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I N   S E N A T E

May 12, 2014

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Introduced by Sen. SEWARD -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance -- reported favorably from said committee and committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the insurance law, in relation to the life insurance company guaranty corporation of New York

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

1     Section 1. Section 7702 of the insurance law, as added by chapter 802  
2 of the laws of 1985, is amended to read as follows:  
3     S 7702. Purpose. The purpose of this article is to provide funds to  
4 protect [resident policyowners] POLICY OWNERS, insureds, beneficiaries,  
5 annuitants, payees and assignees of life insurance policies, health  
6 insurance policies, annuity contracts, funding agreements and supple-  
7 mental contracts issued by life insurance companies, subject to certain  
8 limitations, against failure in the performance of contractual obli-  
9 gations due to the impairment or insolvency of the insurer issuing such  
10 policies [or], contracts, OR FUNDING AGREEMENTS. In the judgment of the  
11 legislature, the foregoing objects and purposes not being capable of  
12 accomplishment by a corporation created under general laws, the creation  
13 of a not-for-profit corporation of insurers is provided for by this  
14 article to enable the guarantee of payment of benefits and of continua-  
15 tion of coverages, and members of the corporation are subject to assess-  
16 ment to carry out the purposes of this article.  
17     S 2. Section 7703 of the insurance law, as added by chapter 802 of the  
18 laws of 1985, is amended to read as follows:  
19     S 7703. Scope. (a) (1) This article shall apply to direct life insur-  
20 ance policies, health insurance policies, annuity contracts, funding  
21 agreements, and SUPPLEMENTAL contracts [supplemental to life and health  
22 insurance policies, annuity contracts or funding agreements] issued [to  
23 a resident] by a life insurance company licensed to transact life or  
24 health insurance or annuities in this state at the time the policy,  
25 contract, or FUNDING agreement was issued or [at the time it became] ON

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

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1 THE DATE OF ENTRY OF A COURT ORDER OF LIQUIDATION OR REHABILITATION WITH  
2 RESPECT TO SUCH A COMPANY THAT IS an impaired or insolvent insurer, as  
3 the case may be.

4 (2) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, THIS ARTICLE SHALL  
5 APPLY TO THE POLICIES, CONTRACTS, AND FUNDING AGREEMENTS SPECIFIED IN  
6 PARAGRAPH ONE OF THIS SUBSECTION WITH REGARD TO A PERSON WHO IS:

7 (A) AN OWNER OR CERTIFICATE HOLDER UNDER A POLICY, CONTRACT, OR FUND-  
8 ING AGREEMENT AND IN EACH CASE WHO:

9 (I) IS A RESIDENT; OR

10 (II) IS NOT A RESIDENT, BUT ONLY UNDER ALL OF THE FOLLOWING CONDI-  
11 TIONS:

12 (I) THE INSURER THAT ISSUED THE POLICY, CONTRACT, OR AGREEMENT IS  
13 DOMICILED IN THIS STATE;

14 (II) THE STATE OR STATES IN WHICH THE PERSON RESIDES HAS OR HAVE A  
15 GUARANTY ENTITY SIMILAR TO THE CORPORATION CREATED BY THIS ARTICLE; AND

16 (III) THE PERSON IS NOT ELIGIBLE FOR COVERAGE BY A GUARANTY ENTITY IN  
17 ANY OTHER STATE BECAUSE THE INSURER WAS NOT LICENSED OR AUTHORIZED IN  
18 THAT STATE AT THE TIME SPECIFIED IN THAT STATE'S GUARANTY ENTITY LAW; OR

19 (B) THE BENEFICIARY, ASSIGNEE, OR PAYEE OF THE PERSON SPECIFIED IN  
20 SUBPARAGRAPH (A) OF THIS PARAGRAPH, REGARDLESS OF WHERE THE PERSON  
21 RESIDES.

