

S. 6411

A. 9437

S E N A T E - A S S E M B L Y

(PREFILED)

January 6, 2010

IN SENATE -- Introduced by Sen. THOMPSON -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance

IN ASSEMBLY -- Introduced by M. of A. PEOPLES-STOKES -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law, the workers' compensation law and the tax law, in relation to establishing environmental standards and protections in the insurance business, and providing incentives and tax credits for offering green insurance

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

1 Section 1. Legislative findings. The legislature finds and declares
2 that global warming poses a serious threat to the economic well-being,
3 public health, natural resources, and environment of the state of New
4 York. The potential adverse impacts of global warming include the
5 exacerbation of air quality problems, a reduction in the quality and
6 supply of water to the state, damage to marine ecosystems and the
7 natural environment, an increase in the incidences of infectious
8 diseases, asthma, and other human health-related problems, and an
9 increase in the occurrence and severity of natural catastrophes. Global
10 warming will have detrimental effects on some of the state of New York's
11 largest industries, including the insurance industry. It will also
12 increase the strain on energy and natural resources necessary to rebuild
13 and restore property after losses.

14 The legislature finds that by increasing incentives for the use of
15 low-emission vehicles, reduced driving, the building of "green build-
16 ings," investments in renewable energy projects, and the conservation of
17 natural resources, the insurance industry can help reduce greenhouse gas
18 emissions. National and international actions are necessary to fully
19 address the issue of global warming. However, actions taken by the state
20 of New York to reduce emissions of greenhouse gases will have far-reach-

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

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ing effects by encouraging other states, the federal government, and other countries to act.

It is the intent of the legislature that the superintendent of insurance coordinate with state agencies, as well as consult with the environmental justice community, industry sectors, business groups, academic institutions, environmental organizations, and other stakeholders in implementing this act.

It is the intent of the legislature that the superintendent of insurance consult with the public service commission and the department of environmental conservation in the development of emissions standards for low-emission vehicles for insurance rating purposes, and in the development of green building standards for insurance rating purposes in a manner that minimizes costs and maximizes benefits for the state of New York's economy, improves and modernizes the state of New York's energy infrastructure and maintains electric system reliability, maximizes additional environmental and economic cobenefits for the state of New York, and complements the state's efforts to protect the natural environment and reduce global warming.

It is also the intent of the legislature to provide an incentive in the form of New York state tax credits to attract much needed additional private capital investments. It is the expectation of the legislature that these new investment dollars shall be used for the direct benefit of the natural environment and renewable energy sources in the state of New York.

S 2. The insurance law is amended by adding two new sections 2352 and 2353 to read as follows:

S 2352. GREEN INSURANCE REGULATIONS. (A) AN INSURANCE COMPANY ORGANIZED AND LICENSED TO SELL AUTOMOBILE INSURANCE SHALL NOTIFY THE SUPERINTENDENT BY ELECTRONIC TRANSMISSION, INDICATING WHETHER OR NOT SUCH INSURANCE COMPANY OFFERS A PREMIUM REDUCTION FOR LOW-EMISSION AUTOMOBILES. IF SUCH PREMIUM REDUCTIONS ARE OFFERED, THE INSURANCE COMPANY SHALL TRANSMIT TO THE SUPERINTENDENT THE COST AND THE CLAIMS OF THOSE LOW-EMISSION AUTOMOBILES COMPARED TO HIGH-EMISSION VEHICLES.

(1) THE SUPERINTENDENT SHALL CONDUCT PUBLIC HEARINGS IN ORDER TO COMPARE AND CONTRAST THE RISK, THE COST, AND THE CLAIMS EXPERIENCE BETWEEN LOW-EMISSION AND HIGH-EMISSION AUTOMOBILES. THE SUPERINTENDENT SHALL ALSO ADDRESS ANY QUESTIONS OR CONCERNS POSED BY THE PUBLIC REGARDING ANY INFORMATION DISCUSSED AT SUCH HEARING.

(2) THE SUPERINTENDENT MAY DEVELOP ANY INSTRUCTIONS, PROCEDURES OR STANDARDS FOR THE APPLICATION OF THE PROVISIONS IN THIS SUBSECTION.

(3) THE SUPERINTENDENT IS AUTHORIZED TO PROMULGATE RULES AND REGULATIONS NECESSARY TO IMPLEMENT THE PROVISIONS IN THIS SUBSECTION.

