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I N S E N A T E

February 22, 2010

Introduced by Sen. KLEIN -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the executive law, in relation to establishing the office of risk assessment and management

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

1 Section 1. The executive law is amended by adding a new article 10-A
2 to read as follows:

3 ARTICLE 10-A

4 OFFICE OF RISK ASSESSMENT AND MANAGEMENT

5 SECTION 204. DEFINITIONS.

6 205. OFFICE OF RISK ASSESSMENT AND MANAGEMENT.

7 206. FUNCTIONS AND DUTIES OF THE OFFICE.

8 207. BOARD OF RISK ASSESSMENT AND MANAGEMENT

9 S 204. DEFINITIONS. FOR THE PURPOSES OF THIS ARTICLE:

10 1. "OFFICE" SHALL MEAN THE OFFICE OF RISK ASSESSMENT AND MANAGEMENT
11 ESTABLISHED PURSUANT TO SECTION TWO HUNDRED FIVE OF THIS ARTICLE.

12 2. "RISK MANAGER" SHALL MEAN THE RISK MANAGER OF THE OFFICE.

13 3. "STATE AGENCY" SHALL MEAN ANY DEPARTMENT, DIVISION, BOARD, COMMIS-
14 SION, BUREAU, OFFICE OR OTHER AGENCY OF THE STATE.

15 S 205. OFFICE OF RISK ASSESSMENT AND MANAGEMENT. THERE SHALL BE ESTAB-
16 LISHED WITHIN THE OFFICE OF GENERAL SERVICES, AN OFFICE OF RISK ASSESS-
17 MENT AND MANAGEMENT. THERE SHALL BE APPOINTED BY THE COMMISSIONER OF
18 GENERAL SERVICES THE RISK MANAGER OF THE OFFICE, WHO SHALL BE CHARGED
19 WITH THE DUTY OF ADMINISTERING THE OFFICE. THE COMMISSIONER OF GENERAL
20 SERVICES SHALL FIX COMPENSATION OF THE RISK MANAGER WITHIN THE AMOUNTS
21 APPROPRIATED THEREFOR.

22 S 206. FUNCTIONS AND DUTIES OF THE OFFICE. 1. THE FUNCTION OF THE
23 OFFICE SHALL BE TO DETERMINE THE POTENTIAL EXPOSURE OF THE STATE TO
24 LIABILITY FOR ITS ACTS AND OMISSIONS. THE RISK MANAGER AND OFFICE SHALL
25 FULFILL ITS FUNCTIONS AND DUTIES BY:

26 (A) CONDUCTING A STUDY OF THE PRACTICES AND PROCEDURES OF ALL STATE
27 AGENCIES, AS THEY PERTAIN TO, IMPACT UPON, CAUSE OR DETER PHYSICAL PROP-

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

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ERTY DAMAGE OR PERSONAL INJURIES OF ITS EMPLOYEES OR MEMBERS OF THE GENERAL PUBLIC;

(B) CONDUCTING A STUDY OF THE ACTIONS OF THE COURT OF CLAIMS AS THEY RELATE TO THE DISPOSITION OF MATTERS AGAINST THE STATE, FOR THE PURPOSE OF DETERMINING PAST AND PRESENT EXPOSURES TO LIABILITY, AND THE NATURE OF SUCH EXPOSURES;

(C) CONDUCTING A STUDY OF FUTURE LIABILITIES, AND RECOMMENDING STEPS AND PROCEDURES TO BE INSTITUTED TO REDUCE SUCH LIABILITIES; AND

(D) CONDUCTING AN INVENTORY OF ALL REAL PROPERTY OWNED OR LEASED, FOR A PERIOD OF TIME OF MORE THAN FIVE YEARS, BY ALL STATE AGENCIES, AND TO ASCERTAIN PAST, PRESENT AND POTENTIAL FUTURE LIABILITY EXPOSURES AND THE NATURE OF THOSE EXPOSURES, AND TO DEVELOP A RISK MANAGEMENT PLAN TO REDUCE SUCH EXPOSURE TO LIABILITY BY VIRTUE OF OWNING OR LEASING SUCH REAL PROPERTY.

THE RISK MANAGER, IN THE PERFORMANCE OF SUCH STUDIES, SHALL ENJOY THE FULL COOPERATION AND ASSISTANCE OF STATE AGENCIES AND THE COURT OF CLAIMS.

2. SUCH STUDIES SHALL BE COMPLETED AND SENT TO THE GOVERNOR, COMPTROLLER, ATTORNEY GENERAL, EXECUTIVE OFFICER OF EACH STATE AGENCY INCLUDED THEREIN, TEMPORARY PRESIDENT OF THE SENATE, SPEAKER OF THE ASSEMBLY, MINORITY LEADER OF THE SENATE AND MINORITY LEADER OF THE ASSEMBLY NO LATER THAN EIGHTEEN MONTHS AFTER THE EFFECTIVE DATE OF THIS ARTICLE. THE STUDIES SHALL BE REVISED AND UPDATED AS IS PERIODICALLY DEEMED APPROPRIATE BY THE RISK MANAGER, PROVIDED, HOWEVER, THAT ALL SUCH STUDIES SHALL BE REVISED AND UPDATED NOT LESS THAN ONCE EVERY FIVE YEARS.