22 (3) EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION:

23 (A) WITH REGARD TO A GROUP ANNUITY CONTRACT (OR PORTION OF ANY SUCH  
24 CONTRACT) THAT DOES NOT GUARANTEE ANNUITY BENEFITS WITH RESPECT TO ANY  
25 SPECIFIC INDIVIDUAL IDENTIFIED IN THE CONTRACT, THIS ARTICLE SHALL APPLY  
26 TO A PERSON WHO IS THE OWNER OF SUCH A CONTRACT:

27 (I) IF THE CONTRACT IS ISSUED TO OR IN CONNECTION WITH A SPECIFIC  
28 BENEFIT PLAN WHERE THE PLAN SPONSOR HAS ITS PRINCIPAL PLACE OF BUSINESS  
29 IN THIS STATE; PROVIDED, HOWEVER, THAT FOR THE PURPOSE OF THIS SUBPARA-  
30 GRAPH:

31 (I) "PLAN SPONSOR" SHALL MEAN:

32 (AA) THE EMPLOYER IN THE CASE OF A BENEFIT PLAN ESTABLISHED OR MAIN-  
33 TAINED BY A SINGLE EMPLOYER;

34 (BB) THE EMPLOYEE ORGANIZATION IN THE CASE OF A BENEFIT PLAN ESTAB-  
35 LISHED OR MAINTAINED BY AN EMPLOYEE ORGANIZATION, PROVIDED THAT "EMPLOY-  
36 EE ORGANIZATION" SHALL MEAN ANY LABOR UNION OR ANY ORGANIZATION OF ANY  
37 KIND, OR ANY AGENCY OR EMPLOYEE REPRESENTATION COMMITTEE, ASSOCIATION,  
38 GROUP, OR PLAN, IN WHICH EMPLOYEES PARTICIPATE AND THAT EXISTS FOR THE  
39 PURPOSE, IN WHOLE OR IN PART, OF DEALING WITH EMPLOYERS CONCERNING AN  
40 EMPLOYEE BENEFIT PLAN, OR OTHER MATTERS INCIDENTAL TO EMPLOYMENT  
41 RELATIONSHIPS, OR ANY EMPLOYEES' BENEFICIARY ASSOCIATION ORGANIZED FOR  
42 THE PURPOSE IN WHOLE OR IN PART, OF ESTABLISHING SUCH A PLAN; OR

43 (CC) IN THE CASE OF A BENEFIT PLAN ESTABLISHED OR MAINTAINED BY TWO OR  
44 MORE EMPLOYERS OR JOINTLY BY ONE OR MORE EMPLOYERS AND ONE OR MORE  
45 EMPLOYEE ORGANIZATIONS, THE ASSOCIATION, COMMITTEE, JOINT BOARD OF TRUS-  
46 TEES, OR OTHER SIMILAR GROUP OF REPRESENTATIVES OF THE PARTIES WHO  
47 ESTABLISH OR MAINTAIN THE BENEFIT PLAN; AND

48 (II) "PRINCIPAL PLACE OF BUSINESS" SHALL MEAN:

49 (AA) THE STATE IN WHICH THE INDIVIDUALS WHO ESTABLISH POLICY FOR THE  
50 DIRECTION, CONTROL, AND COORDINATION OF THE OPERATIONS OF THE ENTITY AS  
51 A WHOLE PRIMARILY EXERCISE THAT FUNCTION, EXCEPT THAT IF MORE THAN FIFTY  
52 PERCENT OF THE PARTICIPANTS IN THE BENEFIT PLAN ARE EMPLOYED IN A SINGLE  
53 STATE, THEN THAT STATE SHALL BE DEEMED TO BE THE PRINCIPAL PLACE OF  
54 BUSINESS OF THE PLAN SPONSOR; OR

55 (BB) WITH REGARD TO A PLAN SPONSOR OF A BENEFIT PLAN DESCRIBED IN  
56 SUBITEM (CC) OF CLAUSE (I) OF THIS ITEM, THE PRINCIPAL PLACE OF BUSI-

NESS, AS DETERMINED PURSUANT TO SUBITEM (AA) OF THIS CLAUSE, OF THE EMPLOYER OR EMPLOYEE ORGANIZATION THAT HAS THE LARGEST INVESTMENT IN THE BENEFIT PLAN; OR

(II) ISSUED TO OR IN CONNECTION WITH A GOVERNMENT LOTTERY IF THE OWNER IS A RESIDENT; AND

(B) WITH REGARD TO A STRUCTURED SETTLEMENT ANNUITY, THIS SECTION SHALL APPLY TO A PERSON WHO IS A PAYEE UNDER THE STRUCTURED SETTLEMENT ANNUITY, OR THE BENEFICIARY OF A PAYEE IF THE PAYEE IS DECEASED, IF THE PAYEE (OR BENEFICIARY):

