

STATE OF NEW YORK

2130--A

2025-2026 Regular Sessions

IN SENATE

January 15, 2025

Introduced by Sen. RAMOS -- read twice and ordered printed, and when printed to be committed to the Committee on Finance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the insurance law, in relation to establishing the New York small contractor relief act; to amend the workers' compensation law, in relation to the payment of certain benefits; provides for the repeal of certain provisions of law 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.

7014. New York small contractor captive insurance company.

7015. Reinsurance and retrocession reinsurance.

7016. No refusal.

7017. Risk management program.

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

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1 7018. Prevailing wage requirement.

2 § 7013. Definitions. For the purpose of this article, the following
3 terms shall have the following meanings:

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

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

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

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

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

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

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

53 § 7017. Risk management program. A captive insurance company organized
54 pursuant to this article shall establish and promote a risk management
55 program among its members to identify and reduce risks by implementation
56 of loss control, safety programs and other methods of risk management,

1 and any small construction contractor accepted for coverage from such
2 insurer shall be responsible for adopting and following such risk
3 management program.

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

34 § 4. Paragraph 1 of subsection (e) of section 7002 of the insurance
35 law, as amended by section 1 of part NN of chapter 58 of the laws of
36 2025, is amended to read as follows:

37 (1) whose net worth exceeds one hundred million dollars, except for
38 any small contractor captive insurance company authorized pursuant to
39 section seven thousand fourteen of this chapter;

40 § 5. Section 76 of the workers' compensation law is amended by adding
41 a new subdivision 4-a to read as follows:

42 4-a. The purposes of the state insurance fund created in this section
43 are enlarged to provide for the insurance by the state insurance fund of
44 the payment of the benefits required by article seventy-A of the insur-
45 ance law.

46 § 6. Not less than six months before the expiration date of article
47 70-A of the insurance law, as added by this chapter, the superintendent
48 of financial services shall issue to the governor, the speaker of the
49 assembly and the temporary president of the senate, and the chairs of
50 the insurance and labor committees of each house, a report on the
51 performance of the New York small contractor relief act and its impact
52 upon the small construction contractor sector. If such act is to expire,
53 it shall not impede such captive insurance companies created under arti-
54 cle 70-A of the insurance law to continue to operate as if the
55 provisions of such article were still in full force and effect, assuming

1 that such companies are otherwise viable pursuant to the provisions of
2 article 70 of the insurance law.

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

12 § 8. This act shall take effect on the one hundred eightieth day after
13 it shall have become a law and shall expire and be deemed repealed five
14 years after such effective date.