STATE OF NEW YORK

8174--A

2025-2026 Regular Sessions

IN SENATE

May 19, 2025

Introduced by Sen. MARTINEZ -- read twice and ordered printed, and when printed to be committed to the Committee on Insurance -- recommitted to the Committee on Insurance in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the insurance law, in relation to authorizing the New York Liquidation Bureau to establish a reimbursement program for eligible local educational agencies

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

Section 1. Legislative findings and intent. The legislature acknowledges that local educational agencies (LEAs), including public school districts and special education providers, are facing unanticipated and significant financial liabilities resulting from settled civil claims brought under the Child Victims Act. These settlements often arise from misconduct occurring during periods when LEAs were insured by liability carriers that have since become insolvent.

In many cases, the current LEAs are now required to satisfy settlements or judgments without the avail of expected insurance coverage. Under the Child Victims Act, the lookback window for civil claims was originally set for one year and later extended by an additional year due to the COVID-19 pandemic. However, the state has not yet accounted for or addressed this extended period in relation to claims involving insolvent insurers. The New York Liquidation Bureau, under the Department of Financial Services, administers the estates of insolvent insurers but is not currently authorized to reimburse LEAs for such liabilities or pursue reciprocal claims due to expired statutory limitations.

The legislature hereby finds that this legal gap creates an inequitable burden on public educational institutions and threatens the fiscal functionality of school systems throughout the state. Furthermore, the legislature recognizes that the inability of LEAs to reach or fund

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

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settlements due to insolvency risks directly undermines the ability of victims to obtain timely restitution and resolution of their claims. Accordingly, this act authorizes the Bureau to establish a reimbursement program for eligible LEAs and empowers the Bureau and the State of New York to supplement insolvent estates where necessary. This authorization shall not apply to educational entities located within the City of New York, which operates under separate and distinct educational funding structures.

§ 2. The insurance law is amended by adding a new section 7438 to read as follows:

§ 7438. Reimbursement program for local educational agencies impacted by insolvent insurers. (a) As used in this section, the following terms shall have the following meanings:

(1) "Local educational agency" or "LEA" means any public school district or approved board of cooperative educational services, excluding those located within a city having a population of one million or more.

(2) "Bureau" means the New York Liquidation Bureau.

(3) "Insolvent insurer" means any insurer that has been adjudicated insolvent pursuant to an order of liquidation by a court of competent jurisdiction of this state under this article, and whose estate is or has been administered by the Bureau.

(4) "Child Victims Act" means chapter eleven of the laws of two thousand nineteen and any subsequent laws extending the statute of limitations for civil claims based on child sexual abuse.

(b) Notwithstanding any other provision of law, the superintendent, through the Bureau, is authorized to establish a program to evaluate and reimburse eligible LEAs for monetary liabilities arising from civil claims or settlement agreements related to acts that occurred during a period covered by a liability insurance policy issued by an insolvent insurer, provided that such claims are brought pursuant to the Child Victims Act.

(c) A LEA shall be eligible for reimbursement under this section if it:

(1) demonstrates that the insurer which issued the policy, or any successor insurer that has assumed the issuing insurer's obligations, has been adjudicated insolvent pursuant to an order of liquidation by a court of competent jurisdiction of this state under this article;

(2) provides documentation that the incident giving rise to the claim occurred during the period the policy was in effect;

(3) provides evidence of financial liability, whether by court order, settlement agreement, or payment to a claimant; and

(4) certifies that no other insurance or indemnification source is available to satisfy the claim.

(d) Reimbursements under this section shall be made from available assets of the insolvent insurer's estate. The superintendent shall promulgate a fixed amount to be paid to LEAs from these assets. Applications may be submitted prior to a final judgment and shall include all supporting documentation required by the Bureau.

(e) In the event that assets from the insolvent estate are insufficient, the superintendent shall promulgate a secondary reimbursement mechanism, which may include but not be limited to:

(1) recoveries from reinsurers of the insolvent insurer;

(2) subrogation or third-party recoveries;

(3) any interest the Bureau may generate from existing funds;

(4) residual balances from closed estates; and

(5) voluntary contributions from other insurers or industry sources, to the extent permitted by law.

(f) In cases where reimbursements are limited, the Bureau shall prioritize LEAs demonstrating significant financial hardship, based on criteria established by the Bureau in consultation with the education department.

§ 3. This act shall take effect on the one hundred twentieth day after it shall have become a law.