(I) IS A RESIDENT, REGARDLESS OF WHERE THE OWNER OF THE STRUCTURED SETTLEMENT ANNUITY RESIDES; OR

(II) IS NOT A RESIDENT, BUT ONLY UNDER THE FOLLOWING CONDITIONS:

(I) (AA) THE OWNER OF THE STRUCTURED SETTLEMENT ANNUITY IS A RESIDENT; OR

(BB) THE OWNER OF THE STRUCTURED SETTLEMENT ANNUITY IS NOT A RESIDENT, BUT THE INSURER THAT ISSUED THE STRUCTURED SETTLEMENT ANNUITY IS DOMICILED IN THIS STATE AND THE STATE IN WHICH THE OWNER RESIDES HAS A GUARANTY ENTITY SIMILAR TO THE CORPORATION CREATED BY THIS ARTICLE; AND

(II) NEITHER THE PAYEE (OR BENEFICIARY) NOR THE OWNER OF THE STRUCTURED SETTLEMENT ANNUITY IS ELIGIBLE FOR COVERAGE BY A GUARANTY ENTITY OF THE STATE IN WHICH THE PAYEE (OR BENEFICIARY) OR OWNER RESIDES.

(b) This article shall not apply to:

(1) [That] THAT portion or part of a variable life insurance policy, variable annuity contract or variable funding agreement not guaranteed by an insurer;

(2) [That] THAT portion or part of any policy, contract or agreement under which the risk is borne by the holder thereof;

(3) [Any] ANY policy, contract, or agreement, or part thereof, assumed by the impaired or insolvent insurer under a contract of reinsurance, other than reinsurance for which assumption certificates have been issued;

(4) [Any] ANY policy, contract, or agreement issued by or through the facilities of the New York Insurance Exchange, Inc., or any similar entity, or pursuant to article sixty-three of this chapter;

(5) [Any] ANY policy, contract, or agreement issued or issued for delivery outside the United States, to the extent it covers persons not citizens or permanent residents of the United States; and

(6) [Any] ANY policy, contract, or agreement payable other than in United States dollars.

(C) THIS ARTICLE SHALL NOT APPLY TO A PERSON:

(1) WHO IS A PAYEE, OR THE BENEFICIARY OF A PAYEE IF THE PAYEE IS DECEASED, OF AN OWNER RESIDENT IF THE PAYEE (OR BENEFICIARY) IS AFFORDED ANY COVERAGE BY A GUARANTY ENTITY OF ANOTHER STATE; OR

(2) COVERED UNDER SUBPARAGRAPH (A) OF PARAGRAPH THREE OF SUBSECTION (A) OF THIS SECTION IF THE GUARANTY ENTITY OF ANOTHER STATE PROVIDES ANY COVERAGE TO THE PERSON.

S 3. Subsections (d), (h), (j), and (k) of section 7705 of the insurance law, as added by chapter 802 of the laws of 1985, are amended and a new subsection (l) is added to read as follows:

(d) "Covered policy" means any of the kinds of insurance specified in paragraph one, two or three of subsection (a) of section one thousand one hundred thirteen of this chapter, ANY SUPPLEMENTAL CONTRACT, or any funding agreement referred to in section three thousand two hundred twenty-two of this chapter, or any portion or part thereof, within the scope of this article under section seven thousand seven hundred three of this article, except that any certificate issued to an individual

1 under any group policy or contract shall be considered to be a separate  
2 covered policy for purposes of section seven thousand seven hundred  
3 eight of this article.

4 (h) "Member insurer" means any life insurance company licensed to  
5 transact in this state any kind of insurance to which this article  
6 applies under section seven thousand seven hundred three of this arti-  
7 cle[. Solely for purposes of subsections (f) and (g) of this section,];  
8 PROVIDED, HOWEVER, THAT the term "member insurer" [shall] also [mean]  
9 MEANS any life insurance company formerly licensed to transact in this  
10 state any kind of insurance to which this article applies under section  
11 seven thousand seven hundred three of this article.

12 (j) "Person" means any individual OR LEGAL ENTITY, INCLUDING A corpo-  
13 ration, partnership, association, LIMITED LIABILITY COMPANY, TRUST, or  
14 voluntary organization.

