

STATE OF NEW YORK

9905--A

IN ASSEMBLY

April 26, 2024

Introduced by M. of A. FORREST -- read once and referred to the Committee on Insurance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the insurance law and the financial services law, in relation to establishing the insuring our future act

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

1 Section 1. The insurance law is amended by adding a new article 92 to
2 read as follows:

ARTICLE 92

INSURING OUR FUTURE ACT

Section 9201. Short title.

9202. Definitions.

9203. Implementing climate leadership and community protection act targets for insurers.

9204. Reporting.

10 § 9201. Short title. This article shall be known and may be cited as
11 the "insuring our future act".

12 § 9202. Definitions. In this article, unless the context or subject
13 matter otherwise requires:

14 (a) "New fossil fuel project" means a project designed to facilitate
15 the production of fossil fuels in excess of what is in development as of
16 the effective date of this article, including production of new coal
17 infrastructure, power plants, or mines. "New fossil fuel project" also
18 includes projects that would support exploring new oil and gas fields or
19 otherwise expanding oil and gas reserves. Examples of such projects
20 include, but are not limited to, new wells, pipelines, terminals or gas
21 power plants.

22 (b) "Department" means the department of financial services.

23 (c) "Superintendent" means the superintendent of the department of
24 financial services.

25 (d) "Precautionary principle" means an approach taken to regulation
26 which mandates that when activities under consideration may lead to
27 unacceptably serious or irreversible harm that is scientifically plausi-

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

LBD14599-04-4

1 ble but uncertain, actions shall be taken to avoid or diminish that
2 harm.

3 (e) "Guidance" means the department guidance for New York domestic
4 insurers on managing the financial risks from climate change issued by
5 the department of financial services.

6 § 9203. Implementing climate leadership and community protection act
7 targets for insurers. (a) The department shall:

8 (1) Integrate the precautionary principle into its regulation and
9 supervision of insurers by:

10 (A) incorporating measures to anticipate, prevent, or minimize the
11 effects of climate risk and its adverse effects; and

12 (B) implementing cost-effective measures to address the climate risk
13 exposure of insurers, even in the absence of full economic or scientific
14 certainty;

15 (2) Align insurer investment and underwriting activities with
16 science-based climate mitigation targets consistent with the emissions
17 limits set in section 75-0107 of the environmental conservation law by
18 prohibiting underwriting for any new fossil fuel project and directing
19 insurers to phase out existing underwriting for exploration, extraction,
20 processing, exporting, transporting, and any other significant action
21 with respect to oil, natural gas, coal, or any byproduct thereof; and

22 (3) Develop a process for insurance companies to certify as a condi-
23 tion of licensure that they meet certain criteria related to their
24 investment and underwriting activity, and to review their certification.

25 (b) Within twelve months of the effective date of this article, the
26 superintendent shall develop and implement criteria for certain insurers
27 doing business in this state, as determined by the superintendent pursu-
28 ant to subsection (f) of this section, to submit annually to the super-
29 intendent a report disclosing:

30 (1) Such insurer's investments in:

31 (A) any company that derives ten percent or more of revenue from
32 exploration, extraction, processing, exporting, transporting, and any
33 other significant action with respect to oil, natural gas, coal, or any
34 byproduct thereof;

35 (B) any project intended to facilitate or expand exploration,
36 extraction, processing, exporting, transporting, and any other signif-
37 icant action with respect to oil, natural gas, coal, or any byproduct
38 thereof; and

39 (C) any project intended to construct any infrastructure related to
40 projects under subparagraph (B) of this paragraph, such as wells, pipe-
41 lines, terminals or refineries;

42 (2) The financed emissions from all of the insurer's investments in
43 the previous reporting year;

44 (3) Information concerning such insurer's gross premium underwriting
45 for:

46 (A) any company that derives ten percent or more of revenue from
47 exploration, extraction, processing, exporting, transporting, and any
48 other significant action with respect to oil, natural gas, coal, or any
49 byproduct thereof;

50 (B) any project intended to facilitate or expand exploration,
51 extraction, processing, exporting, transporting, and any other signif-
52 icant action with respect to oil, natural gas, coal, or any byproduct
53 thereof; and

54 (C) any project intended to construct any infrastructure related
55 projects under subparagraph (B) of this paragraph, such as wells, pipe-
56 lines, terminals or refineries;

1 (4) The insured emissions from all of the insurer's underwriting in
2 the previous reporting year;

3 (5) Aggregated data on homeowners and renters premiums, claims, deduc-
4 tibles and overall insurance exposures, at a census-tract level, in a
5 manner that does not risk public disclosure of personally identifiable
6 information of policyholders; and

7 (6) Any other information the department deems necessary to effec-
8 tively implement and enforce any rule or regulation promulgated pursuant
9 to this article.

