

# STATE OF NEW YORK

6781

2019-2020 Regular Sessions

## IN ASSEMBLY

March 20, 2019

Introduced by M. of A. PERRY -- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law, in relation to enacting the small insurer protection act

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. This act shall be known and may be cited as "the small  
2 insurer protection act".

3 § 2. Legislative intent. The legislature intends to protect small  
4 insurance companies that write commercial automobile insurance within  
5 New York state, to encourage new entrants into the insurance market and  
6 novel insurance products, and to foster competition in the marketplace,  
7 which will benefit policyholders and the public.

8 § 3. The insurance law is amended by adding a new section 7402-a to  
9 read as follows:

10 § 7402-a. Small insurer rehabilitation or liquidation. 1. Notwith-  
11 standing any other provision of this chapter to the contrary, no appli-  
12 cation for an order of rehabilitation or liquidation of a small insurer  
13 as defined in this section shall be made on the grounds specified in  
14 subsection (a) or (c) of section seven thousand four hundred two of this  
15 article, unless such order is based on: (a) the superintendent's  
16 adoption of a report on examination, conducted in accordance with arti-  
17 cle three of this chapter, finding the company insolvent as defined in  
18 section one thousand three hundred nine of this chapter; or (b) the  
19 annual or quarterly financial statements of the company: (i) if the  
20 financial statements reflect that the company's admitted assets do not  
21 exceed its liabilities and surplus to policyholders; and (ii) the  
22 company does not maintain reserves in an amount determined reasonable  
23 by its independent loss reserve specialist or, if no independent loss  
24 reserve specialist is required, by its appointed actuary.

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

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1 2. Nothing in this section shall restrict the superintendent's right  
2 to direct an examination pursuant to section three hundred nine of this  
3 chapter, or otherwise interfere with the superintendent's regulatory  
4 authority as provided in this chapter, nor shall this provision be  
5 construed to restrict an insurer's rights and remedies in any judicial  
6 or administrative proceeding.

7 3. As used in this section:

8 (a) "small insurer" means a domestic property/casualty insurance  
9 company whose annual net direct written premiums written do not exceed  
10 twenty-five million dollars, at least seventy-five percent of which is  
11 from commercial automobile liability business; and

12 (b) "direct written premiums" means the gross direct written premiums  
13 less return premiums on such direct business.

14 § 4. This act shall take effect on the thirtieth day after it shall  
15 have become a law. Effective immediately the addition, amendment and/or  
16 repeal of any rule or regulation necessary for the implementation of  
17 this act on its effective date are authorized to be made and completed  
18 on or before such date.