S T A T E O F N E W Y O R K

6710

I N S E N A T E

March 12, 2012

Introduced by Sen. SEWARD -- (at request of the Department of Financial Services) -- 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 risk-based capital for property/casualty insurers; to amend the financial services law, in relation to annual reports of the superintendent; and to repeal certain provisions of the insurance law and the banking law relating to annual reporting requirements of the superintendent of financial services

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Paragraph 1 of subsection (d) of section 1324 of the insurance law, as added by chapter 631 of the laws of 2007, is amended to read as follows:

(1) "Company action level event" means, with respect to a domestic insurer:

(A) The filing by the insurer of an RBC report indicating that the insurer's total adjusted capital is greater than or equal to its regulatory action level RBC but less than its company action level RBC;

(B) The notification by the superintendent to the insurer of an adjusted RBC report that indicates the occurrence of an event described in subparagraph (A) of this paragraph, provided the insurer does not challenge the adjusted RBC report under subsection (h) of this section; [or]

(C) If, under subsection (h) of this section, the insurer challenges an adjusted RBC report that indicates the occurrence of an event described in subparagraph (A) of this paragraph, the notification by the superintendent to the insurer that the superintendent has, after a hearing, rejected the insurer's challenge[.]; OR

(D) THE FILING BY THE INSURER OF AN RBC REPORT INDICATING THAT THE INSURER HAS TOTAL ADJUSTED CAPITAL THAT IS GREATER THAN OR EQUAL TO ITS COMPANY ACTION LEVEL RBC, BUT LESS THAN THE PRODUCT OF THREE POINT ZERO AND ITS AUTHORIZED CONTROL LEVEL RBC, AND WITH A COMBINED RATIO GREATER THAN ONE HUNDRED TWENTY PERCENT AS DETERMINED IN ACCORDANCE WITH THE TREND TEST CALCULATION IN THE RBC INSTRUCTIONS.

S 2. Section 206 of the insurance law is REPEALED.

S 3. Section 43 of the banking law is REPEALED.

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

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S 4. The financial services law is amended by adding a new section 207 to read as follows:

S 207. ANNUAL REPORT OF THE SUPERINTENDENT. (A) THE SUPERINTENDENT SHALL SUBMIT A REPORT ANNUALLY TO THE GOVERNOR AND TO THE LEGISLATURE ON OR BEFORE THE FIFTEENTH DAY OF SEPTEMBER. THE REPORT SHALL CONTAIN THE FOLLOWING ITEMS, WITH RESPECT TO THE PRECEDING CALENDAR YEAR:

(1) A GENERAL REVIEW OF THE INSURANCE BUSINESS, BANKING BUSINESS, AND FINANCIAL PRODUCT OR SERVICE BUSINESS UTILIZING THE MOST CURRENT INFORMATION AVAILABLE;

(2) A CONSOLIDATED STATEMENT OF CONDITION SHOWING THE COMBINED ASSETS AND LIABILITIES OF ALL BANKING ORGANIZATIONS COMPRISING EACH OF THE FOLLOWING CLASSES: (A) BANKS AND TRUST COMPANIES; AND (B) PRIVATE BANKERS. EACH SUCH CONSOLIDATED STATEMENT SHALL COMBINE THE INFORMATION CONTAINED IN THE LAST PERIODICAL REPORTS OF CONDITION RECEIVED FROM SUCH BANKING ORGANIZATIONS AS OF A DATE DURING THE YEAR FOR WHICH SUCH REPORT OF THE SUPERINTENDENT IS RENDERED;

(3) A CONSOLIDATED STATEMENT OF CONDITION SHOWING THE COMBINED ASSETS AND LIABILITIES OF ALL BANKING ORGANIZATIONS COMPRISING EACH OF THE FOLLOWING CLASSES: (A) SAVINGS BANKS; (B) SAFE DEPOSIT COMPANIES; (C) SAVINGS AND LOAN ASSOCIATIONS; (D) CREDIT UNIONS; AND (E) INVESTMENT COMPANIES. EACH SUCH CONSOLIDATED STATEMENT SHALL COMBINE THE INFORMATION CONTAINED IN THE LAST PERIODICAL REPORTS OF CONDITION MADE TO THE SUPERINTENDENT AS OF A DATE DURING THE YEAR FOR WHICH THE REPORT OF THE SUPERINTENDENT IS RENDERED, EXCEPT THAT WITH RESPECT TO THOSE CLASSES MAKING REPORTS TO THE SUPERINTENDENT AS OF THE FIRST DAY OF THE FOLLOWING YEAR, SUCH CONSOLIDATED STATEMENTS SHALL COMBINE THE INFORMATION CONTAINED IN SUCH REPORTS;

