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2018 LICONY AFFIRMATIVE LEGISLATIVE PROGRAM

A. Principle-Based Reserving (PBR)

This legislation would enable the Department of Financial Services to adopt a principle-based reserving (PBR) regulation in New York that is consistent with the NAIC Standard Valuation Manual (VM 20) and that incorporates modest adjustments to the formulaic floor for certain products that do not place NY domestic companies at a competitive disadvantage. Department of Financial Services Superintendent Vullo announced in July 2016 that New York intends to implement PBR for the calculation of life insurance reserves. The PBR approach to reserving will enhance the current system for calculating policy reserves, resulting in reserve levels that more accurately reflect risks assumed by life insurers for the policies they underwrite. This new system will provide regulators with tools to properly monitor a life insurer's reserve levels through annual reporting and data review. To date, 45 states have enacted legislation to implement PBR. In 2017, the Department provided language to the Legislature to implement PBR, which the Senate passed as [S.6439-A \(Seward\)](#), but was not taken up by the Assembly.

B. Extension of the Timeframe for Carrier Completion of Lost Policy Searches

This proposal would amend Insurance Law Section 3240 to allow insurers up to 60 days to complete a lost policy search. This would bring New York law into conformance with the requisite timeframe given to companies to complete a search under the NAIC system. Many carriers have noted that the current timeframe provided under New York law (30-45 days) is too short, given the increase in volume that will occur when NY joins the NAIC system, especially for potentially very old policies that are not accessible through an electronic system.

C. Duty to Cooperate with the Investigation of a Claim During the Contestability Period

This proposal would amend Insurance Law Section 3105 to require anyone having or claiming a right under a life insurance policy to assist in obtaining information related to an insurer's reasonable request for information, including a request for medical records, to enable the insurer to appropriately investigate within the two-year contestability period. The two-year contestability period was codified in Insurance Law Section 3203 (a)(3) in recognition of the need to protect against the payment of fraudulent claims when a material misrepresentation was made on the application. A key function of an insurer's ability to recognize whether a material misrepresentation was made on the application, is the ability to obtain accurate and complete information when investigating during the two-year contestability period.

D. Large Group Filing Exemption

This proposal would allow life insurers to market certain group life, group annuities and certain forms of group accident and health insurance to large and sophisticated group buyers without the requirement to obtain prior approval from the Department of Financial Services, provided that the policies, contracts and certificates contain provisions which are at least as favorable as the standard provisions required in the law.

Large commercial insurers were granted similar exemptions from rate and form filing requirements in 2011 ([Chapter 490 of Laws of 2011](#)) to increase the speed to market and permit greater customization of certain commercial insurance products. This legislation would similarly enable life insurers to respond to the time frames and flexibility demanded by the large group insurance market place, yet maintain the statutory standards for the protection of policyholders and insureds. Sophisticated group policyholders have a variety of non-traditional means to implement their benefit plans, including reliance on non-insurance products, self-insurance, and shifting the situs of their plan to more receptive jurisdictions with faster and less complicated regulatory frameworks. This legislation would allow insurers to obtain relief from these procedural policy form filing and premium rate filing/approval requirements, but still require the policy and contract forms to meet the substantive provisions in the Insurance Law governing the content, benefits and other coverage requirements.

E. Authorize Certain Non-Insurance Benefits as Part of a Group Life or Health Insurance Policy

[S.1595 \(Seward\)/A.4024 \(Pretlow\)](#)

This bill adds a new §3242 of the Insurance Law to authorize certain non-insurance benefits, such as financial counseling, estate planning, grief counseling, travel assistance for beneficiaries, to be included as part of a group life insurance policy or group or blanket accident & health insurance policy without running afoul of the provisions of the Insurance Law that prohibit rebating.

F. Enactment of Interstate Insurance Product Regulation Compact

[S.426 \(Seward\)/A.4973 \(Simotas\)](#)

Please note these bills are not companions, as the Assembly bill is just limited to life insurance.

This bill would provide for a new Article 82 of the Insurance Law to establish that NYS would become a member of the Interstate Insurance Product Regulation Compact (IIPRC). To date, 45 jurisdictions have joined the compact. The IIPRC offers a single point of filing for life insurance policy forms, so that policies approved by the Commission may be sold in every state which has become a member.

G. Direct Response Solicitation Sales Disclosure Bill

[S.2077 \(Seward\)/A.8070 \(Peoples-Stokes\)](#)

This bill would amend the insurance law to remove a policyholder disclosure requirement ("preliminary information," which is not required in any other state) and facilitate delivery of certain other disclosure documents at or prior to policy delivery. These amendments are meant to streamline the process for issuing life insurance products in the direct market (i.e. phone, mail, internet sales), which is a crucial and growing segment of the insurance marketplace.

H. Proposal to Encourage Employers to Offer and Employees to Enroll in Group Private Disability Income Protection Plans

This proposal would provide employers who establish a group disability income protection plan for employees (or re-open an existing plan for new enrollees) after the effective date of the law

with a set tax credit per employee enrolled. The proposal would permit participating employers to automatically enroll eligible employees in the group disability income protection plan. The proposal is based upon an NCOIL model that seeks to encourage more employers to offer and employees to enroll in private disability income protection plans, and also mirrors industry-supported legislation enacted in 2016 in Maine.

I. Enactment of NAIC Redomestication Model Law
[S.697 \(Seward\)](#)

This bill would amend §7120 of the Insurance Law to bring the law into conformance with the NAIC Redomestication Model Law. The NAIC Model provides for the orderly transition of the home office of an insurer both in and out of NYS and will facilitate corporate restructuring and mergers by domestic life insurers, so that they can more easily grow their business in the state.

J. Promulgation of NAIC Life Insurance & Annuities Replacements Model Regulation
[S.708 \(Seward\)/A.2655 \(Steck\)](#)

This bill amends §§2123 and 4226 of the Insurance Law to remove impediments in the existing law relating to the replacement of an existing life policy or contract with a new policy or contract and will facilitate the promulgation of the NAIC Life Insurance & Annuities Replacements Model Regulation.