S T A T E O F N E W Y O R K

8194--A

I N S E N A T E

June 15, 2010

Introduced by Sen. BRESLIN -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the insurance law, in relation to incorporation of a resolution facility

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

Section 1. The insurance law is amended by adding a new section 7719 to read as follows:

S 7719. RESOLUTION FACILITY. (A) THE CORPORATION MAY INCORPORATE A NOT-FOR-PROFIT CORPORATION, KNOWN AS A RESOLUTION FACILITY, IN CONNECTION WITH THE LIQUIDATION OF AN INSOLVENT DOMESTIC LIFE INSURANCE COMPANY IF THE DOMESTIC LIFE INSURANCE COMPANY IS IN REHABILITATION UNDER ARTICLE SEVENTY-FOUR OF THIS CHAPTER AS OF THE EFFECTIVE DATE OF THIS SECTION, AND FOR THE PURPOSE OF ADMINISTERING AND DISPOSING OF THE BUSINESS OF AN INSOLVENT DOMESTIC LIFE INSURANCE COMPANY ASSUMED BY OR ASSIGNED TO THE RESOLUTION FACILITY.

(B) FUNDING FOR A RESOLUTION FACILITY MAY BE PROVIDED BY (I) THE LIQUIDATOR OF THE INSOLVENT INSURER WHOSE BUSINESS IS ASSUMED BY OR ASSIGNED TO THE RESOLUTION FACILITY, (II) THE CORPORATION, (III) THE LIFE INSURANCE GUARANTY CORPORATION CONTINUED UNDER ARTICLE SEVENTY-FIVE OF THIS CHAPTER, (IV) ANY OTHER GUARANTY CORPORATIONS OR ASSOCIATIONS OF OTHER JURISDICTIONS HAVING OBLIGATIONS IN CONNECTION WITH INSURANCE POLICIES, ANNUITY CONTRACTS OR FUNDING AGREEMENTS OF THE INSOLVENT INSURER WHOSE BUSINESS IS ASSUMED BY OR ASSIGNED TO THE RESOLUTION FACILITY, OR (V) ANY OTHER PERSON.

(C) EACH RESOLUTION FACILITY SHALL BE A TYPE C NOT-FOR-PROFIT CORPORATION PURSUANT TO THE NOT-FOR-PROFIT CORPORATION LAW. A RESOLUTION FACILITY SHALL HAVE ONE OR MORE CLASSES OF MEMBERS. THE CORPORATION SHALL BE A MEMBER OF EACH RESOLUTION FACILITY, AND OTHER PERSONS, INCLUDING, WITHOUT LIMITATION, THE LIFE INSURANCE GUARANTY CORPORATION CONTINUED UNDER ARTICLE SEVENTY-FIVE OF THIS CHAPTER AND GUARANTY CORPORATIONS OR ASSOCIATIONS OF OTHER JURISDICTIONS, MAY BECOME MEMBERS OF A

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

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RESOLUTION FACILITY IN ACCORDANCE WITH THE CERTIFICATE OF INCORPORATION, BY-LAWS AND PLAN OF OPERATION OF THE RESOLUTION FACILITY. IN THE JUDGMENT OF THE LEGISLATURE, THE OBJECTS OF THE RESOLUTION FACILITY AUTHORIZED TO BE ESTABLISHED UNDER THIS SECTION CANNOT BE ATTAINED BY A CORPORATION ESTABLISHED UNDER GENERAL LAWS.

(D) IN ACCORDANCE WITH ITS PLAN OF OPERATION, A RESOLUTION FACILITY MAY (I) GUARANTEE, ASSUME OR REINSURE, OR CAUSE TO BE GUARANTEED, ASSUMED OR REINSURED, THE INSURANCE POLICIES, FUNDING AGREEMENTS OR ANNUITY CONTRACTS OF THE INSOLVENT INSURER WHOSE BUSINESS IS ASSUMED BY OR ASSIGNED TO THE RESOLUTION FACILITY (AS SUCH INSURANCE POLICIES, FUNDING AGREEMENTS OR ANNUITY CONTRACTS MAY HAVE BEEN AMENDED, MODIFIED OR RESTRUCTURED WITH THE APPROVAL OF A COURT OF COMPETENT JURISDICTION), OR ARRANGE FOR REPLACEMENT BY INSURANCE POLICIES, FUNDING AGREEMENTS OR ANNUITY CONTRACTS FOUND BY THE LIQUIDATOR OF SUCH INSOLVENT INSURER TO BE SUBSTANTIALLY SIMILAR TO SUCH INSURANCE POLICIES, FUNDING AGREEMENTS OR ANNUITY CONTRACTS OF SUCH INSOLVENT INSURER OR REPLACEMENT BY INSURANCE POLICIES, FUNDING AGREEMENTS OR ANNUITY CONTRACTS APPROVED BY A COURT OF COMPETENT JURISDICTION, AND (II) OTHERWISE EXERCISE THE POWERS OF A DOMESTIC LIFE INSURANCE COMPANY, BUT IN NO CASE MAY A RESOLUTION FACILITY ISSUE INSURANCE POLICIES, FUNDING AGREEMENTS OR ANNUITY CONTRACTS OTHER THAN THOSE ISSUED IN RESPECT OF THE CONTRACTUAL OBLIGATIONS OF THE INSOLVENT INSURER.

(E) SECTION SEVEN THOUSAND SEVEN HUNDRED FIFTEEN OF THIS ARTICLE AND THE FIRST TWO SENTENCES OF SECTION SEVEN THOUSAND SEVEN HUNDRED SIXTEEN OF THIS ARTICLE SHALL APPLY TO THE RESOLUTION FACILITY AS THEY APPLY TO THE CORPORATION; NO OTHER PROVISIONS OF THIS CHAPTER, OTHER THAN THOSE CONTAINED IN THIS SECTION, SHALL APPLY TO A RESOLUTION FACILITY.

(F) IN ADDITION TO ITS CERTIFICATE OF INCORPORATION AND BY-LAWS, A RESOLUTION FACILITY SHALL ADOPT A PLAN OF OPERATION NECESSARY OR SUITABLE TO ASSURE THE FAIR, REASONABLE AND EQUITABLE ADMINISTRATION OF SUCH RESOLUTION FACILITY'S BUSINESS. THE PLAN OF OPERATION SHALL BE SUBMITTED TO THE LIQUIDATOR OF THE INSOLVENT INSURER WHOSE BUSINESS IS TO BE ASSUMED BY OR ASSIGNED TO THE RESOLUTION FACILITY AND SHALL BE EFFECTIVE UPON THE WRITTEN APPROVAL OF SUCH LIQUIDATOR.

(G) THE PLAN OF OPERATION SHALL SET FORTH (I) THE OVERSIGHT AUTHORITY FOR THE RESOLUTION FACILITY, AND (II) PROCEDURES FOR AMENDMENTS OR MODIFICATIONS TO THE PLAN OF OPERATION.

(H) NO LATER THAN AUGUST FIRST OF EACH YEAR, A RESOLUTION FACILITY SHALL FILE WITH THE SUPERINTENDENT A FINANCIAL REPORT SUMMARIZING ITS CONDITION AT LAST CALENDAR YEAR END OR AT THE LAST FISCAL YEAR END ENDING ON OR PRIOR TO THE LAST CALENDAR YEAR END.

S 2. This act shall take effect immediately.