

# STATE OF NEW YORK

7738

2023-2024 Regular Sessions

## IN SENATE

November 3, 2023

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

AN ACT to amend the insurance law and the state finance law, in relation to requiring insurers and companies contracting with the state to report investments and profits from slavery and slaveholder insurance policies issued during the slavery era

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

1 Section 1. This act shall be known and may be cited as the "New York  
2 slavery era business and state procurement disclosure act".

3 § 2. The insurance law is amended by adding a new article 27-A to read  
4 as follows:

### ARTICLE 27-A

#### SLAVERY ERA INSURANCE POLICIES

##### Section 2751. Definitions.

8 2752. Reports from insurers.

9 2753. Substantial compliance.

10 2754. Rules and regulations.

##### § 2751. Definitions. For the purposes of this article:

11 (a) "Control", "holding company", and "holding company system" and any  
12 other terms used in this article but not otherwise defined shall have  
13 the same meanings as they have in article fifteen of this chapter.

14 (b) "Insurance policy" shall mean any policy of insurance substantial-  
15 ly similar to any kind of insurance that was authorized at any time in  
16 New York during the slavery era or authorized by the jurisdiction in  
17 which the policy was sold at the time it was sold, including but not  
18 limited to any form of life, accident and health, annuities, property,  
19 casualty, education or dowry insurance.

20 (c) "Member of a holding company system" shall have the same meaning  
21 as it has in subsection (e) of section two thousand seven hundred one of  
22 this chapter.

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

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1 (d) "Descendant of slaves" shall mean a person whose ancestors were  
2 defined as private property, dehumanized, divided from their families,  
3 and forced to perform labor without appropriate compensation or bene-  
4 fits, and whose ancestors' owners were compensated for damages by insur-  
5 ers.

6 § 2752. Reports from insurers. (a) Every insurer organized, licensed,  
7 registered or accredited to do an insurance business in this state which  
8 had an annual revenue of at least one million dollars in the preceding  
9 year shall report or shall cause its holding company to report to the  
10 superintendent the following information:

11 (1) whether it is a member of a holding company system including any  
12 insurer, any other member, subsidiary or division in each case whether a  
13 licensee or not, that could possibly be expected to have issued an  
14 insurance policy to a slaveholder during the slavery era that provided  
15 coverage for damage to or death to such slaveholders' slaves and a list  
16 of each such entity;

17 (2) if requested by the superintendent and to the extent consistent  
18 with applicable laws and confidentiality obligations, with respect to  
19 each such insurance policy, the name of the owner, the name of the bene-  
20 ficiary and the face amount or pay-out value;

21 (3) if requested by the superintendent, an explanation of any denial  
22 or pending review of a request by any person who alleges or has alleged  
23 that he or she is a descendant of slaves to disclose the information  
24 required to be reported by insurers pursuant to this subsection;

25 (4) a summary of the length of time for the processing and disposition  
26 of such a request by the insurer; and

27 (5) in the event that the insurer is unable to provide any of the  
28 information required by this section, an explanation of the reasons why  
29 and whether such information may, in the future, be ascertainable. The  
30 reports required by this subsection shall be made within thirty days  
31 after the end of the calendar year in which this article shall have  
32 become effective and annually thereafter, except as otherwise provided  
33 in this section.

34 (b) Every insurer organized, registered, accredited or licensed to do  
35 an insurance business in this state, which had an annual revenue of at  
36 least one million dollars in the preceding year, shall file or shall  
37 cause its holding company to file with the superintendent, within one  
38 hundred twenty days of the effective date of this article, a report  
39 setting forth such insurer's plan for complying with the provisions of  
40 this article. Any insurer which has determined that it does not have any  
41 of the information requested in subsection (a) of this section shall  
42 file or cause its holding company to file a report stating that they  
43 have no such information. In addition, an insurer may request to be  
44 relieved from filing any further reports upon providing evidence satis-  
45 factory to the superintendent that such insurer has fulfilled its  
46 obligations under this article.

47 (c) Reports submitted to the superintendent pursuant to this section  
48 shall be certified and affirmed under oath as being true and not  
49 misleading and as containing the most accurate information available at  
50 the time of such report's submission.

51 (d) The superintendent is authorized to use any power available to the  
52 state to compel holding company systems that include issuers of insur-  
53 ance policies to slaveholders to submit reports pursuant to this article  
54 and to comply with the provisions of this article.

1 (e) Any insurer which knowingly or recklessly files a false or  
2 misleading certification required by this section may be barred from  
3 further sales of insurance in New York for a period of up to ten years.

4 § 2753. Substantial compliance. An insurer which, pursuant to the laws  
5 of another jurisdiction is required (or whose holding company is  
6 required) to report, certify or otherwise disclose information substan-  
7 tially equivalent to that required by section two thousand seven hundred  
8 fifty-two of this article, may satisfy the requirements of section two  
9 thousand seven hundred fifty-two of this article by filing with the  
10 superintendent within the applicable periods prescribed hereunder,  
11 copies of such material filed with such jurisdiction. The determination  
12 as to whether the requirements of a given jurisdiction are substantially  
13 equivalent to those of section two thousand seven hundred fifty-two of  
14 this article shall be made by the superintendent in his or her  
15 discretion. The superintendent may require that any such filing be  
16 supplemented by a schedule or index referring to the specific require-  
17 ments of section two thousand seven hundred fifty-two of this article or  
18 the regulations promulgated thereunder.

