

5994

2009-2010 Regular Sessions

I N S E N A T E

June 19, 2009

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

AN ACT to amend the insurance law, in relation to mortgage guaranty insurance and reinsurance

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

1 Section 1. Subsection (d) of section 6507 of the insurance law, as
2 added by chapter 517 of the laws of 1989, is amended to read as follows:
3 (d) Where a mortgage insurer cedes any insurance to a mortgage insurer
4 not licensed under this article or an insurer that insures or reinsures
5 other lines of insurance in addition to mortgage guaranty insurance, in
6 order for the mortgage insurer to receive credit for such reinsurance as
7 an asset or as a reduction from liabilities, including its contingency
8 reserve liability, in its financial statements, such assuming insurer
9 must maintain a surplus to policyholders of at least thirty-five million
10 dollars and the following must occur[;]:
11 (1) the ASSUMING insurer [must] SHALL establish and maintain in a
12 segregated trust an amount equal to the greater of either the contingen-
13 cy reserve required by paragraph two of subsection (a) of section six
14 thousand five hundred two of this article, or four percent of the
15 outstanding total liability under the aggregate insurance policies
16 assumed from the mortgage insurer, BUT TO THE EXTENT IT DOES NOT, THE
17 MORTGAGE INSURER SHALL ESTABLISH AND MAINTAIN SUCH REQUIRED CONTINGENCY
18 RESERVE AND SUCH POLICYHOLDERS SURPLUS AS IS REQUIRED TO SUPPORT SUCH
19 LIABILITY;
20 (2) the ASSUMING insurer must establish and maintain in a segregated
21 trust, or provide a letter of credit in a form approved by the super-
22 intendent, an amount equal to the unearned premium and loss reserves;
23 (3) any such [aggregated] SEGREGATED trust shall EXCEPT AS OTHERWISE
24 REQUIRED BY THE SUPERINTENDENT, COMPLY WITH THE REQUIREMENTS FOR A TRUST
25 AGREEMENT AS WOULD BE GENERALLY APPLICABLE IN ORDER TO OBTAIN CREDIT FOR

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

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1 REINSURANCE CEDED TO AN UNAUTHORIZED REINSURER INVOLVING PROPERTY AND
2 CASUALTY RISKS AND SHALL be funded by assets permitted by article four-
3 teen of this chapter for the loss reserve required by paragraph three of
4 subsection (a) of section six thousand five hundred two of this article
5 and for the unearned premium reserve required by section one thousand
6 three hundred five of this chapter, and shall be funded by either the
7 types of assets specified in paragraphs one, two and three of subsection
8 (b) of section one thousand four hundred two and paragraphs one[,] AND
9 two [and twelve] of subsection (a) of section one thousand four hundred
10 four of this chapter or by tax and loss bonds purchased pursuant to S
11 832(e) of the Internal Revenue Code for the greater of the amount of
12 reserves required by paragraph two of subsection (a) of section six
13 thousand five hundred two of this article or paragraph one of subsection
14 (b) of section six thousand five hundred two of this article;

15 (4) [the reinsurance agreement must be submitted to the commissioner
16 or superintendent of insurance of the mortgage insurer's domicile for
17 approval] EXCEPT AS OTHERWISE REQUIRED BY THE SUPERINTENDENT, THE REIN-
18 SURANCE AGREEMENT SHALL COMPLY WITH THE REQUIREMENTS FOR A REINSURANCE
19 AGREEMENT AS WOULD BE GENERALLY APPLICABLE IN ORDER TO OBTAIN CREDIT FOR
20 REINSURANCE CEDED TO AN UNAUTHORIZED REINSURER INVOLVING PROPERTY AND
21 CASUALTY RISKS; and

22 (5) [the reinsurance agreement must provide that:

23 (A) it is not valid until approved by the commissioner or superinten-
24 dent of insurance of the mortgage insurer's domicile;

25 (B) any amendments to the reinsurance agreement must be submitted to
26 the commissioner or superintendent of insurance of the mortgage insur-
27 er's domicile for approval prior to becoming effective;

28 (C) the ceding mortgage insurer has a right to terminate the ceding of
29 additional insurance under the reinsurance agreement if so ordered by
30 the superintendent;

31 (D) the superintendent has the right to request from the assuming
32 reinsurer information concerning its financial condition;

33 (E) the assuming reinsurer shall notify the superintendent of any
34 material change in its financial condition; and

35 (F) such agreements and any amendments thereto shall be provided to
36 the superintendent, who shall have the right to disapprove of any agree-
37 ment. Such agreements and any amendments thereto shall be deemed
38 approved by the superintendent unless disapproved within thirty days
39 from the date provided to the superintendent. If the superintendent
40 disapproves of any reinsurance agreement or amendments thereto the mort-
41 gage insurer shall not receive credit for such reinsurance as an asset
42 or as a reduction from liabilities in its financial statement] THE
43 ASSUMING INSURER AND THE TERMS OF THE REINSURANCE SHALL COMPLY WITH SUCH
44 OTHER REQUIREMENTS AS PRESCRIBED BY THE SUPERINTENDENT.

45 S 2. This act shall take effect immediately.