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:

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

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

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

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

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

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

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

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

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

(g) Other jurisdictions have begun to require private and public entities to develop and disclose sustainability policies, including Illinois' Sustainable Investing Act and France's Energy Transition Law Article 173.

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

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

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

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

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

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

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

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