

***Annual Report  
of the  
Superintendent of Insurance  
to the  
New York Legislature***

***Calendar Year 2000***



***Governor George E. Pataki***

***Superintendent of Insurance Gregory V. Serio***

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***The One Hundred Forty-Second***  
**Annual Report**  
**of the**  
**Superintendent of Insurance**

*A Report to the New York State Legislature for the  
Year Ending December 31, 2000*

*George E. Pataki*  
*Governor*

*Gregory V. Serio*  
*Superintendent of Insurance*

**Data in this report are subject to small table-to-table variations. Such variations are attributable to the fact that data are retrieved at various times throughout the year.**

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# I. Major Developments

## A. Health Care Reform Act (HCRA)

The historic Health Care Reform Act 2000 legislation, signed by Governor Pataki, took effect in 2000. The law funds care for the indigent at higher levels than in past years and funds graduate medical education at significant levels. It also creates new health insurance programs, such as Healthy NY, to provide uninsured, working New Yorkers with access to health care coverage, while lowering insurance costs for New Yorkers who buy coverage directly. Under HCRA, working New Yorkers can secure the essential coverage they need for themselves and their families. HCRA also includes programs to help small businesses obtain affordable health care coverage for their employees. See Section F (Health) below for more information about this important new law.



Governor George E. Pataki

## B. Speed to Market

As part of Governor Pataki's regulatory reform effort, the Department has introduced a new initiative designed to remove unnecessary regulatory burdens on insurers, bring products to the marketplace more quickly and efficiently, and dramatically reduce the number of staff hours spent reviewing product filings.

The initiative, called "Speed to Market," allows insurers in every line — life, property, and health — to gain access to a streamlined process of review that will reduce the approval time for new applications from months to weeks. The new initiatives will use company certifications, product outlines, filing checklists, and other tools to reduce time spent on "front end" preliminary review. The Department will reinvest this time to concentrate on such regulatory priorities as market conduct reviews, risk-based financial examinations and implementation of S.900 provisions. Speed to market promises to redefine the way insurance regulation is conducted in New York State and maximize the value of our regulatory resources.

## C. S. 900

Most of the major provisions of S. 900 (a.k.a., the Gramm-Leach-Bliley Act) took effect in 2000. The federal law, signed in 1999, repeals the 1933 Glass-Steagall Act by removing federal restrictions that had previously prevented affiliations among banks, insurance companies, investment banks and other financial services companies. Under S. 900, banks, insurers, investment banks and other *financial* institutions are permitted to operate as affiliated companies under the umbrella of a "Financial Holding Company" (FHC).

At this writing, banks, insurers and security firms as well as regulators are still adjusting to the new dynamics of S.900. Under S.900, state insurance departments remain the primary *functional regulator* of an FHC's insurance affiliates, *i.e.*, they're still responsible for regulating all functions of an insurance company's operation. However, the Federal Reserve serves as the *umbrella supervisor* of these newly authorized FHCs. Thus far, the Fed has been providing general oversight to FHCs, but does *not* participate in the day-to-day regulation of Financial Holding Companies or their affiliates.

Contrary to popular belief, the passage of S. 900 has not yet ushered in a wave of new mergers between insurers and banks. (The historic Citibank/Travelers merger occurred prior to the passage of the law, by special permission from the Fed.) Merger activity between insurers and banks is proceeding cautiously due to (1) insurer reluctance to submit to Federal Reserve oversight by becoming an FHC; (2) the preference of many banks to sell insurance products rather than underwrite

risk; (3) the relatively unattractive risk-adjusted rates of return generated by many insurers; (4) the notion that one-stop shopping may not make sense for anything but the most basic, commodity-like insurance products; and (5) the core dissimilarities between the two industries.

#### **D. Privacy**

Along with the right to merge, S. 900 established certain privacy guidelines for financial services companies to follow so that customer privacy rights are not jeopardized. The new law permits financial services companies to share financial information among affiliates, but introduces rules regarding the sharing of such information among third parties. The legislation also requires states to adopt their own privacy regulations that are at least as stringent as the federal guidelines. In November 2000, Superintendent Levin announced New York's privacy standards in the form of Regulation 169. The Regulation covers *personal financial information as well as personal health information*. Federal guidelines do not address personal health information.

Regulation 169 requires an insurer licensed in New York to provide an initial privacy notice to individuals that describes the conditions under which nonpublic personal financial information and nonpublic personal health information will be shared with nonaffiliated parties. This notice must be issued before any personal financial or health information is disclosed.

The Regulation also provides that all insurers must provide customers with an annual notice of the opportunity to "opt-out" and block the sharing of nonpublic personal financial information with third parties. Consumer's private health information is given even further protection under New York's privacy rules. Under the new law, licensed insurers are virtually prohibited from sharing any nonpublic health information. This prohibition applies to affiliates as well as third parties, unless the consumer "opts in" by giving the insurer express permission to share the data with other parties. Opt-in authorizations are for a specified length of time not to exceed two years.

#### **E. Codification**

In December 2000, the Department completed a major project, the codification of statutory accounting principles. The purpose of codification is to enhance the consistency of the accounting treatment of assets, liabilities, reserves, income and expenses of insurers, by setting forth the accounting practices and procedures to be followed in completing annual and quarterly financial statements required by law. Codification provides a comprehensive, consistent guideline for regulators, insurers and auditors to follow. The rules are spelled out in the Department's Regulation 172.

#### **F. Health**

##### **1. Prompt Pay Fines**

The Department is committed to ensuring that HMOs and other health insurers pay claims on time. Section 3224-a of the Insurance Law, known as the "prompt pay law," requires HMOs and insurance companies to pay undisputed claims within 45 days of receiving them. In 2000, the Department fined 20 insurers and HMOs a total of \$575,000 for violations of the prompt payment statute. The Department will continue to take enforcement action against health insurers and HMOs that violate the prompt payment statute by levying periodic fines and increasing the amount of fines for repeat offenders.

##### **2. External Review**

New York's landmark External Appeal law became effective July 1, 1999. This law permits consumers to request an independent review of a health plan's decision to deny coverage on the grounds that the service is not medically necessary or is experimental or investigational in nature.

The law applies to final adverse determinations issued by insurers and HMOs after July 1, 1999. From July 1, 1999 through March 1, 2001, external review agents closed 1,302 requests for external review. Of these, 49% were overturned in the consumer's favor, while 51% of the cases resulted in the insurer's initial decision being upheld. The vast majority of the external review appeals are based on denials of coverage due to lack of medical necessity.

### **3. Healthy NY**

New York's Health Care Reform Act of 2000 (HCRA), Chapter 1 of the Laws of 1999, introduced "Healthy NY" to New York's small employers and working residents without coverage. Healthy NY is a unique program designed to encourage small employers to offer health insurance coverage to their employees, dependents, and other qualified individuals. It creates a standardized health insurance benefit package to be offered by all health maintenance organizations that is made more affordable through State sponsorship.

In January 2001, all HMOs in New York State began to offer the streamlined, yet comprehensive Healthy NY benefits package for eligible businesses with 50 or fewer employees. Healthy NY also began promoting its state-sponsored health insurance program for eligible working uninsured individuals. By creating a standardized benefit package that must be offered by all health maintenance organizations, more New Yorkers will gain access to meaningful health insurance coverage.

### **4. Health Insurer Report Card**

In September 2000, the Department released the *Consumer Guide to Health Insurance*, New York State's one-of-a-kind, comprehensive guide to the health insurance companies and HMOs conducting business in this State. The new Guide, produced in conjunction with the National Committee for Quality Assurance (NCQA) and the publisher of *Consumer Reports* (Consumers Union), provides New York State consumers with access to key facts to help them select the best health insurers to meet their needs. The guide is also available on the Department's Web site.

### **5. Market Stabilization Mechanism**

During 2000, the Insurance Department promulgated the Third Amendment to Regulation 146 and proposed a Fourth Amendment to Regulation 146. The amendments are designed to phase out the original demographic-based pooling formula for pools that deal with individual health insurance policies and small group health insurance policies. They will be replaced by a new claims-based pooling mechanism as required by the Insurance Law. The pooling mechanism is designed to help stabilize the individual and small group health insurance markets by compensating those HMOs and health insurers with a disproportionately high percentage of risky exposures.

### **6. Health Care Reform Act of 2000 – Individual Market Reform**

The Health Care Reform Act of 2000 (HCRA) required the Insurance Department to implement a unique program designed to ensure that individual consumers have continued access to comprehensive health insurance. Under the Program, HMOs are eligible to receive reimbursement for specified large claims paid on behalf of members covered under individual enrollee direct payment contracts. Such reimbursements will help stabilize premium rates for individual standardized health insurance contracts for the benefit of both existing enrollees and those seeking such coverage. During calendar year 2000, after an extensive public outreach, the Department drafted regulations designed to implement the HCRA Direct Payment Market Reforms.

## **7. Voucher Insurance Program**

During 2000, the Voucher Insurance Program provided subsidized health insurance coverage to 1,200 uninsured individuals in Westchester and Rensselaer counties. The Voucher Insurance Program is a demonstration program designed to lessen inappropriate use of emergency room services, reduce the need for inpatient care and improve the overall health of persons covered under the Program by providing them with access to primary and preventive health care services via insurance.

## **8. Child Health Plus**

The Department continued its role in 2000 of reviewing and approving subscriber contracts and premium rates for the Child Health Plus program. The Child Health Plus program has helped hundreds of thousands of New York children to obtain health insurance.

## **9. Continuing Care Retirement Communities**

Continuing Care Retirement Communities (CCRCs) provide living arrangements, including long-term care commitments, to seniors who purchase living units within the community. The Insurance Department is responsible for reviewing the contract and disclosure documents provided to residents as well as an initial determination of the financial feasibility of a proposed project and ongoing oversight of the fiscal solvency of communities. The Department's continuing oversight encompasses review of the rating structure of a community, adequacy of reserves and periodic on-site examinations of the financial condition of a community. There are now nine CCRCs in New York with a Certificate of Authority, of which four are fully operational.

## **10. HMO Medicare Contracts**

Federal law permits selected HMOs to offer Medicare coverage to seniors and other qualified individuals. These HMOs are, however, permitted to withdraw from the market at the beginning of each calendar year, provided they notify the Health Care Financing Administration and their policyholders in a timely fashion. A number of HMOs have opted to withdraw from the Medicare market over the past few years, primarily due to concerns about the profitability of the program. In 2000, seven HMOs operating in New York informed HCFA they would be leaving all or parts of their service areas as of January 1, 2001. The New York Insurance Department provided information to subscribers of these seven insurers and helped secure replacement policies for seniors.

## **G. Property/Casualty**

### **1. Private Passenger Automobile Rate Changes**

About 70% of all New York private passenger insurers received rate changes averaging 4.1% in 2000. The overall impact on the rate level was an average increase of 2.9%. Allstate Insurance Company, the largest insurer in New York, increased its rate level by 1.8% in 2000, while State Farm Mutual Automobile Insurance Company, the second largest insurer in New York, *decreased* its rates by an overall 1.9% in 2000.

### **2. Auto Insurance Plan**

In 2000 the New York Automobile Insurance Plan (AIP), also known as the Assigned Risk Plan, was granted an average 9.5% overall rate increase. It was only the second rate change since October 1995 for New York's auto insurer of last resort. The 9.5% weighted increase included a 10.9% increase for liability coverages and an 11.1% *decrease* for physical damage coverages (*i.e.*, collision and comprehensive). In addition, the number of private passenger automobiles insured through the Plan

dropped significantly in the late 1990s. In 1999, AIP posted a sizable 40.1% year-to-year decline in insured private passenger automobiles covered for liability insurance.

### **3. Workers' Compensation Rates**

Effective October 1, 2000, Workers' Compensation rates were *reduced* an average of 2.5%. Including the change in the New York State Assessment, overall total payments for Workers' Compensation coverage remained unchanged. The year 2000 continued a five-year trend of generally declining workers' compensation premium rates.

### **4. Medical Malpractice Rates**

The Twenty-Seventh Amendment to Regulation 101, effective December 2000, established primary medical malpractice insurance rates in New York for the July 2000 — June 2001 policy year. Although most physicians' rates remained unchanged from the previous year, some individual physicians experienced rates that were higher or lower as a result of classification and territory changes approved for all insurers. This was the fourth consecutive year that rates remained virtually unchanged.

### **5. Dissolution of the Medical Malpractice Insurance Association**

Chapter 147 of the Laws of 2000 extended the period to June 2001 for dissolving the Medical Malpractice Insurance Association, New York's medical malpractice insurer of last resort. The Superintendent had previously selected a medical malpractice insurer operating in New York — the Medical Liability Mutual Insurance Company (MLMIC) — to assume MMIA's liabilities. By year-end 2000 MLMIC had received full payment for its assumption of MMIA's liabilities. It is expected that MMIA will be fully dissolved in 2001.