10 (c) The criteria developed by the superintendent pursuant to
11 subsection (b) of this section shall enable the superintendent to post
12 the information reported to the superintendent pursuant to subsection
13 (d) of this section on the department's website.

14 (d) Within twelve months of the effective date of this article, and
15 annually thereafter, such insurers doing business in this state, as
16 determined by the superintendent subject to subsection (f) of this
17 section, shall submit a report to the superintendent disclosing the
18 information set forth in subsection (b) of this section for the preced-
19 ing calendar year.

20 (e) Within three months of receiving the report required pursuant to
21 subsection (b) of this section, and annually thereafter, the superinten-
22 dent shall compile and post the information in such report on the
23 department's website.

24 (f) The superintendent may engage the services of attorneys, actuar-
25 ies, accountants and other experts not otherwise a part of the super-
26 intendent's staff, at the reporting insurer's expense, as shall be
27 reasonably necessary to assist in the review of such insurer's filing
28 under subsection (c) of this section. All persons so engaged shall be
29 under the direction and control of the superintendent and shall act in a
30 purely advisory capacity.

31 (g) The superintendent shall subject an insurer to the requirements of
32 this section if:

33 (1) The insurer reports over one hundred million dollars on its annual
34 schedule T filing with the National Association of Insurance Superinten-
35 dents; or

36 (2) The insurer's activities or investments may expose such insurer to
37 a heightened level of risk from the physical or transition effects of
38 climate change; or

39 (3) The superintendent otherwise determines that disclosure would be
40 in the public interest.

41 (h) The superintendent shall review and update the guidance at least
42 once every two years and shall update the guidance to reflect develop-
43 ments elsewhere in the world, with the intent of incorporating emerging
44 best practices and ensuring the smooth functioning of New York insurance
45 markets.

46 (i) The superintendent may adopt such regulations as the superinten-
47 dent deems necessary to carry out the purposes of this article.

48 (j) The superintendent shall develop a process for foreign insurance
49 companies to certify as a condition of licensure that they meet certain
50 criteria related to their investment and underwriting activity, and to
51 review their certification.

52 (k) Within five years of the effective date of this article, the
53 superintendent shall require any insurer doing business in the state to
54 certify that they have divested from:

55 (1) any company that derives ten percent or more of revenue from
56 exploration, extraction, processing, exporting, transporting, and any

other significant action with respect to oil, natural gas, coal, or any byproduct thereof;

(2) any project intended to facilitate or expand exploration, extraction, processing, exporting, transporting, and any other significant action with respect to oil, natural gas, coal, or any byproduct thereof; and

(3) any project intended to construct any infrastructure related to projects under paragraph two of this subsection, such as wells, pipelines, terminals or refineries.

§ 9204. Reporting. (a) Within twelve months of the effective date of this article, and once every two years thereafter, the superintendent shall submit a report to the legislature and the governor. The report shall also be made available to the public and posted on the department's website. The report shall disclose, for the preceding two calendar years, the department's:

(1) Efforts to implement the provisions of section nine thousand two hundred three of this article;

(2) Regulatory and supervisory actions taken, if any, to bolster the resilience of insurers to the physical impacts of climate change;

(3) Regulatory and supervisory actions planned, if any, to bolster the resilience of insurers to the physical impacts of climate change;

(4) The effects, if any, that the insurers' efforts to address climate risk have had on the affordability and availability of insurance for low income communities, communities of color and other traditionally underserved communities in the state, including communities vulnerable to bluelining as defined in paragraph fifty-six of subsection (a) of section one hundred seven of this chapter.

(b) Such report shall also summarize available information regarding:

(1) insurer and insurance market readiness for climate change and the energy transition;

(2) major sources of climate risk faced by New York insurers;

(3) any gaps related to climate risk that the department intends to address; and

(4) any legislative action that must be taken in order to allow the department to address climate risk.

§ 2. Subsections (k) and (l) of section 102 of the financial services law are amended and a new subsection (m) is added to read as follows:

(k) To promote the reduction and elimination of fraud, criminal abuse and unethical conduct by, and with respect to, banking, insurance and other financial services institutions and their customers; [and]

(l) To educate and protect users of banking, insurance, and financial services products and services through the provision of timely and understandable information[-]; and

(m) To identify, supervise, regulate and manage exposure to risk in New York's banking, insurance and financial services industries, including risks related to climate change.