3. THE OFFICE SHALL ADVISE THE VARIOUS STATE AGENCIES ON PROPER RISK MANAGEMENT TECHNIQUES AND PROCEDURES, AND THE IMPLEMENTATION THEREOF, FOR THE PURPOSE OF REDUCING EXPOSURES TO LIABILITY AS WELL AS ALL RESPONSIBILITIES AND DUTIES OF THE BUREAU OF INSURANCE IN THE OFFICE OF GENERAL SERVICES. THOSE AGENCIES INVOLVED IN, OR RESPONSIBLE FOR, THE CONSTRUCTION OF STRUCTURES OR ROADWAYS, OR THE CARE AND CUSTODY OF PERSONS MORE THAN IN TEMPORARY QUARTERS, AND THOSE AGENCIES WITH VEHICLES ASSIGNED FOR THEIR USE, SHALL UNDERGO DETAILED RISK MANAGEMENT ANALYSIS AND, WHEREVER PRACTICABLE AND AFTER THE AGENCY IS GRANTED AN OPPORTUNITY TO REVIEW AND APPEAL THE FINDINGS AND RECOMMENDATIONS OF SUCH ANALYSIS, IMPLEMENT THE RECOMMENDATIONS OF THE RISK MANAGER WITHIN ONE HUNDRED EIGHTY DAYS OF THE DATE THAT SUCH RECOMMENDATIONS ARE AGREED TO BY THE EXECUTIVE OFFICER OF SUCH AGENCY.

4. THE RISK MANAGER SHALL FILE AN ANNUAL REPORT ON THE ACTIVITIES OF THE OFFICE WITH THE GOVERNOR, COMPTROLLER, ATTORNEY GENERAL, TEMPORARY PRESIDENT OF THE SENATE, SPEAKER OF THE ASSEMBLY, THE MINORITY LEADERS OF THE SENATE AND ASSEMBLY, SENATE FINANCE COMMITTEE AND ASSEMBLY WAYS AND MEANS COMMITTEE, NO LATER THAN ONE HUNDRED EIGHTY DAYS AFTER THE COMPLETION OF THE CALENDAR YEAR TO WHICH THE REPORT REFERS.

5. ANY PUBLIC BENEFIT CORPORATION OR PUBLIC AUTHORITY MAY CONTRACT FOR THE SERVICES OF THE RISK MANAGER AND THE OFFICE IN THE EVENT THAT SUCH PUBLIC BENEFIT CORPORATION OR PUBLIC AUTHORITY IS WITHOUT INTERNAL RISK ASSESSMENT AND MANAGEMENT SERVICES, OR WISHES TO SUPPLEMENT SUCH INTERNAL SERVICES WITH THE SERVICES PROVIDED BY THE RISK MANAGER AND THE OFFICE.

6. THE RISK MANAGER MAY REVIEW, STUDY AND ENTER INTO A RELATIONSHIP WITH CAPTIVE INSURANCE COMPANIES, AS DEFINED IN SUBSECTION (C) OF SECTION SEVEN THOUSAND TWO OF THE INSURANCE LAW, OR OTHER RISK SHARING ENTITIES TO REDUCE PERSONAL INJURY OR PROPERTY DAMAGE LIABILITY CLAIMS AND PAYMENTS, EITHER ON AN ANNUAL BASIS OR OVER A LONGER PERIOD OF TIME,

1 FOR ALL STATE AGENCIES, OR AN INDIVIDUAL STATE AGENCY, PUBLIC BENEFIT
2 CORPORATION OR PUBLIC AUTHORITY.

3 S 207. BOARD OF RISK ASSESSMENT AND MANAGEMENT. 1. THERE IS HEREBY
4 ESTABLISHED, WITHIN THE OFFICE, A STATE BOARD OF RISK ASSESSMENT AND
5 MANAGEMENT. THE BOARD, TO BE COMPRISED OF THE RISK MANAGER, THE COMMIS-
6 SIONER OF GENERAL SERVICES, THE CHAIR OF THE STATE INSURANCE FUND, THE
7 PRESIDENT OF THE STATE CIVIL SERVICE COMMISSION, THE DIRECTOR OF THE
8 OFFICE OF EMPLOYEE RELATIONS, THE DIRECTOR OF THE DIVISION OF THE BUDG-
9 ET, AND A REPRESENTATIVE OF EACH PUBLIC EMPLOYEE ORGANIZATION, SHALL
10 MEET QUARTERLY FOR THE PURPOSE OF EXAMINING CURRENT METHODS OF RISK
11 MANAGEMENT AND CONTROL DEPLOYED BY THE STATE, AND REVIEW INSTANCES OF
12 DIFFICULTY IN DEPLOYING SOUND RISK ASSESSMENT AND MANAGEMENT PROCEDURES.

13 2. A SUMMARY OF THE PROCEEDINGS OF THE BOARD, WITH RECOMMENDATIONS FOR
14 IMPROVEMENT OF THE STATE'S RISK MANAGEMENT PRACTICES AND PROCEDURES,
15 SHALL BE INCLUDED IN THE ANNUAL REPORT OF THE RISK MANAGER. THE RISK
16 MANAGER SHALL TAKE INTO CONSIDERATION THE RECOMMENDATIONS PERIODICALLY
17 MADE BY THE BOARD IN CONDUCTING HIS OR HER MANAGEMENT AND ABATEMENT OF
18 POTENTIAL LIABILITY ACTIVITIES.

19 S 2. This act shall take effect on the one hundred eightieth day after
20 it shall have become a law, except that any rules and regulations neces-
21 sary for the timely implementation of this act on its effective date
22 shall be promulgated on or before such date.