

STATE OF NEW YORK

5437

2023-2024 Regular Sessions

IN SENATE

March 3, 2023

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

AN ACT to amend the financial services law, in relation to requiring certain corporations to annually prepare a climate-related financial risk report for submission to the secretary of state and to make such report available to the public

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

1 Section 1. Legislative intent. The legislature finds and declares all
2 of the following:

3 (a) Climate change is affecting New York's environment, communities,
4 and economy with impacts including wildfires, sea level rise, extreme
5 weather events, extreme droughts, and associated impacts to the global
6 economy.

7 (b) These impacts are expected to accelerate in coming decades unless
8 aggressive action is taken both to reduce greenhouse gas emissions and
9 to adapt New York's environments, communities and economy.

10 (c) Global economic and climate policy leaders have conclusively
11 established that the long-term strength of global and local economies
12 will depend on their ability to withstand the climate change-related
13 risks including physical impacts, economic transitions, and policy and
14 legal responses.

15 (d) Failure of economic actors to adequately plan for and adapt to
16 climate change-related risks to their businesses and to the economy will
17 result in significant harm to New York and to individual residents and
18 investors, in particular to financially vulnerable New York residents
19 who are employed by, live in communities reliant on or have invested in
20 or obtained financing from these institutions.

21 (e) New York is a global leader in addressing climate change causes
22 and impacts. In recent years, the state has enacted multiple legislative
23 measures, including enacting The Climate Leadership and Community

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

LBD09976-01-3

1 Protection Act of 2019 that limits statewide greenhouse gas emissions to
2 60% of 1990 levels by 2030 and 15% by 2050, the formation of the New
3 York state Climate Action Council and the Climate Justice Working Group
4 in 2019, and enacting the 2021 Soil Health and Climate Resiliency Act
5 that encourages management and optimization of soil health to mitigate
6 and adapt to climate change.

7 (f) Leading voluntary initiatives have begun to develop frameworks for
8 disclosure of climate change- and sustainability-related information,
9 including the Financial Stability Board's Task Force on Climate-Related
10 Financial Disclosures and the Sustainability Accounting Standards Board.

11 (g) Other jurisdictions have begun to require private and public enti-
12 ties to develop and disclose sustainability policies, including Illi-
13 nois' Sustainable Investing Act and France's Energy Transition Law Arti-
14 cle 173.

15 (h) Given business and financial institutions' contributions to
16 climate change and vulnerability to its impacts on New York and the
17 broader economy and the state's leadership in analyzing, addressing, and
18 mitigating climate risks, it is in the interest of the state to require
19 disclosure of climate-related risks and risk-reduction strategies.

20 § 2. The financial services law is amended by adding a new section 312
21 to read as follows:

22 § 312. Climate-related financial risk and required disclosures. 1. As
23 used in this section:

24 (a) "Climate-related financial risk" means material risk of harm to
25 immediate and long-term financial outcomes due to climate change,
26 including, but not limited to, risks to corporate operations, provision
27 of goods and services, real estate, supply chains, employee health and
28 safety, capital and financial investments, institutional investments,
29 financial standing of loan recipients and borrowers, shareholder value,
30 insured assets, consumer demand, and financial markets and economic
31 health.

32 (b) "Climate-related financial risk report" means a report required by
33 subdivision two of this section.

34 (c) "Covered entity" means a corporation, partnership, limited liabil-
35 ity company, or other business entity incorporated, formed, or issued a
36 license to operate or certificate of authority under the laws of the
37 state and subject to the supervision of the department that had annual
38 gross revenues of at least five hundred million dollars (\$500,000,000)
39 in the prior calendar year.

40 2. Each covered entity shall integrate the financial risks from
41 climate change in its risk management processes, governance frameworks
42 and business strategies. During this process, each covered entity
43 should take a proportionate approach that reflects its exposure to the
44 financial risks from climate change and the nature, scale and complexity
45 of its business.

46 (a) Department-regulated banking and depository institutions shall
47 designate a board member, a committee of the board, or members of senior
48 management as accountable for the organization's assessment and manage-
49 ment of the financial risks from climate change. Such entities shall
50 conduct an enterprise-wide risk assessment to evaluate climate change
51 and its impacts on risk factors, such as credit risk, market risk,
52 liquidity risk, operational risk, reputational risk, and strategy risk.
53 Each such covered entity shall develop its approach to climate-related
54 financial risk disclosure and consider engaging with the Task Force for
55 Climate-Related Financial Disclosures framework and other established
56 initiatives when doing so.

(b) Non-depository covered entities shall conduct a comprehensive risk assessment of the physical and transition risks of climate change, whether directly impacting the entity, or indirectly impacting it due to the disruptive consequences of climate change in the communities it serves and on its customers, such as business disruptions, out-migrations, loss of income and higher default rates, supply chain disruptions, and changes in investor and consumer sentiments, and start developing strategic plans, including an outline of such risks, the impact on their balance sheets, and steps to be taken to mitigate such risks.

3. (a) On or before December thirty-first, two thousand twenty-four, and annually thereafter, each covered entity shall prepare a climate-related financial risk report disclosing both of the following:

(1) its climate-related financial risk, in accordance with the recommended framework and disclosures contained in the Final Report of Recommendations of the Task Force on Climate-Related Financial Disclosures (June 2017) or any successor thereto; and

(2) its measures adopted to reduce and adapt to climate-related financial risk disclosed pursuant to subparagraph one of this paragraph.

(b) On or before December thirty-first, two thousand twenty-four, and annually thereafter, each covered entity shall do both of the following:

(1) submit to the secretary of state, and make available to the public on its own internet website, a copy of the report required by this section; and

(2) submit to the secretary of state a statement affirming, not under penalty of perjury, that the report prepared and filed pursuant to this section discloses climate-related financial risk in accordance with subparagraph one of paragraph (a) of this subdivision.

4. The department shall make available to the public, on its internet website, all climate-related financial risk reports obtained from covered entities.

§ 3. This act shall take effect immediately.