STATE OF NEW YORK

11059

IN ASSEMBLY

April 24, 2026

Introduced by M. of A. DILAN -- read once and referred to the Committee on Housing

AN ACT to amend the private housing finance law, in relation to limiting the liability of low-income housing providers who receive government assistance, and establishing a temporary insurance stabilization program for such entities; and providing for the repeal of certain provisions upon the expiration thereof

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

Section 1. The private housing finance law is amended by adding a new article 33 to read as follows:

ARTICLE XXXIII

LOW-INCOME HOUSING LIABILITY STANDARDS

§ 1300. Definitions. As used in this article, the following terms shall have the following meanings:

1. "Covered low-income housing provider" means an entity that:

(a) is a nonprofit organization that:

(i) qualifies as an appropriate nonprofit organization as defined in section twelve hundred eighty-one of this chapter; and

(ii) holds an ownership stake in the housing property it manages of at least forty-five percent;

(b) is an entity that meets the definition of housing company as defined in subdivision three of section three of the public housing law; or

(c) is an entity that:

(i) provides low rent housing as such term is defined in subdivision twenty-three of section three of the public housing law; and

(ii) receives some combination of federal, state, or municipal funding to effectuate the provision of such low rent housing, such that the housing qualifies as a project as defined in subdivision fourteen of section three of the public housing law.

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

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2. "Non-medical damages" means any compensatory damages, including a non-economic loss as such term is defined in section sixteen hundred of the civil practice law and rules, sought by a plaintiff and resulting from the willful, wanton or grossly negligent conduct of the defendant, but shall not include medical expense damages described in paragraph (d) of subdivision three of this section.

3. "Qualified civil liability action" means a civil action or proceeding brought by any person against a covered low-income housing provider, but shall not include an action where:

(a) the defendant's conduct giving rise to such action was willful, wanton, or grossly negligent;

(b) punitive damages are not sought by the plaintiff, nor awarded by the court;

(c) non-medical damages sought do not exceed five hundred thousand dollars; and

(d) medical expense damages sought do not exceed the reimbursement rates in effect for such care under the schedule set forth by the chair of the workers' compensation board pursuant to section thirteen of the workers' compensation law.

§ 1301. Limitation of liability for low-income housing providers. Notwithstanding any other provision of law to the contrary, no qualified civil liability action may be brought in any court in the state.

§ 2. The private housing finance law is amended by adding a new article 34 to read as follows:

ARTICLE XXXIV

TEMPORARY INSURANCE STABILIZATION PROGRAM

§ 1310. Legislative findings and purpose. It is hereby declared and found that the availability of affordable housing in this state remains an important priority in the public interest. It is further found that there exists in the state a diminishing and seriously inadequate supply of safe and sanitary dwelling accommodations, particularly for persons of low-income; that existing providers of low-income housing must shoulder unlimited liability despite being limited in the rents they must charge; that such providers of low-income housing must also bear rising liability insurance costs due to numerous factors beyond their control; that the rising costs of such insurance may lead to such providers exiting the affordable housing business altogether, further exacerbating the affordable housing crisis; and that the unlimited liability borne by such providers runs directly counter to the goals of the numerous federal, state, and municipal grant programs intended to address the affordable housing crisis.

In order to promote the purpose of existing housing grant programs and provide for adequate protection of federal, state, and local investments in affordable housing development, the creation of a temporary program to ensure the availability of liability insurance for such providers is necessary.

The necessity in the public interest for the provisions hereinafter enacted is hereby declared as a matter of legislative determination.

§ 1311. Definitions. As used in this article, the following terms shall have the following meanings:

1. "Association" means the joint underwriting association established under this article.

2. "Covered low-income housing provider" means an entity that:

(a) is a nonprofit organization that:

(i) qualifies as an appropriate nonprofit organization as defined in section twelve hundred eighty-one of this chapter; and

(ii) holds an ownership stake in the housing property it manages of at least forty-five percent;

(b) is an entity that meets the definition of housing company as defined in subdivision three of section three of the public housing law; or

(c) is an entity that:

(i) provides low rent housing as such term is defined in subdivision twenty-three of section three of the public housing law; and

(ii) receives some combination of federal, state, or municipal funding to effectuate the provision of such low rent housing, such that the housing qualifies as a project as defined in subdivision fourteen of section three of the public housing law.

