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:

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

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

ARTICLE 27-A

SLAVERY ERA INSURANCE POLICIES

Section 2751. Definitions.
2752. Reports from insurers.
2753. Substantial compliance.
2754. Rules and regulations.

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

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

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

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

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

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(d) "Descendant of slaves" shall mean a person whose ancestors were defined as private property, dehumanized, divided from their families, and forced to perform labor without appropriate compensation or benefits, and whose ancestors' owners were compensated for damages by insurers.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(A) A natural person, corporation, company, limited liability company, business association, partnership, society, trust, or any other nongovernmental entity, organization, or group.

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

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

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

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

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

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

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

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

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

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

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

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

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