STATE OF NEW YORK

8258

2025-2026 Regular Sessions

IN SENATE

May 28, 2025

Introduced by Sen. SKOUFIS -- 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 administrative supervision

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

Section 1. Legislative findings. In order to increase the authority of the superintendent of financial services to respond to the harm posed by impaired insurers in this state, the legislature finds that it is in the best interest of the people of this state to enact an administrative supervision statute. The superintendent of financial services has the right and responsibility to enforce the insurance law and the authority to seek redress against any person responsible for the impairment or insolvency of the insurer, and nothing in this act is intended to restrict or limit such right, responsibility, or authority.

§ 2. The insurance law is amended by adding a new section 1125 to read as follows:

§ 1125. Administrative supervision. (a)(1) The superintendent may issue an order placing a domestic insurer under administrative supervision if the superintendent determines that one or more of the conditions set forth in subsection (b) of this section exists. Upon such a determination, the superintendent shall furnish the insurer with a written list of requirements to abate the condition or conditions within the time specified in the order, which shall be sixty days or another period of time as designated by the superintendent. The domestic insurer may challenge the order by requesting an administrative hearing pursuant to the adjudicatory proceeding rules in article three of the state administrative procedure act. Upon issuance of the order, the superintendent shall advise such domestic insurer of its right to request a hearing challenging the order pursuant to the adjudicatory proceeding rules in

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

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article three of the state administrative procedure act and regulations promulgated by the superintendent.

(2) If, at the end of the period specified in the order, the superintendent determines that the condition or conditions that gave rise to the order still exists or exist, then administrative supervision shall continue. The insurer may request a hearing to challenge the superintendent's determination to continue administrative supervision.

(3) If the superintendent determines that the condition or conditions that gave rise to administrative supervision no longer exists or exist, then the superintendent shall release the insurer from supervision.

(b) (1) An insurer may be subject to administrative supervision by the superintendent if upon examination or any other time it appears in the superintendent's discretion that:

(A) The insurer's condition renders the continuance of its business hazardous to the public or to its insureds;

(B) The insurer has or appears to have exceeded its powers, as that term is defined in paragraph two of this subsection, granted under its charter and applicable law;

(C) The insurer has failed to comply with the applicable provisions of this chapter;

(D) The business of the insurer is being conducted fraudulently; or

(E) The insurer gives its consent.

(2) The term "exceeded its powers" means any one or more of the following conditions:

(A) The insurer has refused to permit examination of its books, papers, accounts, records or affairs by the superintendent or the superintendent's deputies, employees or duly commissioned examiners;

(B) A domestic insurer has unlawfully removed from this state books, papers, accounts or records necessary for an examination of the insurer;

(C) The insurer has failed to promptly comply with the applicable financial reporting statutes or rules and departmental requests relating thereto;

(D) The insurer has neglected or refused to observe an order by the superintendent to make good, within the time prescribed by law, any prohibited deficiency in its capital, capital stock or surplus;

(E) The insurer is continuing to transact insurance or write business after its license has been revoked or suspended by the superintendent;

(F) The insurer, by contract or otherwise, has unlawfully or has in violation of an order of the superintendent or has without first having obtained written approval of the superintendent if approval is required by law: (i) totally reinsured its entire outstanding business; or (ii) merged or consolidated substantially its entire property or business with another insurer;

(G) The insurer engaged in any transaction in which it is not authorized to engage under the laws of this state; or

(H) The insurer refused to comply with a lawful order of the superintendent.

(3) The term "consent" means agreement to administrative supervision by the insurer.

(c) During the period of supervision, the superintendent may prohibit the insurer from engaging in any of the following activities without the superintendent's prior approval:

(1) disposing of, conveying, or encumbering any of its assets or its business in force;

(2) withdrawing any funds from its bank accounts;

(3) lending any of its funds;

(4) investing any of its funds;

(5) paying any claims;

(6) transferring any of its property;

(7) incurring any debt, obligation, or liability;

(8) merging or consolidating with another company;

(9) approving new premiums or renewing any policies;

(10) entering into any new reinsurance contract or treaty;

(11) terminating, surrendering, forfeiting, converting, or lapsing any insurance policy, certificate, or contract, except for nonpayment of premiums due;

(12) releasing, paying, or refunding premium deposits, accrued cash or loan values, unearned premiums, or other reserves on any insurance policy, certificate, or contract;

(13) making any material change in management; or

(14) increasing salaries and benefits of officers or directors or the payment of bonuses, dividends, or other payments.

(d) The superintendent may appoint as administrative supervisor, at the insurer's expense, one or more persons not employed by any insurer or interested in such insurer, except as a policyholder.

(e) During the period of administrative supervision, an insurer may contest an action taken or proposed to be taken by the superintendent or by the administrative supervisor on the grounds that the action or proposed action would not result in improving the condition of the insurer. Denial of the insurer's request upon reconsideration may be challenged by the insurer by requesting an administrative hearing pursuant to the adjudicatory proceeding rules in article three of the state administrative procedure act.

(f) (1) The expenses of administrative supervision pursuant to this section shall be borne and paid by the insurer so supervised.