(4) A CONSOLIDATED STATEMENT OF CONDITION SHOWING THE COMBINED ASSETS AND LIABILITIES OF ALL LICENSED LENDERS. EACH SUCH CONSOLIDATED STATEMENT SHALL COMBINE THE INFORMATION CONTAINED IN THE REPORTS TO BE MADE ON OR BEFORE THE FIRST DAY OF APRIL OF THE YEAR FOLLOWING THE YEAR FOR WHICH THE REPORT OF THE SUPERINTENDENT IS RENDERED;

(5) A STATEMENT OF CONDITION OF EACH BANKING ORGANIZATION REQUIRED BY THE BANKING LAW TO MAKE PERIODICAL REPORTS OF CONDITION TO THE SUPERINTENDENT. SUCH STATEMENT SHALL INCLUDE THE INFORMATION CONTAINED IN THE LAST PERIODICAL REPORT OF CONDITION MADE TO THE SUPERINTENDENT AS OF A DATE DURING THE YEAR FOR WHICH SUCH REPORT OF THE SUPERINTENDENT IS RENDERED, EXCEPT THAT IN THE CASE OF BANKING ORGANIZATIONS MAKING REPORTS TO THE SUPERINTENDENT AS OF THE FIRST DAY OF THE FOLLOWING YEAR, EACH SUCH STATEMENT SHALL INCLUDE THE INFORMATION CONTAINED IN SUCH REPORTS. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBSECTION, IN LIEU OF MAKING A STATEMENT OF THE CONDITION OF EACH COVERED BANKING ORGANIZATION, THE SUPERINTENDENT MAY MAKE SUCH INFORMATION AVAILABLE BY ANY OTHER MEANS THAT PROVIDES FOR DIRECT PUBLIC ACCESS OR AVAILABILITY TO SUCH REQUIRED REPORTS OF CONDITION;

(6) A STATEMENT OF ALL BANKING ORGANIZATIONS, FOREIGN BANKING CORPORATIONS AND LICENSED LENDERS AUTHORIZED OR LICENSED BY THE SUPERINTENDENT TO DO BUSINESS DURING THE YEAR FOR WHICH THE REPORT IS RENDERED, WITH THEIR NAMES AND LOCATIONS AND THE DATES ON WHICH THEIR CERTIFICATES WERE APPROVED BY THE SUPERINTENDENT, AND SUCH OTHER INFORMATION AS THE SUPERINTENDENT DEEMS APPROPRIATE;

(7) A STATEMENT OF THE BANKING ORGANIZATIONS, FOREIGN BANKING CORPORATIONS WHOSE BUSINESS HAS BEEN CLOSED EITHER VOLUNTARILY OR INVOLUNTARILY DURING THE YEAR FOR WHICH THE REPORT IS RENDERED, WITH THE AMOUNT OF THEIR RESOURCES AND OF THEIR DEPOSITS AND OTHER LIABILITIES AS LAST REPORTED BY THEM;

(8) A STATEMENT OF ANY UNCLAIMED AMOUNTS HELD BY THE SUPERINTENDENT PURSUANT TO THE REQUIREMENTS OF THE BANKING LAW AS TRUSTEE FOR THE CREDITORS, DEPOSITORS, STOCKHOLDERS OR SHAREHOLDERS OF EACH BANKING ORGANIZATION THE BUSINESS AND AFFAIRS OF WHICH SHALL HAVE BEEN FINALLY LIQUIDATED; THE AMOUNT OF INTEREST RECEIVED DURING THE PRECEDING FISCAL YEAR UPON ALL SUCH UNCLAIMED AMOUNTS HELD BY THE SUPERINTENDENT; AND THE AMOUNT OF ABANDONED FUNDS PAID OVER BY THE SUPERINTENDENT TO THE STATE COMPTROLLER PURSUANT TO THE REQUIREMENTS OF THE BANKING LAW;