(B) AN INSURANCE COMPANY ORGANIZED AND LICENSED TO SELL PROPERTY INSURANCE SHALL OFFER "GREEN REPLACEMENT COVERAGE" WHICH ALLOWS AN INSURED, AFTER A LOSS, TO REPLACE CONVENTIONAL BUILDING MATERIALS WITH SPECIFIED GREEN ALTERNATIVE MATERIALS SUCH AS NON-TOXIC PAINTS AND CARPETING, ENERGY-EFFICIENT LIGHTING SYSTEMS AND WATER-EFFICIENT INTERIOR PLUMBING.

(1) SUCH INSURANCE COMPANY SHALL OFFER COVERAGE FOR SOLAR AND WIND DISTRIBUTED GENERATION, AS PART OF, OR IN ADDITION TO, A RESIDENTIAL PROPERTY INSURANCE POLICY.

(2) SUCH INSURANCE COMPANY SHALL NOTIFY THE SUPERINTENDENT BY ELECTRONIC TRANSMISSION, INDICATING WHETHER OR NOT IT OFFERS A PREMIUM REDUCTION FOR GREEN UPGRADES OR COVERAGE. IF SUCH PREMIUM REDUCTIONS ARE OFFERED, THE INSURANCE COMPANY SHALL TRANSMIT TO THE SUPERINTENDENT THE COST AND THE CLAIMS OF THOSE POLICIES COMPARED TO CONVENTIONAL POLICIES.

(3) THE SUPERINTENDENT SHALL CONDUCT PUBLIC HEARINGS IN ORDER TO COMPARE AND CONTRAST THE RISK, THE COST, AND THE CLAIMS EXPERIENCE ASSOCIATED WITH GREEN BUILDINGS AND BUILDINGS WITH SOLAR AND WIND GENERATION, AND TO DISCUSS THE DEVELOPMENT OF INSURANCE PRODUCTS AND DERIVATIVES TO SUPPORT THOSE PROJECTS. THE SUPERINTENDENT SHALL ALSO ADDRESS ANY QUESTIONS OR CONCERNS POSED BY THE PUBLIC REGARDING ANY INFORMATION DISCUSSED AT SUCH HEARING.

(4) THE SUPERINTENDENT MAY DEVELOP ANY INSTRUCTIONS, PROCEDURES OR STANDARDS FOR THE APPLICATION OF THE PROVISIONS IN THIS SUBSECTION.

(5) THE SUPERINTENDENT IS AUTHORIZED TO PROMULGATE RULES AND REGULATIONS NECESSARY TO IMPLEMENT THE PROVISIONS IN THIS SUBSECTION.

S 2353. GREEN INSURANCE INDUSTRY MITIGATION REGULATIONS. (A) A COMPANY ORGANIZED AND LICENSED TO SELL INSURANCE IN THIS STATE SHALL NOTIFY THE SUPERINTENDENT BY ELECTRONIC TRANSMISSION, INDICATING WHETHER OR NOT SUCH COMPANY ELECTRONICALLY SUBMITS DOCUMENTS TO ITS INSUREDS, AND ANY COST SAVINGS ASSOCIATED WITH SUCH PRACTICE.

(B) THE SUPERINTENDENT SHALL CONDUCT PUBLIC HEARINGS TO DISSEMINATE INFORMATION REGARDING THE NATURE AND MAGNITUDE OF DAMAGE AND RISK FROM NATURAL DISASTERS TRIGGERED BY CLIMATE CHANGE.

(C) THE SUPERINTENDENT SHALL CONDUCT PUBLIC HEARINGS TO ASSESS THE INDUSTRY'S CONSUMPTION OF PAPER AND ELECTRICITY, AND TO DEVELOP INDUSTRY-WIDE MITIGATION MEASURES.

(D) THE SUPERINTENDENT MAY DEVELOP ANY INSTRUCTIONS, PROCEDURES OR STANDARDS FOR THE APPLICATION OF THE PROVISIONS IN THIS SECTION.

(E) THE SUPERINTENDENT IS AUTHORIZED TO PROMULGATE RULES AND REGULATIONS NECESSARY TO IMPLEMENT THE PROVISIONS IN THIS SECTION.