19 § 2754. Rules and regulations. The superintendent, by regulation,  
20 shall provide for the implementation of the provisions of this article  
21 and for facilitating, monitoring and verifying compliance with this  
22 article.

23 § 3. The state finance law is amended by adding a new section 165-b to  
24 read as follows:

25 § 165-b. Slavery era financing disclosure. 1. As used in this section,  
26 the following definitions shall apply:

27 (a) "Investment" shall have the same meaning as set forth in paragraph  
28 (c) of subdivision one of section one hundred sixty-five-a of this arti-  
29 cle.

30 (b) (1) "Person" means any of the following:

31 (A) A natural person, corporation, company, limited liability company,  
32 business association, partnership, society, trust, or any other nongov-  
33 ernmental entity, organization, or group.

34 (B) Any governmental entity or instrumentality of a government,  
35 including a multilateral development institution, as defined in Section  
36 1701(c)(3) of the International Financial Institutions Act (22 U.S.C.  
37 262r(c)(3)).

38 (C) Any successor, subunit, parent entity, or subsidiary of, or any  
39 entity under common ownership or control with, any entity described in  
40 clause (A) or (B) of this subparagraph.

41 (2) For the purposes of this section "person" shall only mean and  
42 include entities with an annual revenue of at least one million dollars  
43 for the calendar year prior to the submission of a bid for or renewal of  
44 a state contract.

45 (c) "Slavery era financing" means investments or profits from slavery  
46 or slaveholder insurance policies during the slavery era.

47 2. (a) Not later than one hundred twenty days after the effective date  
48 of this section, the commissioner shall develop or contract to develop,  
49 using credible information available to the public, a list of persons  
50 the commissioner determines engaged in slavery era financing. If the  
51 commissioner has contracted to develop the list, the list shall be  
52 finally developed not later than one hundred twenty days after this  
53 section shall take effect. Such list, when completed, shall be posted  
54 on the website of the office of general services.

55 (b) The commissioner shall update the list every one hundred eighty  
56 days.

1 (c) The commissioner shall make every effort to avoid erroneously  
2 including a person on the list.

3 3. (a) A state agency shall require a person that submits a bid or  
4 offer in response to a notice of procurement, or that proposes to renew  
5 an existing procurement contract with a state agency or proposes to  
6 assume the responsibility of a contractor pursuant to a procurement  
7 contract with a state agency or otherwise proposes to enter into a  
8 contract with a state agency with respect to a contract for commodities,  
9 services, construction, or contracts entered pursuant to section seven  
10 of the New York state printing and public documents law, section eight  
11 of the public buildings law, or section thirty-eight of the highway law,  
12 to certify, at the time the bid is submitted or the contract is renewed  
13 or assigned, that the person or the assignee has searched any and all  
14 records of such person or assignee, and any predecessor of such person  
15 or assignee, regarding records of slavery era financing, and that such  
16 person is not identified on the list created pursuant to paragraph (a)  
17 of subdivision two of this section. A state agency shall include such  
18 certification information in the procurement record.

19 (b) A person that submits a bid or offer in response to a notice of  
20 procurement or that proposes to renew an existing procurement contract  
21 with a state agency or proposes to assume the responsibility of a  
22 contractor pursuant to a procurement contract with a state agency, or  
23 otherwise proposes to enter into a contract with a state agency with  
24 respect to a contract for commodities, services, construction, or  
25 contracts entered pursuant to section seven of the New York state print-  
26 ing and public documents law, section eight of the public buildings law,  
27 or section thirty-eight of the highway law shall not utilize, on the  
28 contract with the state agency, any subcontractor that is identified on  
29 the list created pursuant to paragraph (a) of subdivision two of this  
30 section.

31 4. Upon receiving information that a person who has made the certif-  
32 ication required by subdivision three of this section is in violation  
33 thereof, the state agency shall take such action as may be appropriate  
34 and provided for by law, rule or contract, including, but not limited  
35 to, imposing sanctions, seeking compliance, recovering damages or  
36 declaring the contractor in default.

37 5. The commissioner shall report the list created pursuant to para-  
38 graph (a) of subdivision two of this section to the governor and the  
39 legislature annually on or before October first.

40 § 4. Severability clause. If any clause, sentence, paragraph, subdivi-  
41 sion, section or part of this act shall be adjudged by any court of  
42 competent jurisdiction to be invalid, such judgment shall not affect,  
43 impair, or invalidate the remainder thereof, but shall be confined in  
44 its operation to the clause, sentence, paragraph, subdivision, section  
45 or part thereof directly involved in the controversy in which such judg-  
46 ment shall have been rendered. It is hereby declared to be the intent of  
47 the legislature that this act would have been enacted even if such  
48 invalid provisions had not been included therein.

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