3. "Net direct premiums" means gross direct premiums written in this state for commercial general liability insurance, as computed by the superintendent, less return premiums or the unused or unabsorbed portions of premium deposits.

4. "Plan of operation" or "plan" means the plan of operation complying with section thirteen hundred thirteen of this article.

5. "Superintendent" means the superintendent of the department of financial services.

§ 1312. Joint underwriting association. 1. A joint underwriting association known as the New York housing insurance stabilization association is hereby established, consisting of all insurers, including captive insurers, authorized to write and engaged in writing within this state, on a direct basis, commercial general liability insurance. Every such insurer shall be and remain a member of the association as a condition of its authority to continue to transact commercial general liability insurance in the state.

2. The association shall be governed by a board of thirteen directors, ten of whom shall be elected annually by cumulative voting by the members of the association, whose votes in such election shall be weighted in accordance with each member's net direct premiums written during the preceding calendar year. The remaining three directors shall be appointed annually by the superintendent and be duly licensed insurance agents or brokers representative of broad segments of the public obtaining insurance through the association.

3. The association shall, pursuant to the provisions of this article and the plan of operation, make commercial general liability insurance available through the association, and shall have the power on behalf of its members:

(a) to cause policies of insurance to be issued to eligible applicants;

(b) to assume reinsurance from its members, including members that are captive insurers; and

(c) to cede reinsurance.

§ 1313. Plan of operation and procedures. 1. The association shall adhere to a plan of operation, consistent with the provisions of this article, approved by the superintendent after consultation with affected individuals and organizations. The plan shall provide for economical, fair and non-discriminatory administration and prompt and efficient provision of commercial general liability insurance to eligible applicants. Such plan shall contain other matters including, but not limited to, provision for necessary facilities, management of the association, assessment of members to defray losses and expenses, commission arrangements, reasonable and objective underwriting standards, acceptance and cession of reinsurance, and procedures for determining amounts of insurance to be provided by the association.

2. The plan of operation shall:

(a) authorize the association to issue commercial general liability insurance to covered low-income housing providers;

(b) provide for the provision of different per-occurrence limits and aggregate limits in coverage;

(c) provide for the use of premium installment plans;

(d) prohibit the association from issuing polices other than commercial general liability insurance policies; and

(e) provide procedures by which the association may assume reinsurance from its members and cede reinsurance to the private reinsurance market.

3. The directors of the association may, on their own initiative or at the request of the superintendent, amend the plan subject to approval by the superintendent.

4. The association shall, subject to the plan of operation, offer commercial general liability insurance to covered low-income housing providers at rates determined in pursuant to section thirteen hundred fourteen of this article for a period of five years following the effective date of this article.

5. Any covered low-income housing provider, who has made a diligent effort in the normal insurance market to procure commercial general liability insurance, is entitled to apply to the association for such coverage. Such application may be made on behalf of an applicant by a broker or agent authorized by such applicant.

6. If the association determines that (a) the applicant is insurable in accordance with the plan, and (b) there is no unpaid, uncontested premium due from the applicant for prior insurance, as shown by the insured having failed to make written objection to charges within thirty days after billing, the association, upon receipt of the premium or portion prescribed in the plan, shall cause a policy of commercial general liability insurance to be issued for a term of one year.

7. Any member, including captive insurers, may cede commercial general liability insurance to the association as provided in the plan.

8. Any applicant to the association and any person insured pursuant to this article, or their representatives, or any affected insurer, may appeal to the superintendent within thirty days after any ruling, action or decision by or on behalf of the association, with respect to those items the plan of operation defines as appealable matters.

§ 1314. Rating plans. 1. The rates, rating plans, rating rules and statistics applicable to insurance written by the association shall be subject to the relevant provisions of article twenty-three of the insurance law, except as otherwise provided in this section.

2. Annually, on a date set by the superintendent, the association shall estimate the actuarial rates sufficient to pay all valid claims and meet the expenses incurred by the association in writing and servic-

ing policies, and shall file such rates, on a form prescribed by the superintendent, with the department of financial services.

3. Not later than sixty days after the rating plan described in subdivision two of this section is received, the superintendent, in consultation with the commissioner, shall determine whether such rates are reasonable and affordable for covered low-income housing providers in light of the necessity of affordable housing and the importance of providing adequate protection for government housing investments.

