STATE OF NEW YORK

4282

2021-2022 Regular Sessions

IN SENATE

February 3, 2021

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

AN ACT to amend the insurance law, in relation to certain voidable transfers affecting a federal home loan bank

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

Section 1. Section 7425 of the insurance law is amended by adding a new subsection (e) to read as follows:

(e) (1) Notwithstanding subsection (a) of this section or any other provision of this article to the contrary, (i) a receiver shall not void a transfer of money or other property arising under or in connection with a federal home loan bank security agreement that is made before the commencement of a formal proceeding under this article in the ordinary course of business and in compliance with the security agreement unless such transfer was made with actual intent to hinder, delay or defraud the insurer-member, a receiver appointed for the insurer-member or existing or future creditors; and (ii) a receiver shall not void a redemption or repurchase of any stock or equity securities which was made by the federal home loan bank within four months of a formal commencement of the delinquency proceedings or which received prior approval of the receiver.

(2) Following the appointment of a receiver for an insurer-member and upon request of the receiver, the federal home loan bank shall, within ten days of such request, provide a process and establish timing for all of the following:

(i) the release of collateral that exceeds the lending value, as determined in accordance with the federal home loan bank security agreement, required to support secured obligations remaining after any repayment of advances;

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

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(ii) the release of any collateral remaining in the federal home loan bank's possession following repayment in full of all outstanding secured obligations;

(iii) the payment of fees and the operation of deposits and other accounts with the federal home loan bank; and

(iv) the possible redemption or repurchase of federal home loan bank stock or excess stock of any class that an insurer-member is required to own.

(3) Upon the request of the receiver for an insurer-member, the federal home loan bank shall provide any available options that are acceptable to the federal home loan bank for such insurer-member to renew or restructure an advance to defer associated prepayment fees, to the extent that market conditions, the terms of the advance outstanding to the insurer-member, the applicable policies of the federal home loan bank and compliance with the federal home loan bank act and corresponding regulations permit.

(4) Nothing in this subsection shall affect the federal home loan bank's rights pursuant to 12 CFR 1266.4, which relates to limitations on access to advances.

§ 2. Section 7419 of the insurance law is amended by adding a new subsection (c) to read as follows:

(c) Notwithstanding subsections (a) and (b) of this section and any other provision of this article, a federal home loan bank shall not be stayed, enjoined, or prohibited from exercising any right or enforcing any obligation under a federal home loan bank security agreement relating to collateral pledged by an insurer-member to such federal home loan bank.

§ 3. Section 7409 of the insurance law is amended by adding a new subsection (d) to read as follows:

(d) Notwithstanding subsections (a), (b) and (c) of this section, or any other provision of this article, the receiver shall not disavow, reject, or repudiate a federal home loan bank security agreement or any pledge agreement, security agreement, collateral agreement, guarantee agreement, or other similar arrangement or credit enhancement relating to a security agreement to which a federal home loan bank is a party.

§ 4. This act shall take effect immediately.