

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

5808--A

2011-2012 Regular Sessions

I N S E N A T E

June 17, 2011

Introduced by Sens. DeFRANCISCO, MARTINS -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- recommitted to the Committee on Insurance in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the insurance law, in relation to exemption for certain stock and non-stock insurance companies; and providing for the repeal of such provisions upon expiration thereof

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

1 Section 1. The insurance law is amended by adding a new section 1326
2 to read as follows:
3 S 1326. STATUTORY ASSOCIATION MEMBERSHIP; OBLIGATIONS. (A) FOR THOSE
4 STOCK AND NON-STOCK COMPANIES TO WHICH SUBPARAGRAPH (B) OF PARAGRAPH TWO
5 OF SUBSECTION (B) OF SECTION ONE THOUSAND THREE HUNDRED TWENTY-FOUR OF
6 THIS ARTICLE APPLIES, NO LIABILITIES ARISING FROM THE OBLIGATIONS OF AN
7 ASSOCIATION AUTHORIZED PURSUANT TO SUBPARAGRAPH (D) OF PARAGRAPH TWO OF
8 SUBSECTION (C) OF SECTION FIVE THOUSAND FIVE HUNDRED TWO OF THIS CHAPTER
9 SHALL BE DUE AND OWING FROM SUCH COMPANIES UNLESS AND UNTIL SUCH OBLI-
10 GATIONS CAN BE SATISFIED, AFTER CONSIDERATION OF ALL RESOURCES OF THE
11 ASSOCIATION, INCLUDING BUT NOT LIMITED TO CURRENT PREMIUM INCOME, BY A
12 CONTRIBUTION FROM SUCH COMPANIES AND THE COMPANIES ARE NOTIFIED OF SAME
13 BY SUCH ASSOCIATION NOT LESS THAN THREE HUNDRED SIXTY-FIVE DAYS PRIOR TO
14 THE DATE UPON WHICH SUCH OBLIGATIONS SHALL BE DUE AND OWING, AND SHALL
15 ONLY RELATE TO OBLIGATIONS OF THE ASSOCIATION THAT ARE ACTUALLY DUE AND
16 OWING BY THE ASSOCIATION IN THAT YEAR IN WHICH CONTRIBUTION IS TO BE
17 MADE BY THE COMPANIES. SUCH OBLIGATIONS SHALL NOT BE AGGREGATED FOR ANY
18 OTHER YEAR EXCEPT THAT IN WHICH THE CONTRIBUTION IS DUE AND OWING OR
19 PREVIOUS YEARS FOR WHICH CONTRIBUTIONS HAVE NOT BEEN SATISFIED; FURTHER,
20 SUCH LIABILITIES AND THE CONTRIBUTIONS THEREFOR SHALL NOT INCLUDE ANY
21 CONTINGENT LIABILITIES OF THE ASSOCIATION FOR THE YEAR FOR WHICH

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

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1 CONTRIBUTIONS ARE REQUESTED; PROVIDED, HOWEVER, THAT COMPANIES SHALL
2 MAINTAIN AT ALL TIMES A RESERVE OF NOT LESS THAN TWENTY PERCENT OF THEIR
3 RESPECTIVE AND PROPORTIONATE LIABILITIES OF THE AGGREGATE DEFICIT OF THE
4 ASSOCIATION, AS SUCH RESPECTIVE AND PROPORTIONATE LIABILITIES OF THE
5 AGGREGATE DEFICIT ARE REPORTED BY THE ASSOCIATION CONSISTENT WITH THE
6 PROVISIONS OF THIS SECTION; FURTHER, COMPANIES SHALL EACH YEAR INCREASE
7 ITS MINIMUM RESERVE, ASSUMING IT IS LESS THAN ONE HUNDRED PERCENT OF THE
8 RESPECTIVE AND PROPORTIONATE LIABILITY OF A COMPANY FOR THE AGGREGATE
9 DEFICIT OF THE ASSOCIATION, BY THE PERCENTAGE INCREASE IN THE AGGREGATE
10 DEFICIT OF THE ASSOCIATION FROM THE PREVIOUS YEAR.

11 (B) THE SUPERINTENDENT SHALL, FOR A YEAR IN WHICH THE AGGREGATE DEFI-
12 CIT OF THE ASSOCIATION IS REPORTED BY THE ASSOCIATION AS REQUIRING A
13 CONTRIBUTION, INSTRUCT CONTRIBUTING COMPANIES TO INCREASE RESPECTIVE AND
14 PROPORTIONATE RESERVES PROVIDED FOR IN SUBSECTION (A) OF THIS SECTION BY
15 AN AMOUNT NOT LESS THAN TWENTY-FIVE PERCENT PER YEAR AND FOR EACH
16 CONSECUTIVE YEAR THEREAFTER FOR EACH YEAR THAT A CONTRIBUTION IS NECES-
17 SARY UNTIL SUCH TIME AS A COMPANY HAS REACHED A RESERVING LEVEL OF ONE
18 HUNDRED PERCENT OF ITS RESPECTIVE AND PROPORTIONATE LIABILITIES FOR THE
19 AGGREGATE DEFICIT OF THE ASSOCIATION; PROVIDED, HOWEVER, THAT COMPANIES
20 MAY REDUCE ITS RESERVES THEREAFTER BY SUCH AMOUNT IN AND FOR THE SECOND
21 CONSECUTIVE YEAR AND EACH YEAR THEREAFTER IN WHICH A CONTRIBUTION IS NOT
22 REQUIRED TO THE MINIMUM RESERVE PROVIDED FOR IN SUBSECTION (A) OF THIS
23 SECTION.

24 S 2. This act shall take effect December 31, 2012 and shall be consid-
25 ered in effect for the purposes of companies' 2012 annual financial
26 statements; provided, however, that this section shall expire on Decem-
27 ber 31, 2016; provided further, that the superintendent shall evaluate
28 the proper reserving level necessary for maintaining adequate security
29 for the aggregate deficit of the association in light of loss develop-
30 ment trends, claims settlement trends, actuarial projections of the
31 financial condition of the association and other factors and report to
32 the legislature on the findings of such evaluation no later than March
33 31, 2016.