15 (k) "Resident" means [any] A person to whom A contractual [obligations  
16 are] OBLIGATION IS owed and who either: (1) resides in this state [at  
17 the time] ON THE DATE OF ENTRY OF A COURT ORDER OF LIQUIDATION OR REHA-  
18 BILITATION WITH RESPECT TO a member insurer [is determined to be] THAT  
19 IS an impaired or insolvent insurer[,]; or (2) resided in this state at  
20 the time a member insurer issued a covered policy to such person.

21 (L) "SUPPLEMENTAL CONTRACT" MEANS AN AGREEMENT OR ANY OTHER MECHANISM  
22 FOR THE DISTRIBUTION OF PROCEEDS UNDER A LIFE INSURANCE POLICY, HEALTH  
23 INSURANCE POLICY, ANNUITY CONTRACT, OR FUNDING AGREEMENT.

24 S 4. Subsections (a) and (b) of section 7708 of the insurance law, as  
25 added by chapter 802 of the laws of 1985, are amended to read as  
26 follows:

27 (a) (1) If a domestic insurer is an impaired or insolvent insurer, the  
28 corporation shall, with the approval of the superintendent:

29 [(1)] (A) guarantee, assume, or reinsure, or cause to be guaranteed,  
30 assumed, or reinsured, the covered policies [of residents], or arrange  
31 for replacement by policies found by the superintendent to be substan-  
32 tially similar to such covered policies;

33 [(2)] (B) assure payment of the contractual obligations of the  
34 impaired or insolvent insurer [to residents]; and

35 [(3)] (C) provide such moneys, pledges, notes, guarantees or other  
36 means as are reasonably necessary to discharge such duties.

37 (2) The aggregate liability of the corporation under this subsection  
38 shall not exceed five hundred thousand dollars for all benefits, includ-  
39 ing cash values, with respect to any one life or, to the extent benefits  
40 are not allocated pursuant to a covered policy to any one life, to any  
41 one covered policy; provided, however, [(i)] that (A) the foregoing  
42 limitation shall not apply to any group or blanket accident or health  
43 insurance or accident and health insurance policy; and [(ii) that] (B)  
44 the corporation shall be liable under this subsection in an amount not  
45 to exceed one million dollars for all benefits, including cash values,  
46 with respect to any group annuity contract (or portion of any such  
47 contract) that does not guarantee annuity benefits with respect to any  
48 specific individual identified in the contract and with respect to any  
49 funding agreement issued to fund benefits under any employee benefit  
50 plan.

51 (b) (1) If a foreign or alien insurer is an impaired or insolvent  
52 insurer, the corporation shall, with the approval of the superintendent:

53 [(1)] (A) guarantee, assume, or reinsure or cause to be guaranteed,  
54 assumed, or reinsured the covered policies [of residents], or arrange  
55 for replacement by policies found by the superintendent to be substan-  
56 tially similar to such covered policies;

1 [(2)] (B) assure payment of the contractual obligations of the insol-  
2 vent insurer [to residents]; and

3 [(3)] (C) provide such moneys, pledges, notes, guarantees, or other  
4 means as are reasonably necessary to discharge such duties.

5 (2) The aggregate liability of the corporation under this subsection  
6 shall be the excess over any amount that the superintendent determines  
7 to be the statutory obligation of the guaranty corporation or associ-  
8 ation of the foreign or alien insurer's state of domicile or state of  
9 entry, but in no event shall the corporation's liability, when added to  
10 the amount so determined to be available from such other guaranty corpo-  
11 ration or association, exceed five hundred thousand dollars for all  
12 benefits, including cash values, with respect to any one life, or, to  
13 the extent benefits are not allocated pursuant to a covered policy to  
14 any one life, to any one covered policy; provided, however, [(i)] that  
15 the (A) foregoing five hundred thousand dollar limitation shall not  
16 apply to any group or blanket accident or health insurance or accident  
17 and health insurance policy; and [(ii)] that the] (B) liability of all  
18 such guaranty corporations or associations may in the aggregate equal,  
19 but shall not exceed one million dollars for all benefits, including  
20 cash values, with respect to any group annuity contract (or portion of  
21 any such contract) that does not guarantee annuity benefits with respect  
22 to any specific individual identified in the contract and with respect  
23 to any funding agreement issued to fund benefits under any employee  
24 benefit plan.