Regulation 170 establishes the New York Medical Malpractice Insurance Plan to insure physicians who cannot obtain coverage through the voluntary market. All insurers licensed in New York and writing medical malpractice insurance in New York State will participate in the Plan.

### **6. Automobile Repair Shop Referrals Permitted**

Two court cases challenged the constitutionality of Section 2610(b) of the Insurance Law that prohibited insurers from recommending or suggesting particular repair shops unless requested to do so by the policyholder. The court ruled that Section 2610(b) as applied by the Department violated the First Amendment of the United States Constitution as an unjustifiable burden on commercial free speech. The law prohibiting referrals was originally enacted in 1974.

In accordance with the ruling, Circular Letter No. 16 (2000) was issued on May 10, 2000 to all insurers licensed to write motor vehicle physical damage insurance in New York State. It advised insurers that write such insurance in New York State that they are now permitted to recommend or suggest that repairs to a damaged vehicle be made in a particular place or shop regardless of whether the policyholder requests a recommendation.

### **7. Revised No-Fault Regulation**

The Department proposed a new Regulation 68 implementing the Comprehensive Motor Vehicle Insurance Reparations Act be effective February 1, 2000. This regulation replaced the existing regulation and among other things shortened the time frames for submitting Notice and Proof of Claim. The revisions were necessary, in the Department's view, in order to reduce the number of fraudulent no-fault claims being submitted to insurers.

The implementation of the regulation was challenged by a coalition of interested parties that questioned the Department's compliance with the requirements of the State Administrative Procedures Act (SAPA). The New York State Supreme Court agreed with the plaintiffs and reinstated the prior regulation, ruling the revised Regulation null and void. The Department immediately requested a stay and appealed the decision. The Appellate Division rejected the Department's request for a stay and in February 2001, the Appellate Division affirmed the lower court's decision.

### **8. Market Conduct Fines**

The Department continued its program of reviewing insurance company underwriting, rating and claims practices to determine compliance with the Insurance Law and Department regulations. Thirty-four market conduct investigations were initiated during the year and forty-one investigations and two Rate Service Organization examinations were closed during the year. Thirty-nine stipulations were entered into over the year that resulted in \$1.3 million in fines.

Six insurer groups also signed stipulations agreeing to review designated automobile no-fault and/or automobile physical damage claim files, and remit all underpayments to insureds and/or claimants. As a result, the six insurer groups remitted \$831,000 to automobile claimants.

### **9. New York Public Automobile Reviews**

In response to an inordinate number of complaints regarding the public automobile marketplace, the Department held meetings with industry members of the taxi and livery vehicle community. Market conduct investigations were also conducted to address allegations that public automobile insurers were not complying with filed rates, using unapproved rates and rating plans, and improperly marketing products. Over \$716,000 in fines were collected based on these Department investigations.

### **10. No-Fault Optional Arbitration System**

The administration of No-Fault arbitration cases was transferred from the Insurance Department to the American Arbitration Association (AAA) in December 1999. During 2000, the AAA's first complete year of operation, it received 73,352 requests for No-Fault arbitration. This represents a 20,364 year-to-year increase in filings. The upswing is entirely attributable to an increase in the number of requests for arbitration from health providers who had been assigned benefits from no-fault claimants they were treating. Since 1994, the number of annual arbitration requests from assignee health providers has increased from 8,500 to 71,000.

### **11. Insurance Information & Enforcement System (IIES)**

The IIES, developed by the New York State Department of Motor Vehicles (DMV), utilizes an insurance information database to monitor the insurance status of New York State registered vehicles. The system went into effect in 2000 and replaced the DMV's Financial Security (FS) reporting system. The purpose of this electronic online registry program is to ensure all motor vehicles registered and driven in New York State have the required mandated levels of automobile insurance coverage. The registry also helps identify, sanction and ultimately remove uninsured vehicles from New York's roadways.

### **12. Excess Line Insurance**

New Yorkers who cannot obtain property/casualty coverage from companies licensed to write insurance in New York may, under specified circumstances, obtain such coverage from unlicensed insurance companies through the auspices of a New York-licensed excess line broker. Excess line premiums written in New York State increased from \$438 million to \$518 million in 2000, a year-to-year increase of 18.14%.

### **13. Certified Capital Companies**

Part FF of Chapter 63 of the Laws of 2000 was signed by Governor Pataki in May 2000, establishing New York's Certified Capital Company ("CAPCO") Program Three. Program Three provides for the allocation of \$150 million in tax credits to insurers for calendar year 2002. Insurers that invest in CAPCOs receive New York State tax credits. CAPCOs then invest their funds in promising New York businesses to help spur economic growth in the Empire State.

### **14. Temporary Homeowners' Panel**

Chapter 44 of the Laws of 1998 mandated that a special advisory panel be established to submit a report to the Governor and the Legislature on the problems affecting the availability and affordability of homeowners' insurance in New York State. Since that time, the Department has produced the report on an annual basis. Last year's report, which was submitted in May 2000, reviews and summarizes measures implemented by the Legislature and the Insurance Department to alleviate problems faced by homeowners' residing in coastal areas. The report indicates that the percentage of coastal homeowners obtaining homeowners' insurance from the voluntary market has increased over the past few years. As a result, fewer coastal residents are obtaining coverage through the New York Property Insurance Underwriting Association, New York's insurer of last resort.

## **H. Life Insurance**

### **1. Demutualizations**

The demutualization of Metropolitan Life Insurance Company became effective in April 2000 following an extensive Department review. The company's initial public offering (IPO) of stock raised \$4.4 billion for the company. As a result of the demutualization, Metropolitan Life Insurance Company is now a wholly-owned subsidiary of MetLife, Inc., with approximately nine million shareholders.

A second domestic insurer, Phoenix Mutual Home Life Insurance Company took a further step in the demutualization process in December 2000 when its Board of Directors approved a demutualization plan. The reorganization of the company is expected in 2001. The Department also continues its demutualization review of Unity Mutual Life Insurance Company and continues to meet with the New Jersey Insurance Department regarding the demutualization of Prudential Insurance Company of America, a New Jersey domestic insurer.

### **2. Raced-Based Underwriting**

In 2000, the Department began investigating allegations of race-based underwriting on the part of some life insurers. As a result, a comprehensive reporting procedure was put into place for all life insurers that write in the State requiring that relevant documents be submitted to the Department for review. The Department's investigation will continue in 2001.

### **3. Viatical Settlement Companies**

The Department has been regulating viatical settlement companies since 1994. At the end of 1999, ten companies were licensed or authorized to act as viatical settlement companies in New York. Viatical settlement companies purchase at a discount insurance policies covering the lives of terminally ill insureds. As of December 31, 1999, these companies had combined assets of \$387 million. The assets were primarily in the form of life insurance policies purchased.

#### **4. Life Insurance Resource Center**

A Life Insurance Resource Center was added to the Department's Web site in August 2000. The Center is designed to help consumers who are shopping for life insurance products or annuities. The Center will be expanded in 2001.

### **I. Consumer Services**

#### **1. Closed Complaints**

The Department's Consumer Services Bureau closed a total of 60,600 cases in 2000. Of these, 41,400 involved loss settlements or policy provisions, of which 27% were automobile complaints, 64% were accident and health complaints, 6% were property and liability complaints and 3% life and annuity complaints.

#### **2. Imaging**

The Consumer Services Bureau continues to expand on the Consumers' Information and Imaging Management System (CIIMS) project, which has virtually eliminated paper in the complaint review process. Over 150,000 cases have been processed and investigated using CIIMS technology since going into production in November 1998. Over 1.5 million documents have been scanned and processed using CIIMS during that time.

### **J. Frauds**

#### **1. Arrests Set Record**

The Frauds Bureau, with a total of 503 arrests, set a new record in 2000, topping last year's total of 390 by almost 30%. In addition, the number of criminal convictions in Bureau cases increased from 194 to 318 over the year.

#### **2. No-Fault Unit**

The year 2000 marked the second year of operation of the Department's Insurance Frauds Bureau's No-Fault Unit. The Unit was established to focus on the mounting problem of fraudulent medical claims submitted under no-fault automobile insurance coverage. No-fault insurance fraud reports have increased from 489 in 1992 to 12,372 in 2000, and now account for 56% of all reports of suspected fraud received by the Bureau.

The Frauds Bureau is attacking no-fault insurance fraud on various fronts. In 2000, the Bureau gained direct access to the New York City Police Department's accident-report database and also began working with insurers to more quickly identify medical mills that purport to be legitimate medical providers. The Bureau also supports efforts to make it a crime for "runners" to recruit clients for health care providers and attorneys involved in fraudulent medical facilities.

#### **3. Prosecutor Outreach**

In 2000, the Frauds Bureau held face-to-face discussions with prosecutors from each of New York's 62 counties. These first-ever discussions were held to enhance communication among law enforcement agencies and increase the effectiveness of insurance fraud prosecutions.

#### **4. Training and Web Site Activities**

The Frauds Bureau continued its outreach program during 2000, providing training and education seminars to more than 2,900 insurance company staff and members of law enforcement agencies. The Bureau also expanded its Frauds Resource Center on the Department's Web site in 2000 by adding monthly arrest summaries. In addition, the Bureau's Annual Report is now available on the Web site.

#### **K. Capital Markets Bureau**

The Capital Markets Bureau completed its first full year of operation in 2000. The Bureau placed a high priority on staff recruitment. In the latter part of 2000, the effort paid off and four candidates with a wide array of capital markets skills joined the Department. During the year, the Bureau assisted the Life and Property Bureaus in the review of more than 150 derivative use plans (DUPs) filed by licensed insurers. In addition, the Bureau worked with the Life Bureau to analyze responses to Circular Letter No. 35 (1999) regarding liquidity risk.

#### **L. Liquidation Bureau**

During the year, the Department's Liquidation Bureau closed ten estates and began administration of seven new estates. (Liquidated insurers are known as "estates.") In addition the Bureau administered 53 estates, successfully rehabilitated an estate, and authored and published a manual for domestic receiverships. The manual will serve as a guide for the operation of all future estates.

#### **M. Internet Developments**

##### **1. Web Site Attracts 1.5 Million Visitors**

Visits to our Site have continued to increase steadily. During calendar year 2000, over 1.5 million visitors accessed the Department's Web site, an average of 132,000 per month. During the fourth quarter of 2000, the average number of monthly visitors spiked upward to 147,564.

##### **2. Web Site Awarded "A" from Consumer Group**

In March 2000, the Insurance Department's Web site was awarded an "A" from the Consumer Federation of America (CFA), a federation of pro-consumer groups. New York was one of 15 states to receive the organization's top grade, and were commended for being the first state to provide video access to Departmental hearings.

##### **3. Icontact**

Icontact, a cutting-edge customer service application, is now up and running at the New York Insurance Department. Icontact permits visitors to the Web site to engage in online communication with Department representatives, known as NetReps. The system is expected to assist Web users, while reducing the number of phone calls to the Department. The New York Insurance Department was the first State Insurance Department to offer this exciting service to Web site visitors.

#### **4. Additions for 2000**

The following additions were made to the Department Web site in 2000:

- Video clips of two Department hearings
- 142 selected Opinions of the Office of General Counsel
- A centralized Speed to Market section
- 19 Life Product Checklists for submitting Life and Annuity product filings
- An archive of Insurance Frauds Arrest information
- Resource Centers for life insurance and small businesses
- Updated HMO, Medicare Supplement, and *Healthy NY* insurance rates
- A list of continuing education providers and monitors for agents/brokers
- A complete set of Annual Statement and NY Supplement filing instructions & forms.

## **II. Review of New York State Insurance Business**

### **A. LIFE BUREAU**

#### **1. Licensed Life Companies**

There were 143 life insurance companies licensed to transact business in New York State as of December 31, 2000. The total admitted assets of licensed life insurers amounted to approximately \$1.64 trillion at December 31, 1999, a 10-year gain of 99.7%. Bonds totaled \$637.3 billion; stocks \$55.3 billion; mortgage loans \$140.7 billion; real estate \$17.7 billion; policy loans \$53.5 billion, and short-term holdings \$33.3 billion. Other admitted assets totaled \$699.8 billion.

#### **2. Domestic Life Companies**

Domestic life insurance companies had admitted assets of \$585.6 billion on December 31, 1999, an increase of 95.9% since 1989. Insurance in force at December 31, 1998 of \$3.51 trillion represents an increase of 85.3% since December 31, 1989.

#### **3. Organizations Under Life Bureau Supervision**

The Life Bureau supervised 474 organizations as of December 31, 1999. These organizations consisted of: 139 licensed life insurance companies--88 domiciled in New York and 51 foreign; 50 fraternal benefit societies--8 domiciled in New York, 41 foreign and one United States Branch of a Canadian Society; 12 retirement systems--four private pension funds and eight governmental systems; eight governmental variable supplements funds; 165 segregated gift annuity funds; 24 employee welfare funds; 11 viatical settlement companies and 65 accredited reinsurers.

