

ASSURANCEAMERICA CORP
Form SC 13E3/A
March 18, 2013

SECURITIES AND EXCHANGE COMMISSION

WASHINGTON DC 20549

SCHEDULE 13E-3

(RULE 13e-100)

TRANSACTION STATEMENT UNDER SECTION 13(e)

OF THE SECURITIES EXCHANGE ACT OF 1934 AND RULE 13e-3 THEREUNDER

RULE 13e-3 TRANSACTION STATEMENT UNDER SECTION 13(e)

OF THE SECURITIES EXCHANGE ACT OF 1934

(Amendment No. 4)

AssuranceAmerica Corporation

(Name of the Issuer)

AssuranceAmerica Corporation

(Names of Persons Filing Statement)

Common Stock, par value \$0.01 per share

(Title of Class of Securities)

04621M 1 02

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(CUSIP Number of Class of Securities)

Mark H. Hain, Esq.

Executive Vice President and General Counsel

AssuranceAmerica Corporation

RiverEdge One, Suite 600

5500 Interstate North Parkway

Atlanta, Georgia 30328

(770) 952-0200

(Name, Address, and Telephone Numbers of Person Authorized to Receive Notices and Communications on Behalf of the Persons Filing Statement)

with copies to:

Lori A. Gelchion, Esq.

Rogers & Hardin LLP

2700 International Tower

229 Peachtree Street, NE

Atlanta, Georgia 30303

(404) 522-4700

This statement is filed in connection with (check the appropriate box):

- a. ☐ The filing of solicitation materials or an information statement subject to Regulation 14A, Regulation 14C or Rule 13e-3(c) under the Securities Act of 1934.
- b. ☐ The filing of a registration statement under the Securities Act of 1933.
- c. ☐ A tender offer.
- d. ☒ None of the above.

Check the following box if the soliciting materials or information statement referred to in checking box (a) are preliminary copies: ☐

Check the following box if the filing fee is a final amendment reporting the results of the transaction: ☒

Calculation of Filing Fee

Transaction Valuation (1)

Amount of Filing Fee (2)

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\$126,812

\$14.52 (3)

- (1) Estimated maximum price to be paid in lieu of issuance of fractional shares of common stock based upon the aggregate number of shares owned by holders of less than 10,000 pre-reverse stock split shares.
- (2) Determined pursuant to Exchange Act Rule 0-11(b)(1), as amended by multiplying the transaction value of \$126,692 by one-fiftieth of one percent.
- (3) Previously paid with the initial filing of this Schedule 13E-3 Transaction Statement.

.. Check the box if any part of the fee is offset as provided by Exchange Act Rule 0-11(a)(2) and identify the filing with which the offsetting fee was previously paid. Identify the previous filing by registration number, or the Form or Schedule and the date of its filing.

Amount Previously Paid:
Form or Registration No.:
Filing Party:
Date Filed:

AMENDMENT NO. 4 TO
RULE 13e-3 TRANSACTION STATEMENT
EXPLANATORY STATEMENT

This Amendment No. 4 to Rule 13e-3 Transaction Statement amends the Rule 13e-3 Transaction Statement on Schedule 13E-3 initially filed by AssuranceAmerica Corporation, a Nevada corporation (the **Company**), with the Securities and Exchange Commission (the **SEC**) on September 25, 2012 and amended by Amendment No. 1 thereto filed on November 7, 2012, Amendment No. 2 thereto filed on December 4, 2012 and Amendment No. 3 thereto filed on December 26, 2012 (as so amended, the **Schedule 13E-3**), under Section 13(e) of the Securities Exchange Act of 1934, as amended (the **Exchange Act**), and Rule 13e-3 promulgated thereunder, in connection with a going private transaction. The primary purpose of the going private transaction is to reduce the number of record holders of the **Company**'s common stock, par value \$0.01 per share (the **Common Stock**), to fewer than 300, thereby allowing the **Company** to terminate the registration of the **Common Stock** under Section 12(g) of the Exchange Act and suspend its reporting obligations under Section 15(d) of the Exchange Act. This Amendment No. 4 is being filed pursuant to Rule 13e-3(d)(3) as a final amendment to the **Schedule 13E-3** solely to report the results of the going private transaction.