(2) In the event that an insurer becomes subject to a proceeding under article seventy-four of this chapter within one year of the superintendent releasing the insurer from administrative supervision, all accrued and outstanding expenses incurred in connection with administrative supervision shall be treated as actual and necessary costs and expenses of the administration of such proceeding under article seventy-four of this chapter.

(g) (1) Notwithstanding any other section of law and except as set forth in this section, proceedings, hearings, notices, correspondence, reports, and other information in the possession of the superintendent or department relating to the supervision of any insurer shall be confidential and not subject to subpoena or public inspection under article six of the public officers law or any other statute, and shall not be subject to discovery or admissible in evidence in any private civil action, except as provided in this section; provided, however, that the superintendent is authorized to use the documents, materials, or other information in the furtherance of any regulatory or legal action brought as part of the superintendent's official duties.

(2) The superintendent may share the notices, correspondence, reports, records, or information pursuant to section one hundred ten of this chapter.

(3) The superintendent may open the proceedings or hearings or make public the notices, correspondence, reports, records, or other information if the superintendent deems that it is in the best interest of the public or in the best interest of the insurer, its insureds, creditors, or the general public.

(4) This subsection shall not apply to hearings, notices, correspondence, reports, records, or other information obtained upon the appointment of a receiver for the insurer by a court of competent jurisdiction.

(h) Nothing in this section shall be construed as precluding the superintendent from initiating judicial proceedings to place an insurer in rehabilitation, liquidation, conservation, or dissolution proceedings.

(i) Notwithstanding any other provision of law, the superintendent may meet with a supervisor appointed under this section and with the attorney or other representative of the supervisor, without the presence of any other person, at the time of any proceeding or during the pendency of any proceeding held under authority of this section to carry out the superintendent's duties under this section or for the supervisor to carry out the supervisor's duties under this section.

§ 3. Subsection (a) of section 1309 of the insurance law is amended to read as follows:

(a) Whenever the superintendent finds from a financial statement or report on examination that an authorized insurer is unable to pay its outstanding lawful obligations as they mature in the regular course of business, as shown by an excess of required reserves and other liabilities over admitted assets, or by its not having sufficient assets to reinsure all outstanding risks with other solvent authorized assuming insurers after paying all accrued claims owed, such insurer shall be deemed insolvent and the superintendent may proceed against it pursuant to the provisions of article seventy-four of this chapter or may place the insurer under administrative supervision pursuant to section one thousand one hundred twenty-five of this chapter.

§ 4. Subsection (a) of section 1310 of the insurance law is amended to read as follows:

(a) Whenever the superintendent finds from a financial statement, or a report on examination, of any domestic stock insurer that [~~(i)~~] (1) the admitted assets are less than the aggregate amount of its liabilities and outstanding capital stock or [~~(ii)~~] (2) the admitted assets of any such insurer [~~which~~] that is required to maintain a minimum surplus to policyholders are less than the aggregate amount of its liabilities and the amount of its minimum surplus to policyholders, [~~he~~] the superintendent shall determine the amount of the impairment and order the insurer to eliminate the impairment within such period as [~~he~~] the superintendent designates, not more than ninety days from the service of the order. [~~He~~] The superintendent may also order the insurer not to issue any new policies while the impairment exists. If the impairment as determined by the provisions of [~~item (i) hereof~~] paragraph one of this subsection equals or exceeds twenty-five percent of the insurer's outstanding capital stock, or as determined by the provisions of [~~item (i) or (ii) hereof~~] paragraph one or two of this subsection is such that the insurer does not have the minimum capital or minimum surplus to policyholders required by this chapter, and if at the expiration of such designated period, such insurer has not satisfied the superintendent that such impairment has been eliminated, the superintendent may proceed against the insurer pursuant to the provisions of article seventy-four of this chapter on the ground that its condition is such that its further transaction of business will be hazardous to its policyholders or its creditors or the public or the superintendent may place the insurer under administrative supervision pursuant to section one thousand one hundred twenty-five of this chapter.

§ 5. Subsection (c) of section 1311 of the insurance law is amended to read as follows:

(c) If the impairment so determined is such that such insurer does not have the minimum surplus required for item (iii) of subsection (a) hereof, and if when such designated period expires the insurer has not satisfied the superintendent that such impairment has been eliminated, **then** the superintendent may proceed against such insurer pursuant to the provisions of article seventy-four of this chapter on the ground that its further transaction of business will be hazardous to its policyholders, its creditors or the public **or the superintendent may place the insurer under administrative supervisions pursuant to section one thousand one hundred twenty-five of this chapter**.

§ 6. Paragraph 2 of subsection (c) of section 1312 of the insurance law is amended to read as follows:

(2) If at the expiration of such designated period such insurer has not satisfied the superintendent that such impairment has been eliminated, the superintendent may proceed against such insurer pursuant to the provisions of article seventy-four of this chapter as an insurer whose condition is such that its further transaction of business in the United States will be hazardous to its policyholders, its creditors or the public in the United States **or the superintendent may place the insurer under administrative supervision pursuant to section one thousand one hundred twenty-five of this chapter**.

§ 7. This act shall take effect immediately.