25 S 5. Subsection (h) of section 7708 of the insurance law, as added by  
26 chapter 802 of the laws of 1985, is amended to read as follows:

27 (h) The corporation may:

28 (1) [Enter] ENTER into such contracts as are necessary or proper to  
29 carry out the provisions and purposes of this article[.];

30 (2) [Sue] SUE or be sued, including taking any legal actions necessary  
31 or proper for recovery of any unpaid assessments under section seven  
32 thousand seven hundred nine of this article[.];

33 (3) [Borrow] BORROW money to effect the purposes of this article[.  
34 The], PROVIDED, HOWEVER, THAT THE corporation may agree, as a condition  
35 of any borrowing, that the lender will be subrogated to the rights of  
36 the corporation against the impaired or insolvent insurer to the extent  
37 of the amount borrowed and interest accruing thereon[. Any], AND  
38 PROVIDED FURTHER THAT ANY note or other evidence of indebtedness of the  
39 corporation not in default shall be a legal investment for domestic  
40 insurers and may be carried as admitted assets[.];

41 (4) [Employ] EMPLOY or retain such persons as are necessary or proper  
42 to handle the financial transactions of the corporation, and to perform  
43 such other functions as become necessary or proper under this  
44 article[.];

45 (5) [With] WITH the approval of the superintendent, negotiate and  
46 contract with any liquidator, rehabilitator, conservator or ancillary  
47 receiver to carry out the powers and duties of the corporation[.];

48 (6) [Take] TAKE such legal action as may be necessary to avoid payment  
49 of improper claims[.];

50 (7) [Exercise] EXERCISE, for the purposes of this article and to the  
51 extent approved by the superintendent, the powers of a domestic life  
52 insurance company, but in no case may the corporation issue insurance  
53 policies or annuity contracts other than those issued to perform the  
54 contractual obligations of the impaired or insolvent insurer[.];

55 (8) [Exercise] FUND A RESOLUTION FACILITY ESTABLISHED PURSUANT TO  
56 SECTION SEVEN THOUSAND SEVEN HUNDRED NINETEEN OF THIS ARTICLE; AND

(9) EXERCISE all powers necessary or convenient for the purposes of this article.

S 6. Paragraph 1 of subsection (e) of section 7709 of the insurance law, as amended by chapter 217 of the laws of 2012, is amended to read as follows:

(1) [The total assessment against all member insurers for all impairments and insolvencies, less the amount of refunds (not including interest) to member insurers pursuant to subsection (f) of this section, shall not exceed five hundred million dollars, except that with] WITH respect to a member insurer that is a domestic insurer and is subject to an order of rehabilitation under article seventy-four of this chapter as of March first, two thousand twelve, [such] THE TOTAL assessment [limit] AGAINST ALL MEMBER INSURERS FOR IMPAIRMENTS AND INSOLVENCIES, LESS THE AMOUNT OF REFUNDS (NOT INCLUDING INTEREST) TO MEMBER INSURERS PURSUANT TO SUBSECTION (F) OF THIS SECTION, shall be five hundred fifty-eight million dollars; provided, however, that such five hundred fifty-eight million dollar [limit] TOTAL shall be subject to reduction in an amount, if any, determined by the superintendent, on a date not earlier than twelve months after the entry of an order of liquidation with respect to such domestic insurer, to be not needed for the corporation to be able to pay its obligations and reasonable expenses in connection with the liquidation of such domestic insurer, but in no event shall such reduction exceed fifty-eight million dollars.

S 7. The insurance law is amended by adding a new section 7719 to read as follows:

S 7719. RESOLUTION FACILITY. (A) THE CORPORATION MAY INCORPORATE ONE OR MORE NOT-FOR-PROFIT CORPORATIONS, KNOWN AS A RESOLUTION FACILITY, IN CONNECTION WITH THE LIQUIDATION OF AN INSOLVENT DOMESTIC LIFE INSURANCE COMPANY UNDER ARTICLE SEVENTY-FOUR OF THIS CHAPTER FOR THE PURPOSE OF ADMINISTERING AND DISPOSING OF THE BUSINESS OF THE INSOLVENT DOMESTIC LIFE INSURANCE COMPANY.