On March 11, 2013, the **Company** filed with the Nevada Secretary of State a Certificate of Change to its Amended and Restated Articles of Incorporation (the **Articles**) which: (i) effects a reverse stock split of the **Common Stock**, whereby each 10,000 shares of **Common Stock** outstanding as of the effective date of the reverse stock split was converted into one whole share of **Common Stock**; (ii) provides that, in lieu of issuing any fractional shares to stockholders owning fewer than 10,000 pre-reverse stock split shares of **Common Stock** (**Discontinued Stockholders**), the **Discontinued Stockholders** will be entitled to receive a cash payment (the **Cash-Out Price**) equal to \$0.04 for each pre-reverse stock split share of **Common Stock** owned by them; and (iii) decreases the number of authorized shares of **Common Stock** from 120,000,000 to 12,000 (the **Reverse Stock Split**). The **Reverse Stock Split** became effective on March 11, 2013 and, as of such date, **Discontinued Stockholders** have no further interest in the **Company**, are no longer stockholders of the **Company** and are entitled to receive only the **Cash-Out Price** of \$0.04 multiplied by the number of pre-Reverse Stock Split shares of **Common Stock** owned by them.

On March 14, 2013, the **Company** filed with the Nevada Secretary of State a Certificate of Change to its **Articles** which: (a) effects a forward stock split for those stockholders who held at least one whole post-Reverse Stock Split share of **Common Stock** (the **Continuing Stockholders**) by converting all post-Reverse Stock Split shares held by such stockholders (including fractional shares) to a number of shares of **Common Stock** equal to such number of post-Reverse Stock Split shares multiplied by 10,000; and (b) increases the number of authorized shares of **Common Stock** from 12,000 to 120,000,000 (the **Forward Stock Split**). The **Forward Stock Split** became effective on March 14, 2013 and, as of such date, **Continuing Stockholders** hold the same number of shares of **Common Stock** immediately after the **Forward Stock Split** as they held immediately prior to the **Reverse Stock Split**. No fractional shares were issuable as a result of the **Forward Stock Split**.

Immediately prior to the **Reverse Stock Split**, there were 66,253,389 shares of **Common Stock** outstanding, held by 768 record holders. Based on the information available to the **Company** as of the date hereof, as a result of the **Reverse Stock Split**: (1) the number of record holders of the **Common Stock** was reduced to 57; (2) an aggregate of 403,269 pre-Reverse Stock Split shares were cashed out; and (3) the total cash payable in lieu of fractional shares is \$16,130. The **Company** has not completed its estimate of the number of beneficial owners to be cashed out but based on the information available to the **Company** as of the date hereof, the **Company** expects the beneficial owners to be reduced from 494 to approximately 90; the shares held by such beneficial owners to be reduced by 2,767,032 shares with the cash payment in lieu of such shares to be \$110,681.

The **Company** will file a Form 15 with the SEC to terminate the registration of the **Common Stock** under Section 12(g) of the Exchange Act and to suspend its reporting obligations under Section 15(d) of the Exchange Act. Upon the filing of the Form 15, the **Company**'s obligation to file periodic reports under the Exchange Act will be immediately suspended. Deregistration of the **Common Stock** will be effective 90 days after filing of the Form 15. Upon deregistration of the **Common Stock**, the **Company**'s obligation to comply with the requirements of the proxy rules and to file proxy statements under Section 14 of the Exchange Act will also be terminated.

Item 1. Summary Term Sheet. The information set forth in the Disclosure Statement under the caption Summary Term Sheet is incorporated herein by reference.

Item 2. Subject Company Information.

(a) Name and Address. The information set forth in the Disclosure Statement under the caption Company Information - The Company is incorporated by reference.

(b) Securities. The information set forth in the Disclosure Statement under the caption Company Information - Company Securities is incorporated by reference.

(c) Trading Market and Price. The information set forth in the Disclosure Statement under the caption Company Information - Company Securities is incorporated by reference.

(d) Dividends. The information set forth in the Disclosure Statement under the caption Company Information - Company Securities is incorporated by reference.

(e) Prior Public Offerings. The information set forth in the Disclosure Statement under the caption Company Information - Company Securities is incorporated by reference.

(f) Prior Stock Purchases. The information set forth in the Disclosure Statement under the caption Company Information - Company Securities is incorporated by reference.

Item 3. Identity and Background of the Filing Person.

(a) Name and Address. AssuranceAmerica Corporation, the subject company, is the filing person of this Schedule 13E-3. Its principal executive offices are located at RiverEdge One, Suite 600, 5500 Interstate North Parkway, Atlanta, Georgia 30328, and its telephone number is (770) 952-0200. The information set forth in the Disclosure Statement under the captions Company Information - The Company, Company Information - Security Ownership of Certain Beneficial Owners and Management and Company Information - Management is incorporated by reference.

