

# STATE OF NEW YORK

5294

2023-2024 Regular Sessions

## IN ASSEMBLY

March 7, 2023

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

AN ACT to amend the insurance law, in relation to establishing a captive insurance program for commuter vans; and to amend the state finance law, in relation to establishing the commuter van trust fund

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

1 Section 1. The insurance law is amended by adding a new section 7013  
2 to read as follows:

3 § 7013. Captive insurance program for commuter vans utilizing existing  
4 moneys provided via New York state commuter van stabilization pilot  
5 program. (a) The superintendent shall utilize and implement a captive  
6 insurance program for commuter vans that are engaged in the business of  
7 carrying or transporting passengers for hire. The program shall include,  
8 but shall not be limited to:

9 (1) identifying and licensing a captive insurance company or companies  
10 to provide necessary insurance coverage to commuter vans;

11 (2) standards for enrollment of eligible commuter vans, including  
12 mechanisms for determining eligibility; and

13 (3) standards for monitoring the performance of such captive insurance  
14 company or companies in providing affordable insurance coverage to  
15 commuter vans participating in the program pursuant to subsection (c) of  
16 this section.

17 (b) For the purposes of this section, the term "commuter van" shall  
18 mean a commuter van service having a seating capacity of nine passengers  
19 but not more than twenty-four passengers or such greater capacity as the  
20 superintendent may establish by rule and carrying passengers for hire.

21 (c) Insurance companies shall maintain requirements, including but not  
22 limited to: \$500,000 combined single limits (CSL); \$50,000 personal  
23 injury protection (PIP) (Basic); and \$25,000/\$50,000 uninsured motorist  
24 coverage (UM/UIM). In addition, all no fault insurance related to

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

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1 commuter vans insured in this program will rely on the medical treatment  
2 guidelines promulgated in existing workers' compensation law.

3 § 2. The state finance law is amended by adding a new section 89-dd to  
4 read as follows:

5 § 89-dd. Commuter van trust fund. 1. There is hereby established in  
6 the custody of the comptroller and the superintendent or its designated  
7 agency, a special fund to be known as the "commuter van trust fund".

8 2. Such fund shall consist of the eleven million two hundred fifty  
9 thousand dollars allocated in the fiscal year two thousand twenty-three  
10 New York state budget for the New York State Commuter Van Stabilization  
11 Pilot Program, in addition to all other grants, bequests or other moneys  
12 appropriated, credited or transferred thereto from any other fund or  
13 source pursuant to law.

14 3. Moneys in the commuter van trust fund shall be kept separate and  
15 apart and shall not be commingled with any other moneys in the custody  
16 of the comptroller and shall only be expended herein and in such amounts  
17 as approved by the division of the budget.

18 4. The moneys received by such fund shall be expended to pay for loss-  
19 es in excess of two hundred fifty thousand dollars.

20 5. Empire state development shall authorize three or more insurance  
21 companies, which have a bidding window that will close thirty days from  
22 the effective date of this section to participate in this program. At  
23 the end of the thirty days, in the event there is not a minimum of  
24 three, empire state development shall designate the most well funded  
25 commercial auto insurance companies currently operating in New York to  
26 work with empire state development and the commuter van trust fund, to  
27 issue commuter van drivers in New York insurance policies with limits  
28 provided herein.

29 6. In the event of claims in excess of two hundred fifty thousand  
30 dollars, insurance companies designated to provide insurance policies  
31 will maintain custody at an annual proportionally graduated incline with  
32 an initial assigned risk payout rate of twenty percent of the overall  
33 claim in the first year, with an additional ten percent each fiscal  
34 year. For the first year, the commuter van trust fund shall maintain  
35 custody at an assigned risk of eighty percent, and an annual propor-  
36 tionally graduated decline of ten percent.

37 7. After five years the claims activity shall be actuarially analyzed  
38 and if the rates can maintain an underwriting profit and a large claim  
39 would not put the program into a negative combined ratio, the amount of  
40 moneys maintained in the fund shall be reduced.

41 (a) After five years of the effective date of this section, empire  
42 state development shall revisit the stabilization of the commuter van  
43 market relative to section seven thousand thirteen of the insurance law  
44 in New York state and either consider a new apportionment to the commu-  
45 ter van trust fund; or

46 (b) In the event such program has stabilized the commuter van insur-  
47 ance market, empire state development will return any leftover moneys to  
48 the state general fund.

49 § 3. This act shall take effect immediately.