(B) TO THE EXTENT THAT THE PROVISIONS OF THE NOT-FOR-PROFIT CORPORATION LAW DO NOT CONFLICT WITH THE PROVISIONS OF THIS SECTION OR THE PLAN OF OPERATION OF THE RESOLUTION FACILITY HEREUNDER, THE NOT-FOR-PROFIT CORPORATION LAW SHALL APPLY TO THE RESOLUTION FACILITY AND THE RESOLUTION FACILITY SHALL BE A NON-CHARITABLE CORPORATION PURSUANT TO THE NOT-FOR-PROFIT CORPORATION LAW. IF AN APPLICABLE PROVISION OF THIS SECTION OR THE PLAN OF OPERATION OF THE RESOLUTION FACILITY HEREUNDER RELATES TO A MATTER EMBRACED IN A PROVISION OF THE NOT-FOR-PROFIT CORPORATION LAW BUT IS NOT IN CONFLICT THEREWITH, THEN BOTH PROVISIONS SHALL APPLY. THE CORPORATION SHALL BE A MEMBER OF THE RESOLUTION FACILITY, AND OTHER PERSONS, INCLUDING THE LIFE INSURANCE GUARANTY CORPORATION CONTINUED UNDER ARTICLE SEVENTY-FIVE OF THIS CHAPTER AND GUARANTY ENTITIES OF OTHER STATES, MAY BECOME MEMBERS OF THE RESOLUTION FACILITY IN ACCORDANCE WITH THE RESOLUTION FACILITY'S CERTIFICATE OF INCORPORATION AND PLAN OF OPERATION.

(C) IN ADDITION TO ITS CERTIFICATE OF INCORPORATION, A RESOLUTION FACILITY SHALL SUBMIT TO THE SUPERINTENDENT A PLAN OF OPERATION, AND AMENDMENTS THERETO, NECESSARY OR SUITABLE TO ASSURE THE FAIR, REASONABLE, AND EQUITABLE ADMINISTRATION OF THE RESOLUTION FACILITY. THE PLAN OF OPERATION, AND ANY AMENDMENTS THERETO, SHALL BECOME EFFECTIVE UPON APPROVAL IN WRITING BY THE SUPERINTENDENT. THE PLAN OF OPERATION SHALL CONSTITUTE THE BYLAWS OF THE RESOLUTION FACILITY.

(D) A RESOLUTION FACILITY MAY:

(1) GUARANTEE, ASSUME, OR REINSURE, OR CAUSE TO BE GUARANTEED, ASSUMED, OR REINSURED, THE COVERED POLICIES, OR ARRANGE FOR REPLACEMENT

1 BY POLICIES FOUND BY THE SUPERINTENDENT TO BE SUBSTANTIALLY SIMILAR TO  
2 THE COVERED POLICIES;

3 (2) EXERCISE, FOR THE PURPOSES OF THIS ARTICLE AND TO THE EXTENT  
4 APPROVED BY THE SUPERINTENDENT, THE POWERS OF A DOMESTIC LIFE INSURANCE  
5 COMPANY, BUT IN NO CASE MAY THE RESOLUTION FACILITY ISSUE INSURANCE  
6 POLICIES, ANNUITY CONTRACTS, FUNDING AGREEMENTS, OR SUPPLEMENTAL  
7 CONTRACTS OTHER THAN THOSE ISSUED TO PERFORM THE CONTRACTUAL OBLIGATIONS  
8 OF THE IMPAIRED OR INSOLVENT INSURER;

9 (3) ASSURE PAYMENT OF THE CONTRACTUAL OBLIGATIONS OF THE INSOLVENT  
10 INSURER; AND

11 (4) PROVIDE SUCH MONEYS, PLEDGES, NOTES, GUARANTEES, OR OTHER MEANS AS  
12 ARE REASONABLY NECESSARY TO DISCHARGE ITS DUTIES.

13 (E) A RESOLUTION FACILITY SHALL NOT BE SUBJECT TO ANY PROVISIONS OF  
14 THIS CHAPTER OR THE FINANCIAL SERVICES LAW EXCEPT:

15 (1) THIS SECTION; AND

16 (2) SECTIONS SEVEN THOUSAND SEVEN HUNDRED FOURTEEN, SEVEN THOUSAND  
17 SEVEN HUNDRED FIFTEEN, AND SEVEN THOUSAND SEVEN HUNDRED SIXTEEN OF THIS  
18 ARTICLE, WHICH SHALL APPLY IN THE SAME MANNER AS THEY APPLY TO THE  
19 CORPORATION.