(b) Business and Background of Entities. The information set forth in the Disclosure Statement under the caption Introduction - Security Ownership of Certain Beneficial Owners and Management is incorporated by reference.

(c) Business and Background of Natural Persons. The information set forth in the Disclosure Statement under the captions Company Information - Security Ownership of Certain Beneficial Owners and Management and Company Information - Management is incorporated by reference.

Item 4. Terms of the Transaction.

(a) Material Terms. The information set forth in the Disclosure Statement under the captions Summary Term Sheet, Special Factors, Other Matters Related to the Transaction - Stockholder Approval, and Other Matters Related to the Transaction - Certain Material U.S. Federal Income Tax Consequences is incorporated by reference.

(c) Different Terms. The information set forth in the Disclosure Statement under the captions Special Factors - Effects of the Transaction and Other Matters Related to the Transaction - Potential Conflicts of Interests is incorporated by reference.

(d) Appraisal Rights. The information set forth in the Disclosure Statement under the caption Other Matters Related to the Transaction - Dissenters Rights is incorporated by reference.

(e) Provisions for Unaffiliated Security Holders. The Company has not made any provision to grant its unaffiliated stockholders access to the corporate files of the Company or to obtain counsel or appraisal services for such unaffiliated stockholders at the expense of the Company.

(f) Eligibility for Listing or Trading. Not applicable.

Item 5. Past Contacts, Transactions, Negotiations and Agreements.

(a) Transactions. None.

(b) Significant Corporate Events. None.

(c) Negotiations or Contacts. The information set forth in the Disclosure Statement under the caption Special Factors - Background of the Transaction is incorporated by reference.

(e) Agreements Involving the Company's Securities. The information set forth in the Disclosure under the captions Company Information - Company Securities, and Company Information - Security Ownership of Certain Beneficial Owners and Management is incorporated by reference.

Item 6. Purposes of the Transaction and Plans or Proposals.

(b) Use of Securities Acquired. The fractional shares of common stock acquired by the Company in the Reverse Stock Split will be cancelled and returned to the status of authorized but unissued shares.

(c) (c)(1) - (c)(8) Plans. The transaction is a Reverse Stock Split followed by a Forward Stock Split. The information set forth in the Disclosure Statement under the captions Special Factors - Purpose of the Transaction and Special Factors - Effects of the Transaction is incorporated by reference.

Item 7. Purposes, Alternatives, Reasons and Effects.

(a) Purposes. The information set forth in the Disclosure Statement under the captions Special Factors - Background of the Transaction and Special Factors - Purpose of the Transaction is incorporated by reference.

(b) Alternatives. The information set forth in the Disclosure Statement under the caption Special Factors - Alternatives to the Transaction is incorporated by reference.

(c) Reasons. The information set forth in the Disclosure Statement under the caption Special Factors - Reasons for the Transaction is incorporated by reference.

(d) Effects. The information set forth in the Disclosure Statement under the captions Special Factors - Effects of the Transaction and Other Matters Related to the Transaction - Certain Material U.S. Federal Income Tax Consequences is incorporated by reference.

Item 8. Fairness of the Transaction.

- (a) Fairness. The information set forth in the Disclosure Statement under the caption Special Factors - Fairness of the Transaction is incorporated by reference.
- (b) Factors Considered in Determining Fairness. The information set forth in the Disclosure Statement under the captions Special Factors - Background of the Transaction, Special Factors - Reasons for the Transaction and Special Factors - Fairness of the Transaction is incorporated by reference.
- (c) Approval of Security Holders. The information set forth in the Disclosure Statement under the caption Other Matters Related to the Transaction - Stockholder Approval is incorporated by reference.
- (d) Unaffiliated Representative. No one retained any unaffiliated representative to act solely on behalf of unaffiliated security holders for any purpose. The information set forth in the Disclosure Statement under the caption Special Factors - Fairness of the Transaction - Procedural Fairness of the Transaction is incorporated by reference.
- (e) Approval of Directors. The information set forth in the Disclosure Statement under the caption Special Factors - Fairness of the Transaction is incorporated by reference.
- (f) Other Offers. None.

Item 9. Reports, Opinions, Appraisals and Negotiations.

- (a) Report, Opinion or Appraisal. None.
- (b) Preparer and Summary of the Report, Opinion or Appraisal. Not applicable.
- (c) Availability of Documents. Not applicable.