#### **4. Demutualization**

The demutualization of Metropolitan Life Insurance Company, which became effective on April 7, 2000 with the close of an initial public offering of stock, raised \$4.43 billion for the company. As a result of the demutualization, Metropolitan Life Insurance Company has become a wholly-owned subsidiary of MetLife, Inc., with approximately nine million shareholders. A second domestic insurer, Phoenix Mutual Home Life Insurance Company took another step in the demutualization process in December, 2000, as its Board of Directors approved a plan to demutualize. The reorganization of the company is expected in 2001.

The Life Bureau also maintains a formal demutualization review process with Unity Mutual Life Insurance Company, which began in September 1999, and continues to meet with the New Jersey Insurance Department concerning the demutualization of a major foreign insurer, Prudential Insurance Company of America.

**Table 1**  
**ADMITTED ASSETS**  
**Life Insurance Companies Licensed in New York State**  
**Selected Years, 1989-1999**  
**(dollar amounts in billions)**

Admitted Assets	1999	1998	1994	1989
Total	\$1,637.6	\$1,521.2	\$1,113.0	\$819.9
Percent increase from 1989	99.7%	85.5%	35.7%	---
Type of asset				
Bonds	\$637.3	\$627.9	\$525.5	\$ 344.2
Stocks	55.3	53.2	35.1	28.9
Mortgage Loans	140.7	133.0	147.0	191.4
Real Estate	17.7	20.0	33.8	22.4
Policy loans/liens	53.5	56.4	54.6	40.3
Short-term holdings	33.3	27.4	24.9	19.5
Other	699.8	603.3	291.9	173.2

**NOTE:** Detail may not add to totals due to rounding  
Source: New York State Insurance Department

**Table 2**  
**BALANCE SHEET**  
**Life Insurance Companies Licensed in New York State**  
**Selected Years, 1994-1999**  
**(in billions)**

	1999	1998	1994
Assets	\$1,,637.7	\$1,521.2	\$1,113.0
Liabilities	1,553.9	1,443.0	1,056.8
Capital & Surplus	83.8	78.2	56.2

Source: New York State Insurance Department

**Table 3**  
**TOTAL LIFE INSURANCE IN FORCE**  
**Life Insurance Companies Licensed in New York State**  
**Selected Years, 1989-1999**  
**(dollar amounts in billions)**

Class of Business	1999	1998	1994	1989
Total insurance in force	\$8,422.0	\$8,098.0	\$6,700.7	\$4,942.8
Percent increase from 1989	70.3%	63.8%	35.6%	---
Ordinary	\$4,557.9	\$4,358.9	\$3,415.6	\$2,474.8
Group	3,789.8	3,656.2	3,203.3	2,378.6
Credit	67.0	75.4	73.9	80.9
Industrial	7.3	7.4	7.9	8.5

Source: New York State Insurance Department

**Table 4**  
**SOURCES OF INCOME**  
**Life Insurance Companies Licensed in New York State**  
**Selected Years, 1994-1999**  
**(dollar amounts in millions)**

Source of Income	1999		1998		1994	
	Amount	Percent of Total	Amount	Percent of Total	Amount	Percent of Total
Group life	\$12,876.2	4.2%	\$13,425.7	4.8%	\$11,691.7	4.9%
Group annuities	95,461.0	31.5	78,779.1	28.2	54,398.8	22.7
Group A & H	21,093.8	7.0	21,000.1	7.5	27,022.6	11.3
Ordinary life	42,086.3	13.9	40,186.7	14.4	40,897.4	17.1
Individual annuities	34,947.1	11.5	30,189.7	10.8	26,512.9	11.1
Individual A & H	3,965.1	1.3	3,778.7	1.4	3,447.7	1.4
Credit life	331.0	0.1	321.5	0.1	438.8	0.1
Industrial life	235.4	0.1	238.3	0.1	228.2	0.1
<b>Total Premiums</b>	<b>\$210,995.9</b>	<b>69.5%</b>	<b>\$187,919.8</b>	<b>67.4%</b>	<b>\$164,637.9</b>	<b>68.7%</b>
Supplementary contracts	9,040.2	3.0%	8,854.4	3.2%	6,722.2	2.8%
Net investment income	67,947.7	22.4	67,451.3	24.2	59,642.5	24.9
Other income	15,405.7	5.1	14,745.8	5.3	8,497.4	3.5
<b>TOTAL</b>	<b>\$303,389.5</b>	<b>100.0%</b>	<b>\$278,971.3</b>	<b>100.0%</b>	<b>\$239,500.0</b>	<b>100.0%</b>

**NOTE:** Detail may not add to totals due to rounding  
Source: New York State Insurance Department

**Table 5**  
**OPERATING RESULTS**  
**Life Insurance Companies Licensed in New York State**  
**Selected Years, 1994-1999**  
**(in millions)**

	1999	1998	1994
Total premiums	\$210,996.0	\$187,919.8	\$164,637.9
Investment income	67,947.7	67,451.3	59,642.5
Supplementary contracts	9,040.2	8,854.4	6,722.2
Other income	15,405.6	14,745.8	8,497.4
Total income	303,389.5	278,971.3	239,500.0
Net gain from operations	9,866.5	7,365.3	4,316.5
Net income	11,034.0	9,522.5	2,486.0

Source: New York State Insurance Department

**Table 6**  
**LIFE INSURANCE IN FORCE IN THE STATE OF NEW YORK**  
**Life Insurance Companies Licensed in New York State**  
**Selected Years, 1989-1999**  
**(dollar amounts in billions)**

Insurance In Force	1999	1998	1994	1989
Total	\$1,110.7	\$1,033.3	\$803.5	\$616.0
Percent increase from 1989	80.3%	67.7%	30.4%	---
Class of business				
Ordinary	\$644.9	\$608.6	\$477.6	\$339.9
Group	458.4	417.2	317.8	260.2
Credit	6.5	6.6	7.2	14.9
Industrial	0.8	0.9	.9	1.0

Source: New York State Insurance Department

**Table 7**  
**DOMESTIC LIFE INSURANCE COMPANIES**  
**Selected Years, 1989-1999**  
**(dollar amounts in billions)**

<b>Domestic Life Insurers</b>	<b>1999</b>	<b>1998</b>	<b>1994</b>	<b>1989</b>
Admitted assets	\$585.6	\$549.3	\$400.3	\$298.9
Percent increase from 1989	95.9%	83.8%	33.9%	---
Insurance in force	\$3,506.5	\$3,429.7	\$2,523.5	\$1,891.9
Percent increase from 1989	85.3%	81.3%	33.4%	---

Source: New York State Insurance Department

**5. Licensed Fraternal Benefit Societies**

At the close of 2000, 50 fraternal benefit societies were licensed to conduct insurance business in New York State. Of these, seven were domestic, 42 were foreign and one was an alien society. In the ten-year period ending December 31, 1999 the admitted assets of licensed societies rose \$29.8 billion to a total of \$52.9 billion, an increase of 129%. Insurance in force rose \$98.9 billion to \$247.9 billion, an increase of 66%.

**6. Private Retirement Systems**

At the close of 1999, four private retirement systems were under the supervision of the Insurance Department.

The four systems, which are private pension funds of certain non-profit organizations, were made subject to Insurance Department regulation by special legislative enactments. At the end of 1999, the assets of these four private pension funds totaled approximately \$186.6 billion. The following table shows data for the private pension funds for selected years from 1989 to 1999.

**Table 8**  
**PRIVATE PENSION FUNDS**  
**Regulated by NYS Insurance Department**  
**Selected Years, 1989-1999**  
**(in millions)**

<b>Private Pension Funds</b>	<b>1999</b>	<b>1998</b>	<b>1994</b>	<b>1989</b>
Total admitted assets	\$186,596.9	\$154,883.5	\$65,821.2	\$41,557.2
Payments to annuitants and beneficiaries	\$9,431.0	\$8,265.1	\$2,564.6	\$1,692.4

Source: New York State Insurance Department

## 7. Public Retirement Systems

The eight actuarially funded public retirement systems under the supervision of the Insurance Department at the close of 1999 are governmental systems that provide retirement, death and disability benefits to the employees of New York State and those of its political subdivisions that have elected to provide such benefits for their employees. The aggregate assets of the eight governmental systems as of the end of their respective fiscal years ending in 1999 were approximately \$301 billion. During the period from 1989 to 1999, the assets of these retirement systems increased at the compound rate of 11.2% per year.

The governmental retirement systems cover a total of 1.7 million active and retired members. The number of active employees in the public retirement systems in 1999 decreased by 3.3% from its 1989 level, while the number of pensioners increased by 28% in the same period. The substantial increase in pensioners, as compared with a decrease in the work force, reinforces the need for maintaining adequate actuarial reserves.

The New York City Administrative Code provides for four nonpension funds known as variable supplements funds, financed by the transfer of earnings from the equity portfolios of the New York City Police and Fire Department Pension Funds. These variable supplements funds provide retirement benefits in addition to those received from the pension funds. There are four other variable supplements funds that previously covered members of the New York City Transit and Housing Police. Since these police units were merged with the regular New York City Police Department in April 1995, their funds remain in effect only for members already retired on that date. The eight variable supplements funds, which are under the supervision of the Insurance Department, had assets as of June 30, 1999 totaling \$3.6 billion, a 10% increase over June 30 of the previous year.

As a result of recent legislation the City will guarantee the former variable supplements payments to pensioners (as a supplement to the regular pensions) on a graduated scale up to \$12,000 per annum per retiree. This applies to all eligible members of both Police and Fire Departments, so that the variable benefit has been replaced by the series of fixed guaranteed payments.

The following table shows data for the public employee retirement systems, excluding the variable supplements funds, for selected years from 1989 to 1999:

**Table 9**  
**PUBLIC RETIREMENT SYSTEMS AND PENSION FUNDS**  
**Regulated by NYS Insurance Department**  
**Selected Years, 1989-1999**  
**(in millions)**

<b>Public Retirement Systems &amp; Pension Funds</b>	<b>1999</b>	<b>1998</b>	<b>1994</b>	<b>1989</b>
Total admitted assets	\$301,225	\$275,045	\$152,433	\$104,687
Payments to annuitants and beneficiaries	\$10,938	\$10,360	\$7,487	\$5,101

Source: New York State Insurance Department

## 8. Segregated Gift Annuity Funds for Charitable Organizations

At the end of 2000, 182 charitable annuity societies held permits under Section 1110 of the Insurance Law. In return for, or conditioned upon, the receipt of gift funds, such organizations agree to pay an annuity to the donor, or a nominee. These agreements must provide to the issuer, upon the death of the annuitant, a residue equal to at least one-half the original gift or other consideration for such annuity. In the ten-year period ending December 31, 1999, admitted assets of these funds increased by 564% and the annual payments increased by 559%. This reflects the rapid growth in the number of licensed societies during the period under review.

**Table 10**  
**SEGREGATED GIFT ANNUITY FUNDS**  
**Selected Years, 1989-1999**  
**(in millions)**

<b>Segregated Gift Annuity Funds</b>	<b>1999</b>	<b>1998</b>	<b>1994</b>	<b>1989</b>
Total admitted assets	\$873.9	\$730.7	\$363.1	\$155.0
Annual payments to annuitants	\$73.8	\$61.2	\$31.2	\$13.2

## 9. Employee Welfare Funds

Twenty-four employee welfare funds covering 124,491 employees were supervised by the Department at the close of 1999. These funds are jointly administered by management and labor representatives. The employee welfare funds cover government employees for benefits financed by contributions from New York governmental authorities. Government employee welfare funds were not pre-empted by the federal Employee Retirement Income Security Act of 1974 (ERISA).

Contributions to employee welfare funds amounted to \$263.9 million in 1999. Benefits paid totaled \$274.6 million and included life insurance; medical, surgical and hospital coverage; major medical coverage; optical, dental and prescription drug plans; disability insurance, and legal services. Administrative expenses totaled \$16.2 million representing 6.1% of contributions and 5.9% of benefits.

## 10. Viatical Settlement Companies

Regulation 148 and Article 78 of the Insurance Law became effective as of July 6, 1994 for the purpose of regulating viatical settlement companies and brokers. At the end of 1999, 10 companies were licensed or authorized to act as viatical settlement companies in New York.

As of December 31, 1999, these companies had combined assets of \$387 million, with the largest company accounting for \$304 million. The assets were primarily in the form of life insurance policies purchased. Costs of purchasing these policies amounted to \$343 million, which comprised about 46.3% of the \$742 million total face value.