(9) A TABLE SHOWING THE NUMBER AND KINDS OF AUTHORIZED INSURERS ACCORDING TO CLASSES OF BUSINESS, AND THEIR TOTAL ASSETS, LIABILITIES, PREMIUMS WRITTEN, AND INSURANCE IN FORCE, AS SHOWN BY THE ANNUAL STATEMENTS FILED WITH THE SUPERINTENDENT BY SUCH INSURERS;

(10) LISTS OF: (A) INSURERS ORGANIZED, ADMITTED, MERGED, WITHDRAWN, OR PLACED IN LIQUIDATION, CONSERVATION, OR REHABILITATION, (B) DOMESTIC INSURERS THAT HAVE AMENDED THEIR CHARTERS OR HAVE INCREASED OR DECREASED THEIR CAPITAL STOCK, TOGETHER WITH A STATEMENT OF THE EXTENT THEREOF; AND (C) DOMESTIC INSURERS THAT HAVE CHANGED THEIR CORPORATE NAMES;

(11) A LIST OF DEPARTMENT REPORTS FILED ON EXAMINATION OF AUTHORIZED INSURERS;

(12) A STATEMENT OF THE EXPENSES OF ADMINISTERING THE PROPERTY/CASUALTY INSURANCE SECURITY FUND AND THE PUBLIC MOTOR VEHICLE LIABILITY SECURITY FUND PURSUANT TO ARTICLE SEVENTY-SIX OF THE INSURANCE LAW;

(13) TABLES RELATIVE TO INSURER LIQUIDATION, CONSERVATION OR REHABILITATION PROCEEDINGS BY THE DEPARTMENT FOR PRIOR YEARS, INCLUDING THE PRECEDING CALENDAR YEAR;

(14) ANY AMENDMENTS TO THE BANKING LAW, THE INSURANCE LAW, AND THIS CHAPTER, AND ANY AMENDMENTS TO REGULATIONS PROMULGATED THEREUNDER, DURING THE YEAR FOR WHICH SUCH REPORT IS RENDERED; A SUMMARY OF INSURANCE CIRCULAR LETTERS AND BANKING INTERPRETATIONS ISSUED DURING THE YEAR FOR WHICH SUCH REPORT IS RENDERED; AND SUCH OTHER MATTERS RELATING TO THE BANKING ORGANIZATIONS, CORPORATIONS, PARTNERSHIPS, INSURERS, INSURANCE PRODUCERS, OR OTHER ENTITIES OR PERSONS LICENSED, AUTHORIZED TO DO BUSINESS, CERTIFIED, OR REGISTERED UNDER THE BANKING LAW, THE INSURANCE LAW, OR THIS CHAPTER, INCLUDING PUBLIC STATEMENTS, RECOMMENDATIONS AND DECISIONS OF THE SUPERINTENDENT, OCCURRING DURING THE YEAR FOR WHICH SUCH REPORT IS RENDERED, WHICH, IN THE JUDGMENT OF THE SUPERINTENDENT, MAY BE OF HISTORICAL OR REGULATORY SIGNIFICANCE;

(15) LEGISLATIVE RECOMMENDATIONS THAT THE SUPERINTENDENT DEEMS NECESSARY OR DESIRABLE; AND

(16) A SUMMARY OF THE DEPARTMENT'S RECEIPTS AND EXPENSES DURING THE PRECEDING FISCAL YEAR, EXCEPT EXPENSES OF LIQUIDATION NOT PAID OUT OF AMOUNTS APPROPRIATED BY THE LEGISLATURE, THE AMOUNTS APPROPRIATED BY THE LEGISLATURE FOR THE EXPENSES OF THE DEPARTMENT DURING SUCH YEAR, AND THE AMOUNT, IF ANY, FOR WHICH THE TREASURY OF THE STATE SHALL NOT HAVE BEEN REIMBURSED AT THE DATE OF SUCH REPORT.

(B) THE SUPERINTENDENT MAY, IN ADDITION TO THE ABOVE REQUIREMENTS, INCLUDE IN SUCH REPORT ANY OTHER MATTER OR DATA CONCERNING INSURANCE, BANKING, FINANCIAL PRODUCTS OR SERVICES OR THE SUPERINTENDENT'S DUTIES UNDER THE INSURANCE LAW, THE BANKING LAW, OR THIS CHAPTER, WHICH IN THE SUPERINTENDENT'S JUDGMENT, IS OF GENERAL INTEREST OR IMPORT.

S 5. This act shall take effect immediately.