4. If the superintendent and commissioner determine that the actuarial-based rates described in subdivision two of this section are not affordable, the superintendent shall determine an appropriate subsidy to apply to such rates, and the association shall charge its policyholders the subsidized rates as approved by the superintendent.

§ 1315. Participation and assessments. 1. Every member of the association shall participate in its writings, expenses, profits and losses in the proportion that the net direct premiums of the member, but excluding that portion of premiums attributable to the operation of the association, written during the preceding calendar year bear to the aggregate net direct premiums written in this state by all members of the association. Each member's participation in the association shall be determined annually on the basis of such net direct premiums written during the preceding calendar year as disclosed in the annual statements and other reports filed by the member with the superintendent.

2. No member shall be obligated in any year to reimburse the association on account of its proportionate share in the deficit from operations of the association in that year in excess of one percent of its surplus to policyholders. The aggregate amount not so reimbursed shall be reallocated among the remaining members in accordance with the method of determining participation prescribed in this section, after excluding from the computation the total net direct premiums of all members not sharing in such excess deficit. In the event that the deficit from operations allocated to all members in any calendar year shall exceed one percent of their respective surplus to policyholders, the amount of such deficit shall be allocated to each member in accordance with the method of determining participation prescribed in this section.

3. Annually, on a date set by the superintendent, the association shall estimate its deficit from operations, and calculate a factor, not to exceed one percent, by relating such deficit to net direct premiums written for the latest calendar year, subject to the approval of the superintendent. Such factor may be reflected in the determination of rates filed by the principal rating organization in this state and by members of the association for commercial general liability insurance. Any part of such deficit which exceeds one percent as so calculated, shall be defrayed by an increase in rates, based upon the association's related loss and expense experience together with other information the superintendent requires, in accordance with filings approved by the superintendent. Each member's share of the estimated deficit shall be collected by the association in accordance with the plan of operation.

4. Subject to approval by the superintendent, the association shall develop and implement an incentive plan for members which voluntarily write commercial general liability insurance policies for covered low-income housing providers. The purpose of these incentives shall be to encourage the writing of voluntary insurance policies and thereby reducing the exposure of the association.

§ 1316. Annual aggregate loss limitation. 1. Notwithstanding any other provision of federal or state law, the aggregate losses paid by the association during a calendar year shall not exceed fifty million dollars.

2. Neither the association, nor any member of the association that has met its assessment obligations, shall be liable for the payment of any portion of the amount of losses that exceeds fifty million dollars.

3. Any losses in excess of fifty million dollars for which the association would otherwise be liable but for the limitation in this section, shall be paid by the New York state division of housing and community renewal, under procedures to be prescribed by the commissioner.

§ 1317. Annual statements. 1. The association shall annually file a statement in the office of the superintendent on or before the first day of March. Such statement shall be in a form approved by and contain information required by the superintendent with respect to its transactions, condition, operations and affairs during the preceding year.

2. The superintendent may at any time require the association to furnish additional information which such superintendent considers to be material in evaluating the scope, operation and experience of the association.

§ 1318. Examinations. The superintendent may, in accordance with article three of the insurance law, make an examination into the affairs of the association whenever the superintendent deems it expedient. The expenses of every such examination shall be borne and paid by the association in the manner prescribed by subsection (f) of section two hundred six of the financial services law.

§ 1319. Study and determination. No later than three years after the effective date of this article, the superintendent shall, in consultation with the commissioner:

1. conduct a study on the availability and affordability of liability insurance for low-income housing providers;

2. assess the potential impact on availability and affordability of such insurance if the association established under this article were to be disbanded; and

3. submit a report and recommendation to the governor regarding whether the association established under this article should continue to operate.

§ 3. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided, however, that the provisions of section two of this act shall expire and be deemed repealed once the joint underwriting association established pursuant to article 34 of the private housing finance law as added by section two of this act has completed servicing all policies issued and fulfilled all obligations pursuant to such article; provided that the superintendent of financial services shall notify the legislative bill drafting commission upon the completion of servicing policies and fulfillment of obligations by the joint underwriting association, in order that the commission may maintain an accurate and timely effective data base of the official text of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers 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.