11. Examinations of Insurers Conducted in 2000

**Table 11  
EXAMINATIONS CONDUCTED  
by the Life Bureau  
2000**

	Regularly Scheduled			Other	
	Total	Initiated		Special	On Organi- zation
		In 2000	Prior to 2000		
Life insurance companies	30	20	4	1	5
Fraternal benefit societies	3	3	0	0	0
Retirement systems and pension funds	15	15	0	0	0
Segregated gift annuity funds of charitable organizations	21	21	0	0	0
Welfare funds	13	13	0	0	0
<b>Total</b>	<b>82</b>	<b>72</b>	<b>4</b>	<b>1</b>	<b>5</b>

12. Auditing of Financial Statements

a. Audit and Analysis

As of December 31, 2000, 465 companies were licensed to conduct business in New York State, as detailed below. These companies are required to file their Annual Statements for audit and analysis:

Life - New York	89
Life - Other States	53
Accredited Reinsurers	59
Fraternals - New York	8
Fraternals - Other States	41
Fraternals - Canadian, U.S. Branch	1
Charitable Annuities	182
Retirement Systems	20
Viaticals	12
<b>Total</b>	<b>465</b>

In addition to a financial analysis, which includes but is not limited to solvency, investment portfolio, reinsurance, and a review of the CPA report etc., the Annual Statements are audited for overall integrity; compliance with National Association of Insurance Commissioners (NAIC) requirements for completing the Annual Statement blank; and compliance with Department statutes, regulations and rules. Questions arising during the audits of the statements were resolved with the companies.

The Bureau revised the computer crosscheck instructions used in the audit of the Life and Accident & Health, New York Supplement, separate account and fraternal benefit society Annual Statements to reflect changes in the blanks and to meet current needs and requirements. The revised instructions were furnished to the Systems Bureau to enable that Bureau to prepare crosschecks.

#### **b. New York Supplements to the Annual Statements**

New York Supplements to the Life and Accident & Health Annual Statement and the Fraternal Benefit Society Annual Statement were developed for use beginning with the 1986 Annual Statement filing. The Supplements for 2000 were updated to meet current needs and requirements. Copies of the Supplements are now distributed through the Department's Web site to all life companies and Fraternal Benefit Societies licensed to do business in New York State.

#### **c. Public Inspection of Records**

The Bureau provides public access to various Insurance Department documents and insurance-related materials by means of a Freedom of Information request. In the year 2000, 68 Annual Statements and 9 Quarterly Statements were reviewed through this process.

### **13. Real Estate Review**

During 2000, the Real Estate Unit, submitted seven reports relative to the valuation and condition of real estate assets held by companies under examination. Two requests for the acquisition of real estate were reviewed and subsequently denied.

In addition, recommendations were made relating to the valuation of leasehold improvements, the fairness of leases between members of holding company systems, the adequacy of projected writedowns and the valuation of transferred real estate assets.

### **14. Actuarial Submissions and Reviews**

The actuarial staff of the Life Bureau's New York City office review submissions made by licensed life insurance companies and fraternal benefit societies to secure the Insurance Department's approval of separate account plans of operation for individual and group annuity and for variable life insurance products; methods of allocation of investment income by annual statement lines of business and by product lines; synthetic guaranteed investment contracts (GICs); and plans of operation and actuarial projections in connection with the licensing of a company, merger of two or more companies or acquisition of control of one company by another. The actuarial staff also reviews company filings mandated by Section 4228 of the Insurance Law, which deals with expense limitations, agent compensation plans, agent training allowance plans and expense allowance plans.

The staff evaluates the actuarial aspects of life insurer demutualizations and reorganizations of foreign insurers as mutual holding companies. Those have been relatively few in number but extremely time consuming. Among other things, the work involves the selection of legal, investment banking, and actuarial consulting firms.

The staff participates in on-site examinations scheduled by the Field Examinations Unit to ascertain the organizations' actuarial practices. The actuaries perform the required regulatory functions concerning the various New York State and New York City public employee retirement systems, each of which is governed by different chapters of law (mainly New York State Retirement and Social Security Law and New York City Administrative Code), as explained in more detail in the section on Public Retirement Systems.

Separate account submissions continued to comprise the majority of filings reviewed by the actuarial staff. In what can be assumed to reflect an increasing interest on the part of insurance company customers in the equities markets, the number of separate account submissions during 2000 increased by 38% over 1999. Submissions under New York's agent compensation law (Section 4228) comprised the next greatest number of actuarial filings again in 2000, having decreased slightly - 6% - as compared with the number of agent compensation filings in 1999. Submissions related to mergers, acquisitions and new company formations decreased by 27% during 2000. There were six synthetic GIC submissions during 2000, two more than in 1999.

## **15. Financial Indicators**

The Risk-Based Capital (RBC) Formula and Model Act that was adopted by the National Association of Insurance Commissioners (NAIC) and the New York Legislature went into effect for the December 31, 1993 Annual Statement filings.

Because the risk-based capital formula is dynamic, several changes were made to improve it during 2000. New York is a member of the Life Risk-Based Capital Working Group and representatives from the Life Bureau were present during the deliberations undertaken by the NAIC to update and improve the formula. The risk-based capital levels reported in the 1999 Annual Statements filed by licensed insurers did not disclose inadequate capitalization by the reporting companies.

## B. PROPERTY BUREAU

### 1. Entities Supervised by the Financial Regulation Division of the Property Bureau

The Financial Regulation Division side of the Property Bureau had regulatory authority over 1,600 insurer and noninsurer entities as of December 31, 1999.

The Bureau regulated 929 insurer entities comprised of:

64	<i>Accredited reinsurers*</i>
18	<i>Advance premium co-operatives</i>
28	<i>Assessment co-operatives</i>
11	<i>Associations, pools, and syndicates</i>
2	<i>Captive insurers</i>
12	<i>Financial guaranty insurers</i>
7	<i>Medical malpractice insurers</i>
23	<i>Mortgage guaranty insurers</i>
1	<i>New York Property Insurance Underwriting Association (FAIR Plan)</i>
727	<i>Property/casualty insurers</i>
21	<i>Title insurers (including one accredited reinsurers</i>
15	<i>United States branches</i>

In addition, the Bureau oversaw the operation of 47 risk retention groups in 1999 and supervised 289 reinsurance intermediaries, 9 insurer-controlling producers, and 348 managing general agents.

The Property Bureau received 30 applications for licensing and five applications for recognition as an accredited reinsurer during 2000. Thirty-five insurers were newly licensed including 1 domestic stock company, 3 foreign mortgage guaranty insurers, 2 foreign mutual insurers, 1 foreign reciprocal insurers and 28 foreign stock insurers. In addition, 2 insurers were accredited, one of which was a title company. At the close of the year, 3 domestic stock companies, 2 foreign mutual insurer and 24 foreign stock insurers had license applications pending with the Department. In addition, 8 applications for accreditation were still outstanding.

### 2. Property and Casualty Business

Unless otherwise noted, tables and related data for property and casualty business refer to the nationwide operations of insurers authorized to do business in this State. Data for stock insurers includes United States branches of alien insurers. Data for mutual insurers includes the State Insurance Fund, the Medical Malpractice Insurance Association and reciprocals. Data for financial guaranty insurers, mortgage guaranty insurers, title insurers, co-operative fire insurers are summarized separately.

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\* Lloyd's of London (Lloyd's), included as an accredited reinsurer, is comprised of individual underwriting syndicates, each of which must meet the requirements for recognition as an accredited reinsurer. As of December 31, 1999, the Department recognized 130 active Lloyd's syndicates as accredited reinsurers.

**a. Premium Volume and Surplus to Policyholders**

Net premiums written during 1999 by all New York licensed property and casualty insurers aggregated \$202.3 billion, of which 72% represents stock company writings. The following underwriting and investment results deal with the countrywide business of New York-licensed companies:

**Table 12**  
**NET PREMIUMS WRITTEN AND SURPLUS TO POLICYHOLDERS**  
**Property and Casualty Insurers Licensed in New York State**  
**1994-1999**  
**(dollar amounts in millions)**

Year	Stock Companies				Mutual Companies			
	No. of Cos.	Net Premiums Written (during year)	Surplus/Policyholders (end year)	Ratio of Premiums to Surplus	No. of Cos.	Net Premiums Written (during year)	Surplus/Policyholders (end year)	Ratio of Premiums to Surplus
1994	549	\$131,404	\$104,675	1.3	78	\$52,049	\$44,051	1.2
1995	567	136,270	122,335	1.1	75	52,647	52,171	1.0
1996	614	143,254	139,288	1.0	75	53,094	60,928	0.9
1997	623	146,706	168,327	0.9	73	53,644	76,793	0.7
1998	620	144,788	175,313	0.8	76	53,453	85,503	0.6
1999	647	146,569	174,440	0.8	71	55,697	88,998	0.6

Source: New York State Insurance Department

**b. Underwriting Results**

Results for 1999 show a net underwriting loss of \$12.4 billion for stock companies and a net underwriting loss of \$5.4 billion for mutual companies.

**Table 13**  
**UNDERWRITING RESULTS**  
**Property and Casualty Insurers Licensed in New York State**  
**1996-1999**  
**(dollar amounts in millions)**

Year		<u>Stock Companies</u>		<u>Mutual Companies</u>	
		Number of Companies	Amount	Number of Companies	Amount
1996	Underwriting gains	171	\$ 1,661.2	14	\$1,615.6
	Underwriting losses	409	12,309.2	61	2,196.9
	No gain or loss	34	0.0	0	0.0
1997	Underwriting gains	211	\$ 2,917.0	27	\$ 2,918.9
	Underwriting losses	366	5,957.4	46	1,610.8
	No gain or loss	46	0.0	0	0.0
1998	Underwriting gains	174	\$ 2,852.1	16	\$ 910.0
	Underwriting losses	392	11,216.1	58	3,456.4
	No gain or loss	54	0.0	2	0.0
1999	Underwriting gains	144	\$ 1,709.7	10	\$ 117.5
	Underwriting losses	441	14,062.9	61	5,484.9
	No gain or loss	62	0.0	0	0.0

Source: New York State Insurance Department

**c. Investment Income and Capital Gains**

Investment income and net capital gains for stock and mutual companies from 1996 to 1999 are as follows:

**Table 14**  
**INVESTMENT INCOME AND CAPITAL GAINS**  
**Property and Casualty Insurers Licensed in New York State**  
**1996-1999**  
**(in millions)**

Year		Stock Companies	Mutual Companies
1996	Net investment income	\$23,389.6	\$ 6,932.3
	Realized capital gains	4,441.0	1,044.0
	Unrealized capital gains	<u>3,833.0</u>	<u>4,773.4</u>
	Net gain from investments	<u>\$31,663.6</u>	<u>\$12,749.7</u>
1997	Net investment income	\$26,643.8	\$ 8,289.5
	Realized capital gains	5,697.2	1,380.4
	Unrealized capital gains	<u>14,421.8</u>	<u>11,154.5</u>
	Net gain from investments	<u>\$46,762.8</u>	<u>\$20,824.4</u>
1998	Net investment income	\$24,169.0	\$ 7,043.8
	Realized capital gains	10,436.1	3,216.5
	Unrealized capital gains	<u>4,319.4</u>	<u>6,038.3</u>
	Net gain from investments	<u>\$38,924.5</u>	<u>\$16,298.6</u>
1999	Net investment income	\$25,328.2	\$ 6,535.4
	Realized capital gains	7,003.3	3,117.2
	Unrealized capital gains	<u>-3,516.1</u>	<u>2,922.7</u>
	Net gain from investments	<u>\$28,815.4</u>	<u>\$12,575.3</u>

Source: New York State Insurance Department

**d. Underwriting and Investment Exhibit**

During 1999, dividends to stockholders amounted to \$17.5 billion; for the same period, dividends to policyholders aggregated to \$2.1 billion. The aggregate contribution to surplus for 1999 was \$4.4 billion compared with \$2.4 billion for 1998.

