

# STATE OF NEW YORK

9905

## IN ASSEMBLY

April 26, 2024

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

AN ACT to amend the insurance law and the financial services law, in relation to establishing the climate protection insurance act

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 article 92 to  
2 read as follows:

### ARTICLE 92

#### CLIMATE PROTECTION INSURANCE ACT

##### Section 9201. Definitions.

6 9202. Implementing climate leadership and community protection  
7 act targets for insurers.

8 9203. Reporting.

9 § 9201. Definitions. In this article, unless the context or subject  
10 matter otherwise requires:

11 (a) "New fossil fuel project" means a project designed to facilitate  
12 the production of fossil fuels in excess of what is in development as of  
13 the effective date of this article, including production of new coal  
14 infrastructure, power plants, or mines. "New fossil fuel project" also  
15 includes projects that would support exploring new oil and gas fields or  
16 otherwise expanding oil and gas reserves. Examples of such projects  
17 include, but are not limited to, new wells, pipelines, terminals or gas  
18 power plants.

19 (b) "Department" means the department of financial services.

20 (c) "Superintendent" means the superintendent of the department of  
21 financial services.

22 (d) "Precautionary principle" means an approach taken to regulation  
23 which mandates that when activities under consideration may lead to  
24 unacceptably serious or irreversible harm that is scientifically plausi-  
25 ble but uncertain, actions shall be taken to avoid or diminish that  
26 harm.

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

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1 (e) "Guidance" means the department guidance for New York domestic  
2 insurers on managing the financial risks from climate change issued by  
3 the department of financial services.

4 § 9202. Implementing climate leadership and community protection act  
5 targets for insurers. (a) The department shall:

6 (1) Integrate the precautionary principle into its regulation and  
7 supervision of insurers by:

8 (A) incorporating measures to anticipate, prevent, or minimize the  
9 effects of climate risk and its adverse effects; and

10 (B) implementing cost-effective measures to address the climate risk  
11 exposure of insurers, even in the absence of full economic or scientific  
12 certainty; and

13 (2) Align insurer investment and underwriting activities with  
14 science-based climate mitigation targets consistent with the emissions  
15 limits set in section 75-0107 of the environmental conservation law by  
16 prohibiting underwriting for any new fossil fuel project and directing  
17 insurers to phase out existing underwriting for exploration, extraction,  
18 processing, exporting, transporting, and any other significant action  
19 with respect to oil, natural gas, coal, or any byproduct thereof.

20 (b) Within twelve months of the effective date of this article, the  
21 superintendent shall develop and implement criteria for certain insurers  
22 doing business in this state, as determined by the superintendent pursu-  
23 ant to subsection (f) of this section, to submit annually to the super-  
24 intendent a report disclosing:

25 (1) Such insurer's investments in:

26 (A) any company that derives ten percent or more of revenue from  
27 exploration, extraction, processing, exporting, transporting, and any  
28 other significant action with respect to oil, natural gas, coal, or any  
29 byproduct thereof;

30 (B) any project intended to facilitate or expand exploration,  
31 extraction, processing, exporting, transporting, and any other signif-  
32 icant action with respect to oil, natural gas, coal, or any byproduct  
33 thereof; and

34 (C) any project intended to construct any infrastructure related to  
35 projects under subparagraph (B) of this paragraph, such as wells, pipe-  
36 lines, terminals or refineries;

37 (2) The financed emissions from all of the insurer's investments in  
38 the previous reporting year;

39 (3) Information concerning such insurer's gross premium underwriting  
40 for:

41 (A) any company that derives ten percent or more of revenue from  
42 exploration, extraction, processing, exporting, transporting, and any  
43 other significant action with respect to oil, natural gas, coal, or any  
44 byproduct thereof;

45 (B) any project intended to facilitate or expand exploration,  
46 extraction, processing, exporting, transporting, and any other signif-  
47 icant action with respect to oil, natural gas, coal, or any byproduct  
48 thereof; and

49 (C) any project intended to construct any infrastructure related  
50 projects under subparagraph (B) of this paragraph, such as wells, pipe-  
51 lines, terminals or refineries;

52 (4) The insured emissions from all of the insurer's underwriting in  
53 the previous reporting year;

54 (5) Aggregated data on homeowners and renters premiums, claims, deduc-  
55 tibles and overall insurance exposures, at a census-tract level, in a

1 manner that does not risk public disclosure of personally identifiable  
2 information of policyholders; and

3 (6) Any other information the department deems necessary to effec-  
4 tively implement and enforce any rule or regulation promulgated pursuant  
5 to this article.

6 (c) The criteria developed by the superintendent pursuant to  
7 subsection (b) of this section shall enable the superintendent to post  
8 the information reported to the superintendent pursuant to subsection  
9 (d) of this section on the department's website.

