

# STATE OF NEW YORK

2245--B

2025-2026 Regular Sessions

## IN ASSEMBLY

January 15, 2025

Introduced by M. of A. BRAUNSTEIN, SEAWRIGHT, TAPIA, BICHOTTE HERMELYN, WEPRIN -- read once and referred to the Committee on Insurance -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- 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.

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

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1           7017. Risk management program.

2           7018. Prevailing wage requirement.

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

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

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

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

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

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

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

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

54       § 7017. Risk management program. A captive insurance company organized  
55 pursuant to this article shall establish and promote a risk management  
56 program among its members to identify and reduce risks by implementation

1 of loss control, safety programs and other methods of risk management,  
2 and any small construction contractor accepted for coverage from such  
3 insurer shall be responsible for adopting and following such risk  
4 management program.

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

35 § 4. Paragraph 1 of subsection (e) of section 7002 of the insurance  
36 law, as amended by section 1 of part NN of chapter 58 of the laws of  
37 2025, is amended to read as follows:

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

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

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

47 § 6. Not less than six months before the expiration date of article  
48 70-A of the insurance law, as added by this chapter, the superintendent  
49 of financial services shall issue to the governor, the speaker of the  
50 assembly and the temporary president of the senate, and the chairs of  
51 the insurance and labor committees of each house, a report on the  
52 performance of the New York small contractor relief act and its impact  
53 upon the small construction contractor sector. If such act is to expire,  
54 it shall not impede such captive insurance companies created under arti-  
55 cle 70-A of the insurance law to continue to operate as if the  
56 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.