S 3. The workers' compensation law is amended by adding a new section 134-a to read as follows:

S 134-A. GREEN WORKERS' COMPENSATION INSURANCE PROVISIONS. THE SUPERINTENDENT OF INSURANCE, IN CONJUNCTION WITH THE COMMISSIONER OF LABOR, SHALL CONDUCT PUBLIC HEARINGS IN ORDER TO DISCUSS THE HEALTH IMPACT ON WORKERS WHO WORK IN GREEN BUILDINGS, INCLUDING BUT NOT LIMITED TO, ABSENTEE WORKER RATES. SUCH INFORMATION SHALL BE USED FOR ESTABLISHING THE APPROPRIATE WORKERS' COMPENSATION CLAIMS COST BENCHMARK.

S 4. Section 606 of the tax law is amended by adding a new subsection (g-3) to read as follows:

(G-3) GREEN INSURANCE TAX CREDIT. (1) FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND ELEVEN, AN INDIVIDUAL TAXPAYER SHALL BE ALLOWED A CREDIT AGAINST THE TAX IMPOSED BY THIS ARTICLE EQUAL TO TWENTY PERCENT OF QUALIFIED INVESTMENTS MADE BY SUCH TAXPAYER DURING THE TAXABLE YEAR INTO AN ENVIRONMENTAL FINANCIAL INSTITUTION THAT IS CERTIFIED BY THE INSURANCE DEPARTMENT.

(2) NO CREDIT SHALL BE ALLOWED UNDER THIS SUBSECTION UNLESS THE DEPARTMENT CERTIFIES THAT THE INVESTMENT QUALIFIES FOR SUCH CREDIT.

(3) NO CREDIT SHALL BE ALLOWED UNDER THIS SUBSECTION UNLESS THE TAXPAYER AND THE ENVIRONMENTAL FINANCIAL INSTITUTION THAT SUCH TAXPAYER INVESTED IN, PROVIDE THE DEPARTMENT WITH SATISFACTORY SUBSTANTIATION OF A QUALIFIED INVESTMENT IN THE FORM AND MANNER REQUESTED BY THE DEPARTMENT.

(4) AN ENVIRONMENTAL FINANCIAL INSTITUTION SHALL:

(A) APPLY TO THE INSURANCE DEPARTMENT FOR CERTIFICATION OF ITS STATUS AS AN ENVIRONMENTAL FINANCIAL INSTITUTION;

(B) APPLY TO THE DEPARTMENT, ON BEHALF OF THE TAXPAYER, FOR CERTIFICATION OF THE AMOUNT OF THE INVESTMENT, OBTAIN THE CERTIFICATION, AND RETAIN A COPY OF THE CERTIFICATION; AND

1 (C) OBTAIN THE TAXPAYER'S COMPANY IDENTIFICATION NUMBER FOR TAX ADMIN-
2 ISTRATION PURPOSES AND PROVIDE SUCH INFORMATION TO THE INSURANCE DEPART-
3 MENT, WITH THE APPLICATION DESCRIBED IN SUBPARAGRAPH (B) OF THIS PARA-
4 GRAPH.

5 (5) THE SUPERINTENDENT OF INSURANCE MAY DEVELOP ANY INSTRUCTIONS,
6 PROCEDURES OR STANDARDS FOR THE APPLICATION OF THE PROVISIONS IN THIS
7 SUBSECTION.

8 (6) THE SUPERINTENDENT OF INSURANCE IS AUTHORIZED TO PROMULGATE RULES
9 AND REGULATIONS NECESSARY TO IMPLEMENT THE PROVISIONS IN THIS
10 SUBSECTION.

11 (7) IF THE AMOUNT OF THE CREDIT, AND CARRYOVERS OF SUCH CREDIT, ALLOW-
12 ABLE UNDER THIS SUBSECTION FOR ANY TAXABLE YEAR SHALL EXCEED THE TAXPAY-
13 ER'S TAX FOR SUCH YEAR, SUCH EXCESS AMOUNT MAY BE CARRIED OVER TO THE
14 FIVE TAXABLE YEARS NEXT FOLLOWING THE TAXABLE YEAR WITH RESPECT TO WHICH
15 THE CREDIT IS ALLOWED AND MAY BE DEDUCTED FROM THE TAXPAYER'S TAX FOR
16 SUCH YEAR OR YEARS.

17 S 5. This act shall take effect immediately.