**Table 15**  
**AGGREGATE UNDERWRITING AND INVESTMENT EXHIBIT**  
**Property and Casualty Insurers Licensed in New York State**  
**1998 and 1999**  
**(in millions)**

	Stock Companies		Mutual Companies	
	<u>1999</u>	<u>1998</u>	<u>1999</u>	<u>1998</u>
Net gain or loss from:				
Underwriting	\$-12,353.1	\$ -8,364.0	\$ -5,367.4	\$ -2,546.4
Investments*	32,331.6	34,605.1	9,652.6	10,260.3
Other income	<u>-69.0</u>	<u>81.5</u>	<u>-598.5</u>	<u>-196.9</u>
Net gain or loss	\$ 19,909.4	\$ 26,322.6	\$ 3,686.6	\$ 7,517.0
Less:				
Dividends to policyholders	934.7	1,013.3	1,191.5	2,601.2
Federal income taxes incurred	<u>2,425.1</u>	<u>6,160.4</u>	<u>459.4</u>	<u>776.9</u>
Net income	\$ 16,549.6	\$ 19,149.0	\$ 2,035.7	\$ 4,138.9
Surplus changes other than net income:				
Dividends to stockholders				
• Cash	\$-17,486.2	\$-12,514.5	\$ 0.0	\$ 0.0
• Stock	-13.1	-17.4		
US Branches - Net remittance to/from home office	<u>-24.2</u>	<u>-518.4</u>	<u>0.0</u>	<u>0.0</u>
Total dividends and remittance	\$-17,486.2	\$-13,050.3	\$ 0.0	\$ 0.0
Unrealized capital gains/losses	-3,516.1	4,319.4	2,922.7	6,038.3
Changes in statutory over case basis	124.7	22.1	47.9	16.8
Miscellaneous items	-865.3	-1,200.2	-2,261.2	-2,565.4
Contributions to surplus	<u>4,446.8</u>	<u>2,442.3</u>	<u>0.4</u>	<u>6.8</u>
Total other sources	\$-17,296.2	\$ -7,466.8	\$ 709.8	\$ 3,496.6
Net increase or decrease in surplus	<u>\$ -746.6</u>	<u>\$ 11,682.2</u>	<u>\$ 2,745.6</u>	<u>\$ 7,635.4</u>

\*Excludes unrealized capital gains

Sources: New York State Insurance Department

**e. Selected Annual Statement Data**

Over the period 1996 to 1999 aggregate net premiums written increased by 3%; admitted assets increased 11%; unearned premium and loss reserves decreased 2%; and other liabilities increased 25%. Capital and surplus to policyholders increased by 34%.

**Table 16**  
**SELECTED ANNUAL STATEMENT DATA**  
**Property and Casualty Insurers Licensed In New York State**  
**1996-1999**  
**(dollar amounts in millions)**

	1999	1998	1997	1996
	<u>Stock Companies</u>			
Number of insurers	647	620	623	614
Net premiums written	\$146,569	\$144,788	\$146,706	\$143,254
Admitted assets	504,597	509,872	505,697	469,175
Unearned premium & loss reserves	285,537	288,693	293,618	290,637
Other liabilities	44,619	45,867	43,753	39,250
Capital	4,782	4,343	4,451	4,565
Surplus funds	174,440	175,313	163,876	134,723
	<u>Mutual Companies</u>			
Number of insurers	71	76	73	75
Net premiums written	55,697	\$ 53,453	\$ 53,644	\$ 53,094
Admitted assets	193,235	183,986	175,476	159,700
Unearned premium & loss reserves	80,872	78,892	80,730	83,722
Other liabilities	23,366	19,591	17,954	15,049
Surplus to policyholders	88,998	85,503	76,793	60,928

Source: New York State Insurance Department

**f. Audit and Analysis**

The 1999 Annual Statements of the companies authorized to transact business in the State of New York were filed for audit and analysis in 2000, as were those of reinsurers accredited in this State. Issues arising during the audits were resolved with the companies. As a result of the audits, some filed statements were adjusted to bring reported figures into compliance with New York requirements.

All property/casualty insurers are required to file quarterly statements. Insurers licensed pursuant to Section 6302 of the New York Insurance Law (NYIL) are also required to file a supplemental schedule of special risks. Approximately 2,700 quarterly statements were received, reviewed for completeness and accuracy, and the financial data analyzed.

**g. State Insurance Fund**

All purchases and sales of bonds by the State Insurance Fund are subject to the approval of the Superintendent. During 2000, the State Insurance Fund acquired bonds totaling \$12.5 billion and sold bonds totaling \$4.6 billion. Upon review, the Property Bureau recommended the approval of acquisitions totaling \$10.0 billion and sales totaling \$3.2 billion. Acquisition of \$2.4 billion and sales of \$1.4 billion are currently under review. In 1999, the Bureau recommended approval of acquisitions totaling \$2.2 billion and sales totaling \$1.7 billion.

**h. CPA-Audited Financial Statements**

NYIL Section 307(b) requires licensed insurers to file an annual financial statement, certified by an independent certified public accountant (CPA), on or before May 31 of each year. CPA-audited financial statements were received and reviewed for 860 companies. There were 12 companies entitled to exemption from the filing requirements.

**i. Public Inspection of Records**

The Financial Division of the Property Bureau provides public access to various Insurance Department documents pursuant to the Freedom of Information Law (FOIL). In 2000, 84 FOIL requests to review and copy records were received from the public.

**j. Holding Company-Related Transactions**

Pursuant to Article 15 of the New York Insurance Law and Department Regulation 52, the Property Bureau is responsible for the review and approval of transactions within holding company systems. During 2000, 273 holding company transaction files, and 554 holding company registration statements and amendments, were reviewed and closed by the Property Bureau. In addition, 29 notices of acquisition of control of domestic insurers were reviewed and closed by the Property Bureau.

**3. Financial Guaranty Insurance**

New York Insurance Law Article 69 made financial guaranty insurance a separate kind of insurance effective May 14, 1989. Financial guaranty insurance may be written only by an insurer empowered to write financial guaranty business as described in Section 1113(a).

As of December 31, 1999, there were six domestic and six foreign financial guaranty insurers licensed in New York.

**Table 17**  
**NET PREMIUMS WRITTEN AND SURPLUS TO POLICYHOLDERS**  
**Financial Guaranty Insurers Licensed in New York State**  
**1996-1999**  
**(dollar amounts in millions)**

Year	Net Premiums Written (during year)	Surplus to Policyholders (end of year)	Ratio of Premiums to Surplus
1996	\$ 963.4	\$4,929.4	0.20
1997	1,000.4	5,469.6	0.18
1998	1,299.0	6,425.0	0.20
1999	1,297.2	7,162.5	0.18

Source: New York State Insurance Department

**Table 18**  
**UNDERWRITING RESULTS**  
**Financial Guaranty Insurers Licensed in New York State**  
**1997-1999**  
**(dollar amounts in millions)**

	<u>1999</u>		<u>1998</u>		<u>1997</u>	
	Underwriting Gain	Loss	Underwriting Gain	Loss	Underwriting Gain	Loss
No. of Companies	8	4	11	1	9	2
Amount	\$618.1	\$25.1	\$423.8	\$22.0	\$394.3	\$33.5

Source: New York State Insurance Department

**Table 19**  
**INVESTMENT INCOME AND CAPITAL GAINS**  
**Financial Guaranty Insurers Licensed in New York State**  
**1996-1999**  
**(in millions)**

	1999	1998	1997	1996
Net investment income	\$860.2	\$791.6	\$742.4	\$717.3
Realized capital gains	48.9	93.4	64.2	106.4
Unrealized capital gains	<u>34.9</u>	<u>51.0</u>	<u>0.7</u>	<u>-31.6</u>
Net gain from investments	<u>\$944.1</u>	<u>\$935.9</u>	<u>\$807.3</u>	<u>\$792.1</u>

Source: New York State Insurance Department

**Table 20**  
**AGGREGATE UNDERWRITING AND INVESTMENT EXHIBIT**  
**Financial Guaranty Insurers Licensed in New York State**  
**1996-1999**  
**(in millions)**

	1999	1998	1997	1996
Net gain or loss from:				
Underwriting	\$ 593.0	\$ 401.8	\$ 360.8	\$ 343.8
Investments*	909.2	885.0	806.6	823.7
Other Income	<u>-8.7</u>	<u>155.8</u>	<u>6.3</u>	<u>3.7</u>
Net gain or loss	\$1,493.4	\$1,442.5	\$1,173.8	\$1,171.2
Less:				
Dividends to policyholders	0.0	0.0	0.0	0.0
Federal income taxes incurred	<u>318.1</u>	<u>304.6</u>	<u>240.1</u>	<u>241.3</u>
Net income	<u>\$1,175.4</u>	<u>\$1,137.9</u>	<u>\$ 933.6</u>	<u>\$ 929.9</u>
Surplus changes other than net income:				
Dividends to stockholders				
• Cash	\$-360.0	\$-135.4	\$ -89.7	\$-180.1
• Stock	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
Total dividends and remittance	-360.0	-135.4	\$ -89.7	\$-180.1
Unrealized capital gains	34.9	51.0	0.7	-31.6
Changes in statutory over case basis	0.0	0.3	0.5	0.5
Miscellaneous sources	-577.3	-685.6	-520.3	-428.1
Contributions to surplus	<u>469.2</u>	<u>409.1</u>	<u>215.4</u>	<u>-19.6</u>
Total other sources	<u>\$-433.2</u>	<u>\$-360.7</u>	<u>\$-393.4</u>	<u>\$-658.9</u>
Net increase or decrease in surplus	<u>\$ 742.1</u>	<u>\$ 777.3</u>	<u>\$ 540.2</u>	<u>\$ 271.0</u>

\* Excludes unrealized capital gains. Source: New York State Insurance Department

**Table 21**  
**SELECTED ANNUAL STATEMENT DATA**  
**Financial Guaranty Insurers Licensed In New York State**  
**1996-1999**  
**(in millions)**

	1999	1998	1997	1996
Number of Companies	12	12	11	11
Exposure	\$1,532,586.0	\$1,322,940.0	\$1,033,649.0	\$1,004,509.0
Net premiums written	1,297.1	1,299.0	1,000.4	963.4
Admitted assets	18,207.9	16,319.4	13,990.4	12,475.0
Unearned premium & loss reserves	5,925.8	5,560.6	4,913.8	4,601.1
Other liabilities	5,119.5	3,395.0	3,607.0	2,944.4
Capital	203.5	203.6	198.5	198.5
Surplus funds	7,162.5	6,425.0	5,271.1	4,730.9

Source: New York State Insurance Department

#### 4. Mortgage Guaranty Insurance

At year-end 1999, there were two domestic and 20 foreign companies licensed to transact mortgage guaranty business in New York.

**Table 22**  
**NET PREMIUMS WRITTEN AND SURPLUS TO POLICYHOLDERS**  
**Mortgage Guaranty Insurers Licensed in New York State**  
**1996-1999**  
**(dollar amounts in millions)**

Year	Net Premiums Written (during year)	Surplus to Policyholders (end of year)	Ratio of Premiums to Surplus
1996	\$2,158.6	\$2,556.7	0.84
1997	2,438.5	2,693.7	0.91
1998	2,662.5	2,975.7	0.89
1999	2,691.0	2,809.5	0.96

Source: New York State Insurance Department

**Table 23**  
**AGGREGATE UNDERWRITING AND INVESTMENT EXHIBIT**  
**Mortgage Guaranty Insurers Licensed in New York State**  
**1996-1999**  
**(in millions)**

	1999	1998	1997	1996
Net gain or loss from:				
Underwriting	\$1,248.2	\$ 896.4	\$ 654.7	\$ 327.8
Investments*	582.2	625.8	552.0	507.2
Other Income	<u>12.8</u>	<u>7.2</u>	<u>0.2</u>	<u>1.3</u>
Net gain or loss	<u>\$1,843.2</u>	<u>\$1,529.4</u>	<u>\$1,206.9</u>	<u>\$ 836.3</u>
Less:				
Dividends to policyholders	0.0	1.4	0.0	0.0
Federal income taxes incurred	<u>480.9</u>	<u>212.0</u>	<u>128.1</u>	<u>38.5</u>
Net income	<u>\$1,362.4</u>	<u>\$1,316.0</u>	<u>\$1,078.8</u>	<u>\$ 797.8</u>
Surplus changes other than net income:				
Dividends to stockholders				
• Cash	\$ -495.0	\$ -169.2	\$ -120.5	\$ -77.0
• Stock	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
Total dividends	-495.0	-169.2	\$ -120.5	\$ -77.0
Unrealized capital gains	97.3	19.1	39.3	-16.0
Changes in statutory over case basis	0.0	1.0	0.0	0.0
Miscellaneous sources	-941.4	-941.1	-886.2	-566.6
Contributions to surplus	<u>-115.7</u>	<u>-18.4</u>	<u>25.5</u>	<u>94.6</u>
Total other sources	<u>\$-1,454.8</u>	<u>\$-1,110.6</u>	<u>\$-941.9</u>	<u>\$-565.0</u>
Net increase or decrease in surplus	<u>\$ -92.4</u>	<u>\$ 205.4</u>	<u>\$ 136.9</u>	<u>\$ 232.8</u>

\* Excludes unrealized capital gains.

Source: New York State Insurance Department

**Table 24**  
**SELECTED ANNUAL STATEMENT DATA**  
**Mortgage Guaranty Insurers**  
**1996-1999**  
**(dollar amounts in millions)**

	1999	1998	1997	1996
Number of companies	22	24	21	21
Net premiums written	\$ 2,691.0	\$ 2,662.5	\$ 2,438.5	\$2,158.6
Admitted Assets	12,580.6	11,812.8	10,107.5	8,911.0
Unearned premium & loss reserves	4,391.7	4,293.3	3,930.8	3,666.1
Other liabilities	5,379.4	4,543.8	3,483.0	2,688.1
Capital	58.8	102.9	93.4	92.9
Surplus	2,809.5	2,975.7	2,600.3	2,463.8

Source: New York State Insurance Department

## 5. Title Insurance

Ten domestic and eleven foreign companies were licensed to write title insurance in this State at the close of 1999. The statutory reinsurance reserve of domestic title insurers approximated \$150 million as of December 31, 1999.

