

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.