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New York Agents Want to Rein in State Workers' Comp Insurer

A trade group for New York insurance agents wants to rewrite the laws governing the New York State Insurance Fund - a nonprofit state agency which is New York's largest workers' compensation insurer - to put it on a level playing field with private insurers. Under a proposal put together by the Independent Insurance Agents and Brokers of New York, oversight of the State Insurance Fund would be moved to the New York Insurance Department, which would be required to review the fund for solvency and monitor its market practices. It would also rescind a state law that requires policyholders to give the fund 30 days' notice when they cancel their policies.

Legislation making those changes was introduced earlier this month in both the State Senate and State Assembly. The State Insurance Fund (NYSIF) is a self-supporting, self-run nonprofit state agency which was originally set up to act as a market of last resort to provide workers compensation coverage for high risk insureds. It oversees both the Workers' Compensation Fund and the Disability Benefits Fund, which pay benefits to injured and disabled workers in the state.

Over the years, however, the fund has evolved to compete directly with private carriers and now writes an estimated 40 percent of workers compensation insurance policies in New York. Private carriers, meanwhile, have long-complained about the fund's market practices, claiming it enjoys a number of advantages they do not.

Insurers have several gripes with the fund, said Ellen Melchionni, president of the New York Insurance Association, a trade group for New York insurers. One is that the State Insurance Fund does not make payments to the Aggregate Trust Fund, a pool of money designed to cover adjudicated permanent disability cases. Another gripe is the State Insurance Fund also is not subject to the same reserving requirements as private carriers.

The 30-day rule is another problem, Melchionni said: It gives the State Insurance Fund time to try to retain the business of its policyholders when they try to switch to a private carrier. "Companies have challenges with competing against the fund because it's not a level playing field," she said. Her group supports the bill, "at least conceptually," she said.

Michael V. Barrett, lobbyist for the Independent Agents and Brokers of New York, said agents in the state "are very concerned with the activities of the [NYSIF] in a number of areas, particularly how there is no oversight. "As far as agents go, some work with the State Insurance Fund and some compete against it," Barrett said. "They see how the fund works every day and there is a lot of concern about how the fund handles itself in the marketplace."

Although New York's legislative session is scheduled to end June 23, Barrett said the fact six lawmakers agreed to sponsor the legislation shows there is a promising future for the changes, and said getting the oversight of the fund changed would be a top priority for the IABNY over the coming year.

Stephen R. Zogby, chairman of the board at IABNY, echoed those comments. "A leading concern of IABNY has been the practice of the State Insurance Fund," he said. "This legislation will begin the process of reforming the fund." Spokesmen for the New York Insurance Department and the State Insurance Fund declined to comment on the proposal.

Added Melchionni of the New York Insurance Association: "An overhaul of the State Insurance Fund is long overdue and the whole structure needs to be revisited. Lawmakers need to determine if they really want it to be an active player in the market a true market of last resort. This bill opens up the idea of making it play by the same rules."

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The bill numbers are S.7673 and A.10844