§ 3. Subsection (a) of section 107 of the insurance law is amended by adding a new paragraph 56 to read as follows:

(56) "Community vulnerable to bluelining" means a census tract that meets the following:

(A) qualifies as a low-to-moderate income community under the criteria of the state's community reinvestment act or under the criteria defined in section two thousand three hundred fifty-five of this chapter or qualifies as a disadvantaged community as defined in section 75-0101 of the environmental conservation law and qualifies as a high climate risk community based either on the federal emergency management agency's risk

index or other criteria defined in section two thousand three hundred fifty-five of this chapter; or

(B) qualifies based on other criteria developed by the department pursuant to section two thousand three hundred fifty-five of this chapter.

§ 4. The insurance law is amended by adding two new sections 2354 and 2355 to read as follows:

§ 2354. Protecting communities from bluening. (a) The superintendent shall have the authority to place a moratorium on non-renewals in underserved communities that have been affected by a climate disaster in the last year.

(b) No insurer shall refuse to issue or renew or shall cancel a policy of property and casualty insurance based solely on the insured residing in an area that is designated as a community vulnerable to bluening pursuant to paragraph fifty-six of subsection (a) of section one hundred seven or section two thousand three hundred fifty-five of this chapter. Such prohibition shall not preclude an insurer from refusing to issue or renew or from canceling such policies based on sound underwriting and actuarial principles reasonably related to actual or anticipated loss experience subject to the applicable provisions of this section and of section three thousand four hundred twenty-five of this chapter.

(c) No insurer shall refuse to issue or renew or shall cancel a policy of property and casualty insurance based solely on the insured's source of income, including the use of housing vouchers.

§ 2355. Identification of communities vulnerable to bluening. (a) In addition to those communities which qualify as communities vulnerable to bluening pursuant to paragraph fifty-six of subsection (a) of section one hundred seven of this chapter, the department shall establish criteria and a process to identify new communities vulnerable to bluening.

(1) Such criteria shall identify communities vulnerable to bluening based on geographic, public health, environmental hazard, and socioeconomic criteria, which shall include, but are not limited to:

(A) areas burdened by cumulative environmental pollution and other hazards that can lead to negative public health effects;

(B) areas with concentrations of people that are of low income, high unemployment, high rent burden, low levels of home ownership, low levels of educational attainment, or members of groups that have historically experienced discrimination on the basis of race or ethnicity;

(C) areas vulnerable to the impacts of climate change such as flooding, storm surges, and urban heat island effects; and

(D) any additional criteria that the department may identify.

(2) Before finalizing the criteria for identifying communities vulnerable to bluening pursuant to paragraph one of this subsection, the department shall publish draft criteria and a draft list of communities vulnerable to bluening and make such information available on its website.

(b) The department shall annually review the criteria, process, and methods used to identify communities vulnerable to bluening and shall modify such methods to incorporate new data and scientific findings.

(c) The department shall regularly review the identities of communities vulnerable to bluening and modify such identities as needed.

§ 5. Subsection (d) of section 3425 of the insurance law is amended by adding a new paragraph 4 to read as follows:

(4) With respect to cancellation of policies in communities vulnerable to bluening pursuant to paragraph fifty-six of subsection (a) of section one hundred seven or section two thousand three hundred fifty-

1 five of this chapter, in addition to the requirements contained in para-
2 graph one of this subsection, unless the insurer, at least one year in
3 advance of the end of the policy period, mails or delivers to the named
4 insured, at the address shown in the policy, a written notice of its
5 intention not to renew a covered policy, or to condition its renewal
6 upon change of limits or elimination of any coverages, the named insured
7 shall be entitled to renew the policy upon timely payment of the premium
8 billed to the insured for the renewal.

9 § 6. The insurance law is amended by adding a new section 215 to read
10 as follows:

11 § 215. Rating and affordability improvement study. (a) The department
12 shall conduct a study on methods for keeping property and casualty
13 insurance lines affordable for communities vulnerable to bluelining,
14 including the consideration of homeowner mitigation in premium discounts
15 and non-renewal and cancellations decisions, assistance programs for
16 low-income policyholders similar to those proposed for the national
17 flood insurance program, and a tax on homeowners insurance lines that
18 declines into a rebate based on income.

19 (b) Within twelve months of the effective date of this section, the
20 department shall issue a report on their findings which shall provide
21 recommendations for regulatory and legislative actions relating to
22 affordable insurance lines in communities vulnerable to bluelining.

23 § 7. This act shall take effect immediately.