20 (F) NOTWITHSTANDING SUBSECTION (E) OF THIS SECTION, THE SUPERINTENDENT  
21 MAY ADDRESS TO THE RESOLUTION FACILITY ANY INQUIRY IN RELATION TO ITS  
22 TRANSACTIONS OR CONDITION OR ANY MATTER CONNECTED THEREWITH PURSUANT TO  
23 SECTION THREE HUNDRED EIGHT OF THIS CHAPTER.

24 (G) (1) IF THE SUPERINTENDENT DETERMINES THAT THE RESOLUTION FACILITY  
25 IS NOT ADMINISTERING AND DISPOSING OF THE BUSINESS OF AN INSOLVENT  
26 DOMESTIC LIFE INSURANCE COMPANY CONSISTENT WITH THE RESOLUTION FACILI-  
27 TY'S CERTIFICATE OF INCORPORATION, PLAN OF OPERATION, OR THIS SECTION,  
28 THEN THE SUPERINTENDENT SHALL PROVIDE NOTICE TO THE RESOLUTION FACILITY  
29 AND THE RESOLUTION FACILITY SHALL HAVE THIRTY DAYS TO RESPOND TO THE  
30 SUPERINTENDENT AND CURE THE DEFECT.

31 (2) IF, AFTER THIRTY DAYS, THE SUPERINTENDENT CONTINUES TO BELIEVE  
32 THAT THE RESOLUTION FACILITY IS NOT ADMINISTERING AND DISPOSING OF THE  
33 BUSINESS OF AN INSOLVENT DOMESTIC LIFE INSURANCE COMPANY CONSISTENT WITH  
34 THE RESOLUTION FACILITY'S CERTIFICATE OF INCORPORATION, PLAN OF OPERA-  
35 TION, OR THIS SECTION, THEN THE SUPERINTENDENT MAY APPLY TO THE COURT  
36 FOR AN ORDER DIRECTING THE RESOLUTION FACILITY TO CORRECT THE DEFECT OR  
37 TAKE OTHER APPROPRIATE ACTIONS.

38 S 8. Section 1108 of the insurance law is amended by adding a new  
39 subsection (n) to read as follows:

40 (N) A RESOLUTION FACILITY ESTABLISHED PURSUANT TO SECTION SEVEN THOU-  
41 SAND SEVEN HUNDRED NINETEEN OF THIS CHAPTER.

42 S 9. Subsection (f) of section 7503 of the insurance law is amended to  
43 read as follows:

44 (f) The corporation shall have the power:

45 (1) [To] TO use a corporate seal, to contract, to sue and be sued and  
46 to possess and exercise all powers necessary or convenient for the  
47 purposes of this article[.];

48 (2) [With] WITH the approval of the superintendent, to assume, rein-  
49 sure or guaranty, or cause to be assumed, reinsured or guaranteed,  
50 partially or wholly, any or all policies or contracts of any member  
51 company and to make available from the fund such sums as may be neces-  
52 sary for such purposes[.];

53 (3) [To] TO carry out the provisions of this article, the corporation  
54 shall have and may exercise all necessary rights, powers, privileges and  
55 franchises of a domestic life insurance company except that it shall not  
56 be authorized to issue contracts or policies unless they replace

1 contracts or policies representing obligations in whole or in part of  
2 another domestic life insurance company or of the corporation[.];  
3 (4) [To] TO borrow money for the purposes of the fund with or without  
4 security and pledge such assets in the fund as security for such loans  
5 and in connection therewith to rehypothecate any securities or collat-  
6 eral pledged to it by a company[. Obligations], PROVIDED, HOWEVER, THAT  
7 OBLIGATIONS of the corporation shall be legal investments for domestic  
8 life insurance companies and to the extent authorized by the superinten-  
9 dent may be carried as admitted assets[.];  
10 (5) [To] TO collect, or enforce by legal proceedings, if necessary,  
11 the payment of, all assessments for which any contributor may be liable  
12 under this article; to collect any obligation due to the corporation or  
13 to the fund[.]; AND  
14 (6) TO FUND A RESOLUTION FACILITY ESTABLISHED PURSUANT TO SECTION  
15 SEVEN THOUSAND SEVEN HUNDRED NINETEEN OF THIS CHAPTER.  
16 S 10. This act shall take effect immediately.