STATE OF NEW YORK

383

2023-2024 Regular Sessions

IN ASSEMBLY

January 9, 2023

Introduced by M. of A. JOYNER -- read once and referred to the Committee on Labor

AN ACT to amend the workers' compensation law and the insurance law, in relation to diversifying the New York state insurance fund's investment authority

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

Section 1. The section heading and subdivisions 1, 2, 3 and 7 of section 87 of the workers' compensation law, the section heading and subdivision 1 as amended and subdivisions 2, 3 and 7 as added by section 20 of part GG of chapter 57 of the laws of 2013, are amended to read as follows:

[~~Investment of surplus or reserve~~] **Investments**. 1. Any of the reserve funds belonging to the state insurance fund, by order of the commissioners, approved by the superintendent of financial services, may be invested in the types of [~~securities~~] **investments** described in [~~subdivisions one, two, three, four, five, six, eleven, twelve, twelve-a, thirteen, fourteen, fifteen, nineteen, twenty, twenty-one, twenty-one-a, twenty-four, twenty-four-a, twenty-four-b, twenty-four-c and twenty-five of section two hundred thirty-five of the banking law or in paragraph~~] **paragraphs one, two, three and four of subsection (b) of section one thousand four hundred two of the insurance law and paragraphs one,** two**,** **three, four, five, six, seven, and eleven** of subsection (a) of section one thousand four hundred four of the insurance law **with the qualitative standards or quantitative limitations which are set forth in such paragraphs** except that [~~up to~~] **a minimum of** five percent of such reserve funds [~~may~~] **shall** be invested in the **types of** securities [~~of any solvent American institution as~~] described in [~~such paragraph irrespective of the rating of such institution's obligations or other similar qualitative standards described therein~~] **paragraphs one, two, three and four of**

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

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subsection (b) of section one thousand four hundred two of the insurance law.

2. Any [~~of the surplus~~] funds belonging to the state insurance fund exceeding seventy percent of the aggregate of loss reserves, loss expense reserves and fifty percent of unearned premium reserves, by order of the commissioners, approved by the superintendent of financial services, may be invested in the types of [~~securities described in subdivisions one, two, three, four, five, six, eleven, twelve, twelve-a, thirteen, fourteen, fifteen, nineteen, twenty, twenty-one, twenty-one-a, twenty-four, twenty-four-a, twenty-four-b, twenty-four-c and twenty-five of section two hundred thirty-five of the banking law or, up to fifty percent of surplus funds, in the types of securities or~~] investments described in [~~paragraphs two, three, eight and ten of~~] paragraphs one, two, three and four of subsection (b) of section one thousand four hundred two of the insurance law and subsection (a) of section one thousand four hundred four of the insurance law, [~~except that up to ten percent of surplus funds may be invested in the securities of any solvent American institution as described in such paragraphs irrespective of the rating of such institution's obligations or other similar qualitative standards described therein,~~] but such investments shall not be subject to the qualitative standards or quantitative limitations which are set forth with respect to any investment permitted by such subsection and [~~up to fifteen percent of surplus funds in securities or investments which do not otherwise qualify for investment under this section as shall be made with the care, prudence and diligence under the circumstances then prevailing that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims as provided for the state insurance fund under this article, but shall not include any direct derivative instrument or derivative transaction except for hedging purposes~~] in accordance with section one thousand four hundred ten of the insurance law. [~~Notwithstanding any other provision in this subdivision, the aggregate amount that the state insurance fund may invest in the types of securities or investments described in paragraphs three, eight and ten of subsection (a) of section one thousand four hundred four of the insurance law and as a prudent person acting in a like capacity would invest as provided in this subdivision shall not exceed fifty percent of such surplus funds.~~]

3. Any [~~of the surplus or reserve~~] funds belonging to the state insurance fund, upon like approval of the superintendent of financial services, may be loaned on the pledge of any such securities. The commissioners, upon like approval of the superintendent of financial services, may also sell any of such securities or investments.

7. Notwithstanding any provision in this section, the [~~surplus and reserve~~] funds of the state insurance fund shall not be invested in any investment that has been found by the superintendent of financial services to be against public policy or in any investment prohibited by the provisions of [~~paragraph six of subsection (a) of section one thousand four hundred four of the insurance law or by the provisions of~~] paragraph one, two, three, four, six, seven, eight, nine or ten of subsection (a) of section one thousand four hundred seven of the insurance law or in excess of any limitation provided under section one thousand four hundred nine of the insurance law.

§ 2. Subsection (c) of section 1108 of the insurance law, as amended by section 38 of part SS of chapter 54 of the laws of 2016, is amended to read as follows:

(c) The state insurance fund of this state, except as to the provisions of **section one thousand four hundred ten,** subsection (d) of section two thousand three hundred thirty-nine, section three thousand one hundred ten, subsection (a), paragraph one of subsection (b), paragraph three of subsection (c) and subsection (d) of section three thousand two hundred one, sections three thousand two hundred two, three thousand two hundred four, subsections (a) through (d) of section three thousand two hundred twenty-one, subsections (b) and (c) of section four thousand two hundred twenty-four, section four thousand two hundred twenty-six and subsections (a) and (b), (g) through (j), and (n) of section four thousand two hundred thirty-five of this chapter and except as otherwise specifically provided by the laws of this state.

§ 3. Subsection (a) of section 1410 of the insurance law, as added by chapter 650 of the laws of 1998, is amended to read as follows:

(a) For purposes of this section, except subsection (k) of this section, an insurer shall mean a domestic life insurer, a domestic property/casualty insurer, a domestic reciprocal insurer, a domestic mortgage guaranty insurer, a domestic co-operative property/casualty insurance corporation [~~or~~], a domestic financial guaranty insurer**, or the state insurance fund of this state**.

§ 4. This act shall take effect immediately.