STATE OF NEW YORK

3671

2021-2022 Regular Sessions

IN SENATE

January 30, 2021

Introduced by Sens. COMRIE, KAMINSKY, PARKER, STAVISKY -- 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 enacting the small insurer protection act

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

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

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

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

§ 7402-a. Small insurer rehabilitation or liquidation. 1. Notwithstanding any other provision of this chapter to the contrary, no application for an order of rehabilitation or liquidation of a small insurer as defined in this section shall be made on the grounds specified in subsection (a) or (c) of section seven thousand four hundred two of this article, unless such order is based on: (a) the superintendent's adoption of a report on examination, conducted in accordance with article three of this chapter, finding the company insolvent as defined in section one thousand three hundred nine of this chapter; or (b) the annual or quarterly financial statements of the company: (i) if the financial statements reflect that the company's admitted assets do not exceed its liabilities and surplus to policyholders; and (ii) the company does not maintain reserves in an amount determined reasonable by its independent loss reserve specialist or, if no independent loss 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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2. Nothing in this section shall restrict the superintendent's right to direct an examination pursuant to section three hundred nine of this chapter, or otherwise interfere with the superintendent's regulatory authority as provided in this chapter, nor shall this provision be construed to restrict an insurer's rights and remedies in any judicial or administrative proceeding.

3. As used in this section:

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

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

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