

# STATE OF NEW YORK

2245

2025-2026 Regular Sessions

## IN ASSEMBLY

January 15, 2025

Introduced by M. of A. BRAUNSTEIN, SEAWRIGHT, TAPIA, BICHOTTE HERMELYN  
-- read once and referred to the Committee on Insurance

AN ACT to amend the insurance law, in relation to establishing the New York small contractor relief act; provides for the repeal upon expiration thereof; and making an appropriation therefor

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

1 Section 1. Short title. This act shall be known and may be cited as  
2 the "New York small contractor relief act".

3 § 2. The legislature hereby declares that the market for insurance for  
4 small construction contractors and certified minority and women-owned  
5 construction contractors has been challenged both by high insurance  
6 rates and a lack of market capacity. These challenges are acute for  
7 small construction contractors, and minority and women-owned  
8 construction contractors working for public owners. This act shall  
9 provide for a private market insurance solution for small construction  
10 contractors, and minority and women-owned construction contractors  
11 through the creation of a captive insurance company.

12 § 3. The insurance law is amended by adding a new article 70-A to read  
13 as follows:

### ARTICLE 70-A

#### NEW YORK SMALL CONTRACTOR RELIEF ACT

##### Section 7013. Definitions.

17 7014. New York small contractor captive insurance company.

18 7015. Reinsurance and retrocession reinsurance.

19 7016. No refusal.

20 7017. Risk management program.

21 7018. Prevailing wage requirement.

22 § 7013. Definitions. For the purpose of this article, the following  
23 terms shall have the following meanings:

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

LBD04020-01-5

1 (a) "Liability insurance" shall mean personal injury liability insur-  
2 ance and property damage liability insurance, as such terms are defined  
3 in paragraphs thirteen and fourteen of subsection (a) of section one  
4 thousand one hundred thirteen of this chapter, and shall include any  
5 type of insurance deemed by the superintendent of financial services to  
6 be substantially similar thereto pursuant to paragraph thirty-four of  
7 subsection (a) of such section.

8 (b) "Small construction contractor" shall mean any contractor which  
9 (i) is resident in this state; (ii) is independently owned and operated;  
10 (iii) is exclusively engaged in construction contracting or subcontract-  
11 ing; (iv) had less than three million dollars in gross revenues for the  
12 calendar year prior to an application for insurance being filed pursuant  
13 to the terms of this article, or is a certified minority or women-owned  
14 business; and (v) pays the prevailing wage.

15 (c) "Prevailing wage" shall mean the rate of wages and supplemental  
16 benefits paid in the locality to workers in the same trade or occupation  
17 and annually determined by the commissioner of labor or comptroller in  
18 accordance with the provisions of section two hundred twenty of the  
19 labor law.

20 § 7014. New York small contractor captive insurance company. (a) A  
21 captive insurance company organized pursuant to this article shall be  
22 formed and regulated pursuant to the provisions of article seventy of  
23 this chapter. Such entity may be a corporation, association, a joint  
24 stock company or association, or an aggregation or partnership pursuant  
25 to the laws of the state of New York.

26 (b) A captive insurance company may be organized pursuant to this  
27 article for the sole purpose of providing liability insurance as defined  
28 in subsection (a) of section seven thousand thirteen of this article to  
29 small construction contractors, as that term is defined in subsection  
30 (a) of section seven thousand thirteen of this article.

31 § 7015. Reinsurance and retrocession reinsurance. A captive insurance  
32 company organized pursuant to this article shall be authorized to  
33 purchase, and the New York state insurance fund (hereinafter the "fund")  
34 shall be authorized and directed, to provide reinsurance and retroces-  
35 sion reinsurance for such captive insurance company, on either a quota  
36 share arrangement or facultative arrangement (hereafter "reinsurance")  
37 at a rate to be determined by the board of the fund. The fund shall  
38 provide such reinsurance on an application for such coverage unless, in  
39 the opinion of the executive director, providing such coverage on an  
40 application will imperil the financial safety and soundness of the fund.  
41 The executive director of the fund shall provide, in writing, to the  
42 board of the fund and the superintendent not less than quarterly a  
43 report on all such applications for coverage that are denied, together  
44 with the grounds for and an analysis of the basis for such denial.