10 (d) Within twelve months of the effective date of this article, and  
11 annually thereafter, such insurers doing business in this state, as  
12 determined by the superintendent subject to subsection (f) of this  
13 section, shall submit a report to the superintendent disclosing the  
14 information set forth in subsection (b) of this section for the preced-  
15 ing calendar year.

16 (e) Within three months of receiving the report required pursuant to  
17 subsection (b) of this section, and annually thereafter, the superinten-  
18 dent shall compile and post the information in such report on the  
19 department's website.

20 (f) The superintendent may engage the services of attorneys, actuar-  
21 ies, accountants and other experts not otherwise a part of the super-  
22 intendent's staff, at the reporting insurer's expense, as shall be  
23 reasonably necessary to assist in the review of such insurer's filing  
24 under subsection (c) of this section. All persons so engaged shall be  
25 under the direction and control of the superintendent and shall act in a  
26 purely advisory capacity.

27 (g) The superintendent shall subject an insurer to the requirements of  
28 this section if:

29 (1) The insurer reports over one hundred million dollars on its annual  
30 schedule T filing with the National Association of Insurance Superinten-  
31 dents; or

32 (2) The insurer's activities or investments may expose such insurer to  
33 a heightened level of risk from the physical or transition effects of  
34 climate change; or

35 (3) The superintendent otherwise determines that disclosure would be  
36 in the public interest.

37 (h) The superintendent shall review and update the guidance at least  
38 once every two years and shall update the guidance to reflect develop-  
39 ments elsewhere in the world, with the intent of incorporating emerging  
40 best practices and ensuring the smooth functioning of New York insurance  
41 markets.

42 (i) The superintendent may adopt such regulations as the superinten-  
43 dent deems necessary to carry out the purposes of this article.

44 (j) Within five years of the effective date of this article, the  
45 superintendent shall require any insurer to divest from:

46 (1) any company that derives ten percent or more of revenue from  
47 exploration, extraction, processing, exporting, transporting, and any  
48 other significant action with respect to oil, natural gas, coal, or any  
49 byproduct thereof;

50 (2) any project intended to facilitate or expand exploration,  
51 extraction, processing, exporting, transporting, and any other signif-  
52 icant action with respect to oil, natural gas, coal, or any byproduct  
53 thereof; and

54 (3) any project intended to construct any infrastructure related to  
55 projects under paragraph two of this subsection, such as wells, pipe-  
56 lines, terminals or refineries.

1 § 9203. Reporting. (a) Within twelve months of the effective date of  
2 this article, and once every two years thereafter, the superintendent  
3 shall submit a report to the legislature and the governor. The report  
4 shall also be made available to the public and posted on the depart-  
5 ment's website. The report shall disclose, for the preceding two calen-  
6 dar years, the department's:

7 (1) Efforts to implement the provisions of section nine thousand two  
8 hundred two of this article;

9 (2) Regulatory and supervisory actions taken, if any, to bolster the  
10 resilience of insurers to the physical impacts of climate change;

11 (3) Regulatory and supervisory actions planned, if any, to bolster the  
12 resilience of insurers to the physical impacts of climate change;

13 (4) The effects, if any, that the insurers' efforts to address climate  
14 risk have had on the affordability and availability of insurance for low  
15 income communities, communities of color and other traditionally under-  
16 served communities in the state, including communities vulnerable to  
17 bluelining as defined in paragraph fifty-six of subsection (a) of  
18 section one hundred seven of this chapter.

19 (b) Such report shall also summarize available information regarding:

20 (1) insurer and insurance market readiness for climate change and the  
21 energy transition;

22 (2) major sources of climate risk faced by New York insurers;

23 (3) any gaps related to climate risk that the department intends to  
24 address; and

25 (4) any legislative action that must be taken in order to allow the  
26 department to address climate risk.

27 § 2. Subsections (k) and (l) of section 102 of the financial services  
28 law are amended and a new subsection (m) is added to read as follows:

29 (k) To promote the reduction and elimination of fraud, criminal abuse  
30 and unethical conduct by, and with respect to, banking, insurance and  
31 other financial services institutions and their customers; [~~and~~]

32 (l) To educate and protect users of banking, insurance, and financial  
33 services products and services through the provision of timely and  
34 understandable information[+]; and

35 (m) To identify, supervise, regulate and manage exposure to risk in  
36 New York's banking, insurance and financial services industries, includ-  
37 ing risks related to climate change.

