STATE OF NEW YORK

3612

2023-2024 Regular Sessions

IN SENATE

February 1, 2023

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

AN ACT to amend the insurance law, in relation to financial guaranty insurance single risk limits for municipal obligation bonds, special revenue bonds and similar obligations of debt issuers in highly rated member countries of the Organisation of Economic Co-operation and Development

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

Section 1. Subparagraph (I) of paragraph 4 of subsection (g) of section 6901 of the insurance law, as amended by chapter 672 of the laws of 2005, is amended to read as follows:

(I) is issued by a bank, trust company, or savings and loan association that:

(i) is organized and existing under the laws of the United States or any state thereof or, in the case of a non-domestic financial institution, has a branch or agency office licensed under the laws of the United States or any state thereof and is domiciled in a member country of the Organisation for Economic Co-operation and Development having a sovereign rating in one of the top two generic lettered rating classifications by a [~~securities~~] *nationally recognized statistical* rating [~~agency~~] *organization* acceptable to the superintendent;

(ii) has (or is the principal operating subsidiary of a financial institution holding company that has) a long-term debt rating of at least investment grade; and

(iii) is not a parent, subsidiary or affiliate of the trustee or paying agent, if any, with respect to the insured obligation if such trustee [~~of~~] *or* paying agent is the named beneficiary of the letter of credit; or

§ 2. Subsections (k), (n) and (s) of section 6901 of the insurance law, subsection (k) as amended by chapter 605 of the laws of 2004,

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

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subsection (n) as amended by chapter 529 of the laws of 1996, and subsection (s) as amended by chapter 672 of the laws of 2005, are amended to read as follows:

(k) "Governmental unit" means the United States of America, Canada, a member country of the Organisation for Economic Co-operation and Development having a sovereign rating in one of the top [~~two~~] **three** generic lettered rating classifications by a [~~securities~~] **nationally recognized statistical** rating [~~agency~~] **organization** acceptable to the superintendent, a state, territory or possession of the United States of America, the District of Columbia, a province of Canada, a municipality, or a political subdivision of any of the foregoing, or any public agency or instrumentality thereof.

(n) "Investment grade" means that:

(1) the obligation or parity obligation of the same issuer has been determined to be in one of the top four generic lettered rating classifications by a [~~securities~~] **nationally recognized statistical** rating [~~agency~~] **organization** acceptable to the superintendent;

(2) the obligation or parity obligation of the same issuer has been identified in writing by such **nationally recognized statistical** rating [~~agency~~] **organization** to be of investment grade quality; or

(3) if the obligation or parity obligation of the same issuer has not been submitted to any such **nationally recognized statistical** rating [~~agency~~] **organization**, the obligation is determined to be investment grade (as indicated by a rating in category 1 or 2) by the Securities Valuation Office of the National Association of Insurance Commissioners.

(s) "Utility first mortgage obligation" means any obligation of an issuer secured by a first priority mortgage on utility property owned by or leased to an investor-owned or cooperative-owned utility company and located in the United States, Canada or a member country of the Organisation for Economic Co-operation and Development having a sovereign rating in one of the top two generic lettered rating classifications by a [~~securities~~] **nationally recognized statistical** rating [~~agency~~] **organization** acceptable to the superintendent; provided that the utility or utility property or the usage fees or other similar utility rates or charges are subject to regulation or oversight by a governmental unit.

§ 3. Paragraph 4 of subsection (a) of section 6902 of the insurance law, as amended by chapter 605 of the laws of 2004, is amended to read as follows:

(4) a financial guaranty insurance corporation's investments in any one entity insured by that corporation shall not exceed four percent of its admitted assets at last year-end, except that this limit shall not apply to investments payable or guaranteed by a United States governmental unit or New York state if such investments payable or guaranteed by the United States governmental unit or New York state shall be rated in one of the top two generic lettered rating classifications by a [~~securities~~] **nationally recognized statistical** rating [~~agency~~] **organization** acceptable to the superintendent.

§ 4. Subparagraph (B) of paragraph 1 of subsection (d) of section 6904 of the insurance law, as amended by chapter 605 of the laws of 2004, is amended to read as follows:

(B) the insured unpaid principal issued by a single entity and backed by a single revenue source shall not exceed [~~seventy-five~~] **the following** percent of the aggregate of the insurer's surplus to policyholders and contingency reserve **based on the highest sovereign rating, by a nationally recognized statistical rating organization acceptable to the superintendent, of the country of the applicable governmental unit:**

(i) seventy-five percent: any rating in one of the top two generic lettered rating classifications;

(ii) fifty-nine percent: an A+, A1, or equivalent rating at the highest grade of the third generic lettered rating classification;

(iii) forty-three percent: an A, A2, or equivalent rating at the middle grade of the third generic lettered rating classification; and

(iv) twenty-six percent: an A-, A3, or equivalent rating at the lowest grade of the third generic lettered rating classification;

§ 5. Subsection (e) of section 6904 of the insurance law, as amended by chapter 89 of the laws of 1989, is amended to read as follows:

(e) Except as provided in subsection (f) of this section, if an insurer at any time exceeds any limitation prescribed by subsection (c) or (d) of this section or [~~the last sentence of~~] paragraph [~~one~~] two of subsection (b) of this section, the insurer shall within thirty days after the limitations are breached, submit a written plan to the superintendent detailing the steps that it will take or has taken to reduce its exposure to loss to no more than the permitted amounts, and if after notice and hearing the superintendent determines that an insurer has exceeded any limitation prescribed by this section, he may order such insurer to cease transacting any new financial guaranty insurance business until its exposure to loss no longer exceeds said limitations or with respect to the limitations prescribed in [~~the last sentence of~~] paragraph [~~one~~] two of subsection (b) of this section, may order such insurer to limit its writing of the types of guaranties permitted under subparagraphs (A), (B) and (C) of paragraph one of subsection (b) of this section to investment grade obligations until such time as it shall be in compliance with such limitations.

§ 6. This act shall take effect immediately.