Item 10. Source and Amounts of Funds or Other Consideration.

- (a) - (d) Source of Funds; Conditions; Expenses; Borrowed Funds. The information set forth in the Disclosure Statement under the caption Other Matters Related to the Transaction - Source and Amount of Funds is incorporated by reference.

Item 11. Interest in Securities of the Subject Company.

- (a) Securities Ownership. The information set forth in the Disclosure Statement under the caption Company Information - Security Ownership of Certain Beneficial Owners and Management is incorporated by reference.
- (b) Securities Transactions. The information set forth in the Disclosure Statement under the caption Company Information - Company Securities is incorporated by reference.

Item 12. The Solicitation or Recommendation.

- (d) Intent to Tender or Vote in a Going-Private Transaction. Not Applicable.
- (e) Recommendation of Others. Not applicable.

Item 13. Financial Information.

(a) Financial information. The information set forth in the Disclosure Statement under the caption Financial and Other Information is incorporated by reference.

(b) Pro forma information. Not applicable.

Item 14. Persons/Assets, Retained, Employed, Compensated or Used.

(a) -(b) Solicitations or Recommendations: Employees and Corporate Assets. Not applicable.

Item 15. Additional Information.

(b) Other Material Information. The information set forth in the Disclosure Statement and each Exhibit thereto is incorporated by reference.

Item 16. Exhibits.

(a)(3) Disclosure Statement to be mailed to stockholders of the Company. (Previously Filed.)

(a)(5)(i) Financial statements and notes thereto included in the Company's Annual Report on Form 10-K for the year ended December 31, 2011 (incorporated by reference to such report filed with SEC on April 16, 2012).

(a)(5)(ii) Financial statements and notes thereto included in the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2012 (incorporated by reference to such report filed with the SEC on November 14, 2012).

(a)(5)(iii) The Company's Current Report on Form 8-K filed with the SEC on March 15, 2013 (incorporated by reference to such report).

(b) Not applicable.

(c) Not applicable.

(d)(i) Promissory Note Secured by Mortgage, effective December 30, 2011, by and between Guy W. Millner and the Company in the amount of \$1,500,000.00 (incorporated by reference to Exhibit 10.29 to the Company's Annual Report on Form 10-K for the year ended December 31, 2011).

(d)(ii) Promissory Note Secured by Deed of Trust dated December 29, 2011, by and between Guy W. Millner and the Company in the amount of \$2,500,000.00 (incorporated by reference to Exhibit 10.30 to the Company's Annual Report on Form 10-K for the year ended December 31, 2011).

(d)(iii) Deed to Secure Debt, dated December 29, 2011, by and between Guy W. Millner and Virginia Millner and the Company (incorporated by reference to Exhibit 10.31 to the Company's Annual Report on Form 10-K for the year ended December 31, 2011).

(d)(iv) Secured Promissory Note, effective December 30, 2011, by and between the Company and Guy W. Millner in the amount of \$1,500,000.00 (incorporated by reference to Exhibit 10.33 to the Company's Annual Report on Form 10-K for the year ended December 31, 2011).

(d)(v) Promissory Note, dated December 29, 2011, by and between the Company and Guy W. Millner in the amount of \$2,500,000.00 (incorporated by reference to Exhibit 10.34 to the Company's Annual Report on Form 10-K for the year ended December 31, 2011).

(d)(vi) Common Share Purchase Warrant Agreement, effective December 30, 2011, by and between the Company and Guy W. Millner and Virginia W. Millner (incorporated by reference to Exhibit 10.35 to the Company's Annual Report on Form 10-K for the year ended December 31, 2011).

(d)(vii) Pledge Agreement, effective December 30, 2011, by and between the Company and Guy W. Millner (incorporated by reference to Exhibit 10.36 to the Company's Annual Report on Form 10-K for the year ended December 31, 2011).

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(f) Summary of Dissenters' Rights (included in the Disclosure Statement under the caption "Other Matters Related to the Transaction - Dissenters' Rights"); Sections 92A.300 to 92A.500 of the Nevada Revised Statutes (included as Exhibit A to the Disclosure Statement).

(g) Not applicable.

SIGNATURE

After due inquiry and to the best of my knowledge and belief, I certify that the information set forth in this statement is true, complete and correct.

ASSURANCEAMERICA CORPORATION

By: /s/ Mark H. Hain

Name: Mark H. Hain

Its: Executive Vice President, General Counsel and
Secretary

Date: March 18, 2013