New York state and either consider a new apportionment to the commuter van trust fund; or

(b) In the event such program has stabilized the commuter van insurance market, empire state development will return any leftover moneys to the state general fund.

§ 3. This act shall take effect immediately.