**Table 25**  
**SELECTED ANNUAL STATEMENT DATA**  
**Domestic Title Insurance Companies**  
**1996-1999**  
**(dollar amounts in millions)**

	1999	1998	1997	1996
Number of Companies	10	10	10	11
Net premiums written	\$559.1	\$486.2	\$342.0	\$257.8
Admitted assets	429.1	396.3	361.8	239.8
Liabilities	241.4	216.7	204.1	124.0
Capital	10.8	10.3	11.3	11.8
Surplus	189.0	179.6	146.4	103.9

Source: New York State Insurance Department

## 6. Advance Premium and Assessment Co-operatives

At year-end 1999, there were 18 advance premium cooperatives under the supervision of the Property Bureau. The total number of advance premium co-operative companies decreased by one from 1998 to 1999 due to a redomestication. The net premium volume of the advance premium co-operatives decreased slightly by 2.3% from the prior year.

The total number of assessment co-operative companies decreased by one during 1999, due to a merger; this results in 28 assessment co-operative companies being under the Bureau's supervision at year-end 1999. The net premium volume of these companies increased by 2.4% from the prior year.

During 2000, the Bureau initiated nine examinations of advance premium co-operative and assessment co-operative companies.

**Table 26**  
**SELECTED ANNUAL STATEMENT DATA**  
**Advance Premium and Assessment Co-operative Companies**  
**1996-1999**  
**(dollar amounts in millions)**

Year		Total	Advance Premium Companies	Assessment Co-operative Companies
1996	Number of companies	50	20	30
	Total assets	\$985.6	\$829.0	\$156.6
	Net premiums written	459.5	401.2	58.3
	Surplus funds	376.4	283.3	93.1
1997	Number of companies	50	20	30
	Total assets	\$1,090.5	\$920.0	\$170.5
	Net premiums written	477.0	415.5	61.5
	Surplus funds	443.2	341.4	101.8
1998	Number of companies	48	19	29
	Total assets	\$1,155.8	\$974.3	\$181.5
	Net premiums written	479.1	416.3	62.8
	Surplus funds	508.5	399.0	109.5
1999	Number of companies	46	18	28
	Total assets	\$1,184.0	\$991.4	\$192.6
	Net premiums written	471.1	406.8	64.3
	Surplus funds	547.0	428.0	119.0

Source: New York State Insurance Department

## 7. Special Risk Insurers (Free Trade Zone)

Calendar year 1999 was the 21st full year of operation for the companies licensed as special risk insurers pursuant to Section 6302 of the Insurance Law. There were 188 licensed companies as of December 31, 1999. Net premiums written during the year amounted to \$482.6 million, bringing the net premiums written since inception to approximately \$5.2 billion. Net premiums written (in millions) since inception are as follows:

1978-1994	\$3,086.3
1995	364.7
1996	443.2
1997	398.9
1998	466.2
1999	482.6

## 8. Risk Retention Groups

On October 27, 1986, the Liability Risk Retention Act of 1986, a significant federal statute affecting the insurance industry, was enacted. Generally, the legislation permits the organization and operation of risk retention groups and purchasing groups for the purpose of providing or obtaining commercial liability insurance coverage. The Financial Regulation Division of the Property Bureau regulates risk retention groups and the Market Product Division of the Property Bureau regulates purchasing groups.

A risk retention group is an insurance company owned by its members and organized for the purpose of assuming and spreading among the members all or a portion of their risk exposure. These insurers are exempt from most state insurance laws, other than those of the domiciliary state.

As of December 31, 1999, 49 risk retention groups had notified the Department of their intention to do business in New York under the provisions of the federal legislation.

In calendar year 1999, 49 risk retention groups filing financial statements with this Department reported total direct premiums written of \$716.9 million and total net premiums written of \$227.0 million. These risk retention groups reported direct premiums written of \$52.6 million in New York State during this same period.

## 9. Examinations of Insurers

**Table 27**  
**EXAMINATIONS CONDUCTED**  
**by the Financial Regulation Division of the Property Bureau**  
**2000**

	Regularly Scheduled			<u>Other Financial Exams</u>		Increase in capital and other
	Total	Started in 2000	Started Prior to 2000	Special	On Organi- zation	
Property and casualty insurers, including financial guaranty insurers	126	46	79	0	1	0
Other insurers	0	0	0	0	0	0
Title and mortgage guaranty insurers	5	0	5	0	0	0
Total	131	46	84	*	1	0

\*This total includes 38 reports with completed field work, but with reports not filed as of 1/1/01.

## **10. Lloyd's of London**

Underwriters at Lloyd's (Lloyd's of London) consist of underwriting syndicates at Lloyd's which meet the requirement for recognition as accredited reinsurers in New York. As of December 31, 1999, 130 active syndicates at Lloyd's were recognized as accredited reinsurers by the Department. Each syndicate is required to maintain a trust fund in New York and the amount deposited in each trust fund is required to equal each syndicate's gross liabilities for U.S. situs reinsurance business. In addition, all syndicates together must maintain a minimum surplus in trust, on a joint and several basis, of not less than \$100 million, for the protection of United States ceding insurers.

## **11. Captive Insurance Companies**

On August 7, 1997, Governor George E. Pataki signed into law Chapter 389 of the Laws of 1997, the Tax Omnibus Law. Sections 146 through 150 of that law enable the formation and operation of captive insurance companies (Captives) in New York State via a new Article 70 of the Insurance Law and other amendments to the Insurance Law and the Tax Law. The Law became effective December 5, 1997.

Captive insurance companies are insurers owned by the insureds and organized for the main purpose of self-funding the owner's risk. Captives are often referred to as one of the "alternative insurance mechanisms."

As of December 31, 2000, there were two captive insurance companies in New York. The industry has indicated that current law contains certain restrictions that hinder growth in the formation of New York captive insurers. The Department is considering proposing revisions to the law to address these restrictions.

## **12. Certified Capital Companies**

Part FF of Chapter 63 of the Laws of 2000, signed by Governor George E. Pataki on May 15, 2000, establishes New York's Certified Capital Company ("CAPCO") Program Three. Program Three provides for the allocation of tax credits in an aggregate amount of \$150 million for calendar year 2002. On December 21, 2000, the Department allocated the 2002 tax credits to 44 insurers that invested in five of the seven CAPCOs certified under Program Three. The CAPCO Program further provides that each Program Three CAPCO is to invest one-third of its certified capital in New York qualified businesses located in empire zones established pursuant to article 18-B of the municipal law and another one-third in underserved areas outside the empire zones.

New York's CAPCO Program was originally established by Chapter 389 (Sections 142 through 145) of the Laws of 1997; CAPCO Program Two was established by Chapter 407 (Part S) of the Laws of 1999. Together, CAPCO Programs One and Two allocated tax credits in an aggregate amount of \$130 million: \$50 million to 24 insurers for calendar year 1999; \$50 million to 26 insurers for 2000; and \$30 million to 28 insurers for 2001.

## **13. Filings Involving Rate and Rating Rule Changes, Policy Forms, Territories & Classifications**

### **a. Number of Filings**

During 2000, the Market Regulatory Section of the Property Bureau received 8,072 filings involving changes in rates, rating rules, policy forms, rate classifications and rating territories submitted by rate service organizations, joint underwriting associations and insurers. The filings were submitted for the following lines of business:

**TABLE 28**  
**NUMBER OF FILINGS RECEIVED, BY TYPE**  
**Property & Casualty Bureau, 2000\***

Line of Business	Rates & Rules	Policy Forms	Classes and Territories	Totals
Fire and Allied Lines	541	321	0	862
Farmowners' Multiple Peril	42	28	0	70
Homeowners' Multiple Peril	295	226	2	523
Multiple Line	141	133	0	274
Commercial Multiple Peril	625	347	1	973
Inland Marine	258	185	1	444
Medical Malpractice	135	107	2	244
Earthquake	2	1	0	3
Flood	1	1	0	2
Rain	3	4	0	7
Workers' Compensation & Employer's Liability	95	106	0	201
Other Liability	982	935	0	1,917
Motor Vehicle Insurance	1,251	534	5	1,790
Aircraft	8	15	0	23
Fidelity & Surety	180	70	0	250
Glass	18	3	0	21
Burglary & Theft	173	96	0	269
Boiler & Machinery	20	21	0	41
Credit	1	2	0	3
Animal Mortality	6	13	0	19
Mortgage Guaranty	49	14	0	63
Residual Value	2	5	0	7
Title	0	1	0	1
Financial Guaranty	11	45	0	56
Prepaid Legal Service Plan	5	4	0	9
Warranty Reimbursement	1	1	0	2
<b>Totals</b>	<b>4,845</b>	<b>3,218</b>	<b>11</b>	<b>8,074</b>

\*These figures include approximately 200 consent-to-rate filing applications; 86 group property & casualty filings; 131 manuscript policy form filings; and 124 rating plans submitted in 2000. Eighty-two policy form filings and 99 rate or rating rule filings were disapproved during 2000. In addition, the Department developed speed-to-market initiatives and accepted electronic submission of filings through the System for Electronic Rate and Form Filing ("SERFF"). The Department handled 144 form and rate filings through these means.

**b. Advisory Rate/Loss Cost Changes**

The following table lists major revisions in rates or loss costs that were approved or acknowledged during 2000. Loss costs apply to the voluntary market and are advisory, *i.e.*, they do not have to be adopted by any insurer. Loss costs reflect the experience of all companies that report to the rate service organization and are used by the majority of insurers as a basis for their individual company rate revisions.

**TABLE 29**  
**MAJOR EFFECT OF PRINCIPAL RATE & LOSS COST CHANGES**  
**Filed in 2000 by Property & Casualty Rate Service Organizations**

	Percent Change in Average State-Wide Rates
<b>AUTOMOBILE</b>	
<b><u>Automobile Insurance Plans Service Office</u></b>	
<b>Private Passenger Automobile</b>	
Bodily Injury Liability	+8.1
Property Damage Liability	+19.3
Personal Injury Protection	+35.2
Uninsured Motorists	-12.7
<i>Liability Subtotal</i>	+19.3
Comprehensive	-5.0
Collision	-6.1
<i>Physical Damage Subtotal</i>	-5.6
<i>Total All Coverages Effective March 1, 2001</i>	+18.3
<b><u>Insurance Services Office, Inc.</u></b>	
<b>Commercial Automobile Loss Costs Revision</b>	
<b>Commercial Cars</b>	
Single Limit Liability	-4.6
Personal Injury Protection	-10.0
<i>Liability Subtotal</i>	-5.1
Comprehensive	-10.0
Collision	-12.9
<i>Physical Damage Subtotal</i>	-12.0
<i>Total Commercial Cars</i>	-7.0
<b>Garages</b>	
Single Limit Liability	-5.2
Personal Injury Protection	+4.3
<i>Liability Subtotal</i>	-4.5
Comprehensive – Garage Dealers	+5.0
Collision – Garage Dealers	-4.6
Comprehensive – Garage Keepers	+10.0
Collision – Garage Keepers	0.0
<i>Physical Damage Subtotal</i>	+2.7
<i>Total Garages</i>	-0.6
<b>Private Passenger Types</b>	
Single Limit Liability	0.0
Personal Liability Protection	0.0
Comprehensive	-25.1
Collision	-8.6
<i>Physical Damage Subtotal</i>	-15.1
<i>Total Private Passenger Types</i>	-8.1

<i>Total All Coverages Liability</i>	-3.8
<i>Total All Coverages Physical Damage</i>	-11.6
<i>Total All Coverages Effective July 1, 2000</i>	-6.8

**Insurance Services Office, Inc.  
Commercial Automobile Loss Costs Revision**

**Commercial Cars**

Single Limit Liability	0.0
Personal Injury Protection	0.0
Uninsured Motorists	-23.0
<i>Liability Subtotal</i>	-0.9
Comprehensive	-9.6
Collision	-3.6
<i>Physical Damage Subtotal</i>	-5.4
<i>Total Commercial Cars</i>	-1.5

**Garages**

Single Limit Liability	+2.4
Personal Injury Protection	+4.3
<i>Liability Subtotal</i>	+2.5

**Physical Damage – Garage Dealers**

Comprehensive	+2.9
Collision	+13.2
Physical Damage – Garage Keepers	
Comprehensive	+6.5
Collision	0.0
Physical Damage – Garage Dealers & Keepers Subtotal	+5.3
<i>Total Garages</i>	+3.5