45 § 7016. No refusal. A small contractor captive insurance company  
46 organized pursuant to this article shall not refuse to issue, renew or  
47 cancel a policy of any qualified small construction contractor based  
48 upon geographic location or line of business engaged in by such contrac-  
49 tor.

50 § 7017. Risk management program. A captive insurance company organized  
51 pursuant to this article shall establish and promote a risk management  
52 program among its members to identify and reduce risks by implementation  
53 of loss control, safety programs and other methods of risk management,  
54 and any small construction contractor accepted for coverage from such  
55 insurer shall be responsible for adopting and following such risk  
56 management program.

1 § 7018. Prevailing wage requirement. A small construction contractor  
2 seeking to obtain liability insurance from a small contractor captive  
3 insurance company authorized under this article shall establish that the  
4 small construction contractor's entire workforce is being paid the  
5 prevailing wage. The small construction contractor's application for  
6 insurance shall document and certify that the applicant meets this  
7 requirement and will meet this requirement for all construction work on  
8 all projects covered by the liability insurance obtained pursuant to  
9 this article as a precondition to qualifying for liability insurance  
10 issued hereunder. Such application shall also be submitted to the  
11 commissioner of labor who shall notify the small contractor captive  
12 insurance company of receipt prior to approval of such application. As  
13 a condition of approval, at least ten days prior to commencement of  
14 work, the small construction contractor shall notify and update the  
15 captive insurance company of any location where it is performing  
16 construction covered by a policy associated with this article. Such  
17 locations shall be publicly posted online within two days of receipt  
18 from the small construction contractor and maintained by the captive  
19 insurance company. All such work performed by the small construction  
20 contractor shall be subject to the provisions of article eight of the  
21 labor law including, but not limited to, section two hundred twenty and  
22 two hundred twenty-i of such article. In the event the small  
23 construction contractor is determined by the fiscal officer, as defined  
24 in section two hundred twenty of the labor law, to be in violation of  
25 article eight of the labor law, in addition to any penalties to be  
26 enforced pursuant to such article, the captive insurance company shall  
27 revoke such contractor's policy pursuant to this article and assess a  
28 penalty equal to the costs incurred in providing liability insurance  
29 coverage since its initial application was approved.

30 § 4. Not less than six months before the expiration date of article  
31 70-A of the insurance law, as added by this chapter, the superintendent  
32 of financial services shall issue to the governor, the speaker of the  
33 assembly and the temporary president of the senate, and the chairs of  
34 the insurance and labor committees of each house, a report on the  
35 performance of the New York small contractor relief act and its impact  
36 upon the small construction contractor sector. If such act is to expire,  
37 it shall not impede such captive insurance companies created under arti-  
38 cle 70-A of the insurance law to continue to operate as if the  
39 provisions of such article were still in full force and effect, assuming  
40 that such companies are otherwise viable pursuant to the provisions of  
41 article 70 of the insurance law.

42 § 5. The sum of fifty million dollars (\$50,000,000) is hereby appro-  
43 priated for the support of up to two captives under this act. Such  
44 funds may be used for the purpose of providing paid-in capital and  
45 initial surplus contributions for captives organized pursuant to article  
46 70-A of the insurance law, such amounts not to exceed twenty-five  
47 million dollars (\$25,000,000) for any one captive insurer so organized.  
48 The New York state insurance fund is authorized, upon action of its  
49 board of directors, to invest other funds as may be appropriate in a  
50 captive organized pursuant to article 70-A of the insurance law.

51 § 6. This act shall take effect on the one hundred eightieth day after  
52 it shall have become a law and shall expire and be deemed repealed five  
53 years after such effective date.