

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:

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

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

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

20 (i) the release of collateral that exceeds the lending value, as
21 determined in accordance with the federal home loan bank security agree-
22 ment, required to support secured obligations remaining after any repay-
23 ment of advances;

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

LBD06970-01-1

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

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

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

9 (3) Upon the request of the receiver for an insurer-member, the feder-
10 al home loan bank shall provide any available options that are accepta-
11 ble to the federal home loan bank for such insurer-member to renew or
12 restructure an advance to defer associated prepayment fees, to the
13 extent that market conditions, the terms of the advance outstanding to
14 the insurer-member, the applicable policies of the federal home loan
15 bank and compliance with the federal home loan bank act and correspond-
16 ing regulations permit.

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

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

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

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

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

36 § 4. This act shall take effect immediately.