**Private Passenger Types**

Single Limit Liability	+5.0
Personal Injury Protection	-10.8
Uninsured Motorists	-9.5
<i>Liability Subtotal</i>	+3.0
Comprehensive	-11.8
Collision	-6.3
<i>Physical Damage Subtotal</i>	-8.3

**Total Private Passenger Types**

<i>Total Liability</i>	+0.3
<i>Total Physical Damage</i>	-5.3
<i>Total All Coverages Effective July 1, 2001</i>	-0.8

**LIABILITY OTHER THAN AUTOMOBILE**

**American Association of Insurance Services**

Comprehensive General Liability

Loss Costs for Variable Rating Bases Introduced  
Effective July 1, 2000

New

**Insurance Services Office, Inc.**

Commercial Automobile Loss Costs Revised

**Commercial Cars**

Single Limit Liability 0.0

Personal Injury Protection 0.0

Uninsured Motorists -23.0

*Liability Subtotal* -0.9

Comprehensive -9.6

Collision -3.6

*Physical Damage Subtotal* -5.4

*Total Commercial Cars* -1.5

**Garages**

Single Limit Liability +2.4

Personal Injury Protection +4.3

*Liability Subtotal* +2.5

*Physical Damage – Garage Dealers*

Comprehensive +2.9

Collision +13.2

**Physical Damage – Garage Keepers**

Comprehensive +6.5

Collision 0.0

*Physical Damage – Garage Dealers & Keepers Subtotal* +5.3

**Total Garages** +3.5

**Private Passenger Types**

Single Limit Liability +5.0

Personal Injury Protection -10.8

Uninsured Motorists -9.5

*Liability Subtotal* +3.0

Comprehensive -11.8

Collision -6.3

*Physical Damage Subtotal* -8.3

*Total Private Passenger Types* -0.5

*Total Liability* +0.3

*Total Physical Damage* -5.3

*Total All Coverages Effective July 1, 2001* -0.8

<i>Total Garages</i>	+3.5
<i>Private Passenger Types</i>	
Single Limit Liability	+5.0
Personal Injury Protection	-10.8
Uninsured Motorists	-9.5
<i>Liability Subtotal</i>	+3.0
Comprehensive	-11.8
Collision	-6.3
<i>Physical Damage Subtotal</i>	-8.3
<i>Total Private Passenger Types</i>	-0.5
<i>Total Liability</i>	+0.3
<i>Total Physical Damage</i>	-5.3
<i>Total All Coverages Effective July 1, 2001</i>	-0.8

**LIABILITY OTHER THAN AUTOMOBILE**

**American Association of Insurance Services**

Comprehensive General Liability	
Loss Costs for Variable Rating Bases Introduced Effective July 1, 2000	New

**Insurance Services Office, Inc.**

Commercial General Liability – Increased Limits Factors Revised Premises/Operations	-0.2
Products/Completed Operations	-2.1
<i>Total All Coverages Effective January 1, 2001</i>	-0.5

**Medical Professional Liability**

**Hospitals and Miscellaneous Medical Classes**

Basic Limits Loss Costs Revised – Effective July 1, 2001	+7.8
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**Hospital Classes**

Increased Limits Factors Revised – Effective August 18, 2000	-3.3
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**Personal Liability**

Loss Costs Revised – Effective January 1, 2001	+8.5
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**COMMERCIAL MULTIPLE PERIL**

**AAIS**

Artisans Program – Loss Cost Revision Effective March 1, 2000	-15.0
Businessowners – Loss Cost Revision – Effective July, 1, 2000	0.0

**Insurance Services Office, Inc.**

Businessowners - Loss Cost Revision Effective February 1, 2001	+2.9
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Package Policies – Package Modification Revision Effective January 1, 2001	-2.4
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**FARMOWNERS MULTIPLE PERIL**

**Insurance Services Office, Inc.**

Farmowners' Property Program Effective September 1, 2001	-6.4
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**HOMEOWNERS' MULTIPLE PERIL**

**AAIS**

Supplemental Rating Information – Alternate Homeowners' Program 0.0  
Effective January 1, 2000

Homeowners' and Mobile Homeowners' Programs  
Loss Cost Revision 0.0  
Effective December 1, 2000

**INLAND MARINE**

**Insurance Services Office, Inc.**

Commercial Inland Marine – Loss Cost Revision -9.2  
Effective September 1, 2000

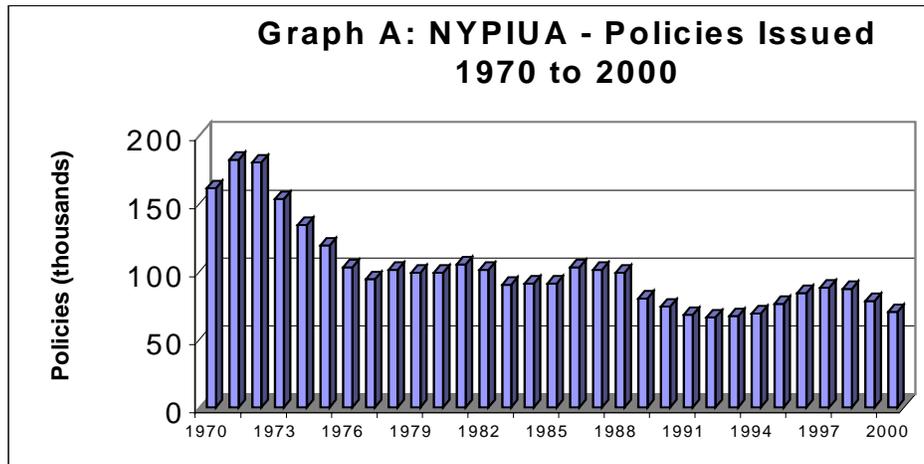
**AAIS**

Personal Inland Marine – Revised Boatowners Program -16.0  
Effective August 1, 2000

**14. New York Property Insurance Underwriting Association (NYPIUA)**

**a. Policies Issued**

The following graph illustrates the number of policies issued by the New York Property Insurance Underwriting Association from 1970 through 2000:



Following the peak year of 1971 (182,000 policies), the number of policies issued annually by the Association declined steadily through 1977. The period 1977 through 1982 saw comparative stability, with the number of policies ranging between 94,000 and 105,000. The sharp decline experienced from 1982 to 1983 can be attributed to soft market conditions, while 1986 showed a sharp increase in policies issued as the voluntary insurance market hardened. Another soft insurance market accounted for the large decrease in the number of policies issued by the Association in 1989 and continued through 1994 as many NYPIUA policies were rewritten in the voluntary market. The number of NYPIUA policies began to increase again in 1993 reflecting, in part, the ongoing concern for adequate coastal property insurance coverage. In 1998, 1999 and 2000 the number of NYPIUA policies has declined.

## **b. Financial Information**

For the Fiscal Year ending December 31, 2000, the Association's Financial Report indicated premiums earned of \$26,126,637 and a net underwriting gain of \$3,994,735. Other income of \$5,185,652, comprised of net investment income of \$5,046,331; premium balances charged off (\$20,436); bond amortization gain of \$110,380; loss on sale of securities of (\$87,183); income from data processing services of \$0; and policy installment fees of \$136,560, resulted in net income before taxes of \$9,180,387. The change in assets not admitted of \$112,165 and taxes incurred of (\$333,606) resulted in a net change in the Members' Equity Account of \$8,958,946. The cumulative operating profit as of December 31, 2000 was \$101,788,951. After all assessments (net of distribution of \$40,268,192), the net Members' Equity Account totaled \$61,520,759.

In accordance with Section 5405(c) of the New York Insurance Law, the Association estimated a surplus from operations of \$2,945,000 for the calendar year 2001. There will be no need to credit the Association with any funds from the New York Property/Casualty Insurance Security Fund for the year beginning January 1, 2001, since its assets exceed its liabilities.

After the Department's review of the data submitted, it was determined that there would be an operating surplus of \$3,389,000 from the operations of NYPIUA. In view of these results, no estimated deficit from operations was approved for the Association for the fiscal year ending December 31, 2001.

For four consecutive years (1986-1989), NYPIUA made special distributions, initiated by the Department in the form of dividends, totaling \$26.3 million to its commercial policyholders because of the favorable underwriting results those policies attained during those years. However, the underwriting results for later years were not as favorable and therefore did not warrant distributions. If underwriting results improve in the coming years, further distributions will be made to those classes generating favorable results.

In a related matter, the Association submitted a filing for the final close-out of NYPIUA policy year 1993 as well as the provisional 60% close-out of policy year 1994, pursuant to the revised close-out formula approved by the Department in December 1988. The net distribution to member companies for the closing of policy years 1993 and 1994 remains under review.

## **c. Rate Revisions**

During 2000, the Department approved rate revisions for the Commercial Property classes of business. These revisions resulted in an average state-wide decrease of 3.7% for Basic Group I commercial insureds and 0% for Basic Group II commercial insureds. These revisions correspond with loss costs revisions promulgated by the Insurance Services Office for the voluntary market.

## **d. Legislation in 2000**

Chapter 30 of the Laws of 2000 extended the authority of the New York Property Insurance Underwriting Association to operate until April 30, 2001. The bill also extended the provisions of Chapter 42 of the Laws of 1996, through April 30, 2001, including the requirement that the Association issue homeowners' insurance upon a determination of necessity by the Superintendent due to unavailability of meaningful coverage in the voluntary market.

# **15. Medical Malpractice Insurance**

## **a. Establishment of Rates and Premium Surcharges**

Chapter 147 of the Laws of 2000 extended for one year the authority of the Superintendent of Insurance to establish rates for policies providing coverage for physicians and surgeons medical

malpractice liability insurance. This legislation also extended the provision that allowed for the application of surcharges of up to 8% annually, beginning July 1, 1989, upon the then-established rates if required to satisfy any deficiency for the policy periods July 1, 1985 through June 30, 2000.

Department Regulation 101, as amended, sets forth the physicians primary medical malpractice insurance occurrence rates; excess medical malpractice insurance rates; premium surcharges; claims-made step factors; and extended reporting period (tail) factors that are established by the Superintendent each year.

The Regulation also requires insurers to maintain, for each policy year during the period of established rates, segregated accounts for premiums, reserves, and investment income attributable to each policy year; and to annually furnish the Department with reports containing this segregated account information. These reports are due from each insurer on October 1 of each year. The information provided in these reports is used to determine whether deficiencies exist and whether any premium surcharges are necessary.

The Twenty-Seventh Amendment to Regulation 101, which became effective on December 11, 2000, established primary medical malpractice insurance rates in New York for the July 1, 2000 through June 30, 2001 policy year. Although most physicians' rates remained unchanged from the previous year, simultaneously approved classification and territory changes for all insurers resulted in rate changes for some insureds that ranged between -9.7% and +43.7%.

This was the fourth consecutive year that rates, for the most part, remained unchanged. It followed an average -6.2% change for policy year 1996, and average rate increases for the three years preceding 1996. The analysis of medical malpractice insurance company experience showed, in general, a slight increase in the severity of claims against doctors in New York, and a slight decrease in the frequency of claims. Overall, it was determined that rates could remain unchanged for most physicians while at the same time ensuring that the medical malpractice system remained adequately funded.

It was also determined that the 4% surcharge imposed since 1989 on Group Council Mutual Insurance Company should continue for the 2000-2001 policy year, based on a review of the segregated account reports received October 1, 1999, as well as an evaluation of the financial condition of insurers issuing physicians medical malpractice insurance.

#### **b. Application of Premium Surcharges**

The premiums of all physicians insured with Group Council Mutual Insurance Company during the period July 1, 1985 through June 30, 1999 had to be surcharged even if that company no longer insured the physician. The insurer providing coverage for these physicians for the policy period beginning July 1, 1999 collected and remitted these surcharges to Group Council Mutual.

Surcharges were generally not imposed upon physicians currently insured by Group Council Mutual Insurance Company if they were not insured by that company during the period July 1, 1985 through June 30, 1999. A surcharge must be collected, however, from any physician insured by Group Council Mutual Insurance Company on or after July 1, 1989, who was not covered by a licensed insurer during the period July 1, 1985 through June 30, 1999. The surcharges collected from these physicians were remitted to insurers in the following proportions:

Medical Liability Mutual Insurance Company	55.85%
Physicians Reciprocal Insurers	20.90
Frontier Insurance Company	5.90
Group Council Mutual Insurance Company	5.50
Medical Malpractice Insurance Association	3.45
HANYS	2.65
Healthcare Underwriters Mutual Insurance Company	2.55
Academic Health Professionals Insurance Association	2.00
Legion Insurance Company	1.15

**c. Claims-Made Factors and Optional Tail Factors**

The claims-made rate is obtained by multiplying the established occurrence rate by the claims-made factor. This factor varies depending on the number of years the insured has been covered by the claims-made program. The rate for the optional tail coverage required to be offered upon termination of coverage is based on the number of years the physician has completed in the claims-made program, and is obtained by multiplying the established occurrence rate by the factor established by the Superintendent. The claims-made and tail factors for years one through eight were established in previous amendments to Regulation 101. For the Twenty-Seventh Amendment it was determined that no change was needed to these factors. Factors were not needed for years of coverage in excess of eight years.