38 § 3. Subsection (a) of section 107 of the insurance law is amended by  
39 adding a new paragraph 56 to read as follows:

40 (56) "Community vulnerable to bluelining" means a census tract that  
41 meets the following:

42 (A) qualifies as a low-to-moderate income community under the criteria  
43 of the state's community reinvestment act or under the criteria defined  
44 in section two thousand three hundred fifty-five of this chapter or  
45 qualifies as a disadvantaged community as defined in section 75-0101 of  
46 the environmental conservation law and qualifies as a high climate risk  
47 community based either on the federal emergency management agency's risk  
48 index or other criteria defined in section two thousand three hundred  
49 fifty-five of this chapter; or

50 (B) qualifies based on other criteria developed by the department  
51 pursuant to section two thousand three hundred fifty-five of this chap-  
52 ter.

53 § 4. The insurance law is amended by adding two new sections 2354 and  
54 2355 to read as follows:

55 § 2354. Protecting communities from bluelining. (a) The superintendent  
56 shall have the authority to place a moratorium on non-renewals in under-

1 served communities that have been affected by a climate disaster in the  
2 last year.

3 (b) No insurer shall refuse to issue or renew or shall cancel a policy  
4 of property and casualty insurance based solely on the insured residing  
5 in an area that is designated as a community vulnerable to bluelining  
6 pursuant to paragraph fifty-six of subsection (a) of section one hundred  
7 seven or section two thousand three hundred fifty-five of this chapter.  
8 Such prohibition shall not preclude an insurer from refusing to issue or  
9 renew or from canceling such policies based on sound underwriting and  
10 actuarial principles reasonably related to actual or anticipated loss  
11 experience subject to the applicable provisions of this section and of  
12 section three thousand four hundred twenty-five of this chapter.

13 (c) No insurer shall refuse to issue or renew or shall cancel a policy  
14 of property and casualty insurance based solely on the insured's source  
15 of income, including the use of housing vouchers.

16 § 2355. Identification of communities vulnerable to bluelining. (a) In  
17 addition to those communities which qualify as communities vulnerable to  
18 bluelining pursuant to paragraph fifty-six of subsection (a) of section  
19 one hundred seven of this chapter, the department shall establish crite-  
20 ria and a process to identify new communities vulnerable to bluelining.

21 (1) Such criteria shall identify communities vulnerable to bluelining  
22 based on geographic, public health, environmental hazard, and socioeco-  
23 nomical criteria, which shall include, but are not limited to:

24 (A) areas burdened by cumulative environmental pollution and other  
25 hazards that can lead to negative public health effects;

26 (B) areas with concentrations of people that are of low income, high  
27 unemployment, high rent burden, low levels of home ownership, low levels  
28 of educational attainment, or members of groups that have historically  
29 experienced discrimination on the basis of race or ethnicity;

30 (C) areas vulnerable to the impacts of climate change such as flood-  
31 ing, storm surges, and urban heat island effects; and

32 (D) any additional criteria that the department may identify.

33 (2) Before finalizing the criteria for identifying communities vulner-  
34 able to bluelining pursuant to paragraph one of this subsection, the  
35 department shall publish draft criteria and a draft list of communities  
36 vulnerable to bluelining and make such information available on its  
37 website.

38 (b) The department shall annually review the criteria, process, and  
39 methods used to identify communities vulnerable to bluelining and shall  
40 modify such methods to incorporate new data and scientific findings.

41 (c) The department shall regularly review the identities of communi-  
42 ties vulnerable to bluelining and modify such identities as needed.

43 § 5. Subsection (d) of section 3425 of the insurance law is amended by  
44 adding a new paragraph 4 to read as follows:

45 (4) With respect to cancellation of policies in communities vulnerable  
46 to bluelining pursuant to paragraph fifty-six of subsection (a) of  
47 section one hundred seven or section two thousand three hundred fifty-  
48 five of this chapter, in addition to the requirements contained in para-  
49 graph one of this subsection, unless the insurer, at least one year in  
50 advance of the end of the policy period, mails or delivers to the named  
51 insured, at the address shown in the policy, a written notice of its  
52 intention not to renew a covered policy, or to condition its renewal  
53 upon change of limits or elimination of any coverages, the named insured  
54 shall be entitled to renew the policy upon timely payment of the premium  
55 billed to the insured for the renewal.

1 § 6. The insurance law is amended by adding a new section 215 to read  
2 as follows:

3 § 215. Rating and affordability improvement study. (a) The department  
4 shall conduct a study on methods for keeping property and casualty  
5 insurance lines affordable for communities vulnerable to bluelining,  
6 including the consideration of homeowner mitigation in premium discounts  
7 and non-renewal and cancellations decisions, assistance programs for  
8 low-income policyholders similar to those proposed for the national  
9 flood insurance program, and a tax on homeowners insurance lines that  
10 declines into a rebate based on income.

11 (b) Within twelve months of the effective date of this section, the  
12 department shall issue a report on their findings which shall provide  
13 recommendations for regulatory and legislative actions relating to  
14 affordable insurance lines in communities vulnerable to bluelining.

15 § 7. This act shall take effect immediately.