**d. Refund of Premium for Physicians Excess Medical Malpractice Insurance**

Subsequent to the establishment of the excess medical malpractice insurance rates for the policy year July 1, 1999 through June 30, 2000 in the Twenty-Sixth Amendment to Regulation 101, with the benefit of hindsight the Superintendent determined that the rates established for previous policy years for policies issued by the Medical Malpractice Insurance Association, and purchased on behalf of physicians and dentists participating in the excess medical malpractice program provided for in §18 of Chapter 266 of the Laws of 1986, as amended, had produced premium in amounts greater than required to satisfy the standard that premiums be fixed at the lowest possible rates consistent with the maintenance of solvency and of reasonable reserves and surplus therefor. Based on this determination, as provided in Chapter 147 of the Laws of 1999 the Medical Malpractice Insurance Association was directed to refund \$68.5 million to the New York Hospital Excess Liability Pool to purchase the excess insurance for participating physicians and dentists for policy year July 1, 1999 through June 30, 2000. In addition, MMIA retained \$13.8 million representing its share of the total amount for policies it had written.

**e. Rates for Excess Insurance Coverage for 2000-2001**

The rates for first and second excess layers of insurance coverage established for the policy year July 1, 2000 through June 30, 2001 remained the same as those finally established for the previous year, and are calculated by applying the following factors to the \$1 million/\$3 million primary rates established for the Medical Malpractice Insurance Association:

	<b>Purchased by the Physician</b>	<b>Purchased by a Hospital on Behalf of the Physician</b>
First Excess Layer <sup>a</sup>	9.4%	9.9%
Second Excess Layer <sup>b</sup>	5.0%	c

<sup>a</sup> Provides \$1 million/\$3 million of excess coverage over \$1 million/\$3 million primary coverage.

<sup>b</sup> Provides \$1 million/\$3 million of excess coverage above the underlying primary coverage and first layer of excess coverage.

<sup>c</sup> This coverage is not purchased by the hospitals.

Although the Superintendent is authorized to establish a surcharge on the established rates for excess coverage if required to satisfy any deficiency for the period July 1, 1985 through June 30, 2000, it was determined, based on a review of the segregated account reports of those insurers writing the excess coverage, that no surcharge was necessary for the policy year beginning July 1, 2000.

**f. Dissolution of the Medical Malpractice Insurance Association**

As indicated in last year's report, pursuant to Part JJ of Chapter 407 of the Laws of 1999 the Superintendent was required, by April 30, 2000, to approve a plan for the dissolution of the Medical Malpractice Insurance Association ("MMIA"). All policies of the MMIA were to expire or be transferred by June 30, 2000, and the dissolution of MMIA and the cessation of its activities were to be fully accomplished by August 31, 2000. The approved dissolution plan must be the one which maximized the value of MMIA to the state while not impairing or impeding the operation of the voluntary medical malpractice insurance market or limiting the access to medical malpractice coverage for health care practitioners or facilities insured by MMIA. As part of the dissolution process, MMIA had been required to solicit proposed plans of dissolution from at least three outside entities and file with the Superintendent, by December 30, 1999, that plan which its Board of Directors believes maximizes the value of MMIA to the state. In addition, MMIA was to file all other proposed plans it had received. MMIA's submission was received on December 30, 1999. Following additional discussions with the Department, this proposed plan was eventually modified by MMIA after discussions with the Department. In addition, while the Department was reviewing the MMIA proposal, other interested parties contacted the Department with alternative proposals.

As required by Part JJ, a public hearing was held on March 29, 2000 to discuss the proposed plans submitted by the MMIA and the following other companies:

American International Group  
Lehman Brothers/Swiss Re  
Medical Liability Mutual Insurance Company ("MLMIC")  
The State Insurance Fund  
Zurich Re/Centre Re/The Doctors' Company

On May 1, 2000 the Superintendent issued his Opinion and Decision in the Matter of the Dissolution of MMIA. The Superintendent concluded, based on the review of the various proposals, the testimony at the hearing and the opinions of the Department consultants, that the MLMIC proposal best maximized the value of MMIA to the State and did not impair the voluntary market, in that it was the only proposal that provided the lowest cost for coverage with no cap thereon or recourse to the State or the Security Fund thereof. Furthermore, it encapsulated all liabilities in one organization, which has the size and financial ability to absorb any and all potential claims and the expertise to handle these claims.

Under the Superintendent's plan, MLMIC would, in consideration of a payment of \$373,400,000 from MMIA, assume MMIA's unresolved loss portfolio as of July 1, 2000 back to inception of business, inclusive of losses and loss adjustment expenses.

This plan was conditioned on the passage of additional legislation to assist in the execution of the program and to assure to the greatest extent possible the capture of all of MMIA's assets. Proposed legislation would provide for the MMIA to be taken into the custody of the Superintendent as temporary special receiver of all MMIA's assets and obligations beyond those transferred to MLMIC. The Superintendent's role as temporary special receiver and the final dissolution of the MMIA would be as of and when the Superintendent deemed appropriate in fulfilling the obligations of Part JJ.

This proposed legislation was never enacted. In addition, on June 15, 2000, MMIA and members of the Board filed a petition under Article 78 of the Civil Practice Law and Rules and Section 5502(c)(2)(C)(ii)(III) of the Insurance Law, seeking, among other things, to annul the May 1, 2000 order.

Among the allegations in the petition were that the order was arbitrary and capricious and an abuse of discretion because the Superintendent did not approve a plan of dissolution as required by the MMIA dissolution statute; that the \$373,400,000 needed to effectuate the MLMIC plan was not, and according to MMIA might never be, available to MMIA, therefore the plan was incapable of execution; and that the Superintendent exceeded his jurisdiction by conditioning his plan on the passage of additional legislation.

Thereafter, on July 3, 2000, an amended and restated opinion and decision was issued which reaffirmed the original decision to accept the MLMIC proposal, and included, among other provisions, the establishment of a trust to become the successor in interest to MMIA to wind up the affairs of MMIA. The Superintendent's plan for the dissolution of MMIA would not be deemed "implemented" until the Superintendent determined that the obligations of both MLMIC and MMIA had been fulfilled, after which the State would succeed to all of the assets and all of the liabilities of the Trust by operation of law.

Before this restated order could be implemented, Chapter 147 of the Laws of 2000 was enacted which extended the period allowed for effectuating the orderly dissolution of MMIA by continuing MMIA until June 30, 2001, while providing that the dissolution would be implemented at such time and under such conditions as the Superintendent deemed proper. Consequently, a Supplemental Order and Decision was issued on July 12, 2000 under which the Superintendent continued the MMIA solely for the purpose of winding up its affairs, with no new or renewal policies to be issued after June 30, 2000.

By December 31, 2000 MLMIC had received full payment for its assumption of MMIA's liabilities. It is expected that MMIA will be fully dissolved in 2001.

#### **g. Distribution of MMIA Insureds to Voluntary Medical Malpractice Market**

Part JJ of Chapter 407 of the Laws of 1999, as amended by Chapter 147 of the Laws of 2000 required the Superintendent to promulgate regulations prescribing a plan for the equitable distribution to authorized medical malpractice insurers of the insureds of the MMIA and health care practitioners and facilities unable to secure coverage in the voluntary market following the dissolution of the MMIA. Following a public hearing, Department Regulation Number 170 (11 NYCRR 430) was promulgated effective June 30, 2000. Under this regulation the New York Medical Malpractice Insurance Plan ("Plan") was established. All insurers licensed in New York and writing medical malpractice insurance in the state are required to be members of the Plan, and eligible health care practitioners and facilities otherwise unable to obtain coverage in the voluntary market will be assigned to members writing that coverage. Regulation 170 also permits the members to participate in an independent pooling mechanism whereby, instead of getting individual assignments, writings, expenses, fees and losses will be shared proportionately among the members.

A committee of the major medical malpractice insurance writers in the state was formed, under the auspices of the Insurance Department, to effectuate the requirements of the Plan. This committee is in the process of drafting the plan of operation for the Plan and forming the pool provided for in the regulation.

It is expected that the Plan will be fully operational in early 2001. In the interim, in accordance with the Superintendent's Supplemental Opinion and Decision, the MMIA has been acting as an administrator for the Plan, accepting applications, issuing coverage, accepting notice of claim, etc., on behalf of the Plan (no liability to MMIA results from this activity).

## **16. Workers' Compensation**

### **a. Workers' Compensation Rate Credits for Managed Care Programs**

On April 28, 1997, the Department approved for the Hartford Insurance Group a workers' compensation premium rate modification for policyholders adopting a workers' compensation managed care program. As part of the 1996 workers' compensation insurance reform package, the New York Workers' Compensation Law was amended by the addition of Article 10-A to allow employers to use certified Preferred Provider Organizations (PPOs) to deliver medical services to workers suffering from work-related injuries or illnesses.

A managed care program can control associated workers' compensation costs through careful review of utilization and case management, safety programs, return-to-work policies and other loss control techniques. Since the initial program was approved, the Department has approved rate credits for 39 other insurance carriers desiring to offer managed care programs through 2000.

It had come to the Department's attention that companies that had received approval for workers' compensation managed care programs, and some that had not, were using PPOs or Managed Care Organizations (MCOs) that had not been approved by the Department of Health. As a result, the Department issued Circular Letter No. 18 (1997) to clarify the procedures to be followed by insurers in issuing credits for workers' compensation managed care programs and in properly administering such programs. The Department continues to monitor and investigate several programs.

Supplement No. 1 to Circular Letter No. 18 (1997) was issued on May 6, 1998 to property/casualty insurers authorized to write Workers' Compensation insurance in New York State. The letter advised insurers utilizing state-approved managed care programs that they must maintain evidence of compliance with the Workers' Compensation Board in appropriate underwriting files. These files must be made available, upon request by the Insurance Department, for its review and examination.

### **b. Workers' Compensation Drug-Free Workplace Credit Program**

In 1996, the Department began approving a 5% workers' compensation premium rate modification for those insured employers implementing a drug-free workplace program. Consideration for this program was based upon a significant number of studies on how drugs and alcohol affect an employer's workplace by adversely increasing the frequency and severity of accidents and claims. A drug free credit program is thus a useful tool in efforts to reduce the cost of workers' compensation claims. Subsequently, the Department has received requests and approved a 5% credit for 29 other insurance carriers desiring to implement a similar program through 2000.

### **c. Circular Letter No. 35 (2000) - Workers' Compensation Board's Treatment Utilization Program**

The New York State Workers' Compensation Board (WCB) is conducting a Treatment Utilization Pilot Program focused on Authorized Orthopedic Specialists in the Buffalo, New York area. The purpose of this program is to determine whether higher reimbursement rates have an effect on reducing utilization. As part of this program the WCB established a control group of 100 randomly selected orthopedic specialists in the Buffalo area.

In cooperation with the WCB the Department notified insurers of the requirement to submit to the WCB an electronic data set for the control group, on a semi-annual basis. Circular Letter No. 35 provides notification to insurers, explains why the receipt of the data by the WCB is essential and describes the format for the electronic reporting of the control group.

## **17. Insurance Availability Issues**

The general absence of significant availability problems in most liability insurance markets over the past several years continued in 2000. The Department continued to monitor market conditions and addressed individual problems as they arose.

### **a. Availability Survey**

In response to the liability insurance crisis of the 1980s, the Department instituted special surveys to ascertain the state of markets for difficult-to-place insurance coverages. The availability survey is conducted annually to ensure that meaningful and timely information is obtained. In cases where a meaningful market did not exist for critical coverages, voluntary market assistance programs (MAPs) were successfully developed.

The current survey methodology allows insurers to submit their data either by diskette or as an email attachment. The Department processes the responses in an expeditious manner in which insurer responses are downloaded directly to a PC based database. This allows for the rapid analysis of market conditions and developing trends, and enables the Department to better serve the insurance community as well as consumers in New York State.

The 2000 survey included a new section that requested information on Free Trade Zone business written during the year. By adding this section to the availability survey, the Department eliminated the prior need for insurers to complete separate hard copy questionnaires to provide this information. The data gathered from the survey will be used to produce the Department's Annual Free Trade Zone Update.

The insurance industry's cooperation has been the key to the Department's efforts to cultivate and maintain stability in the commercial insurance marketplace. Information from the survey is made available to the insurance community and assists the Department in providing the proper channels for insurance consumers to find coverage appropriate to their needs. Survey information has also been a helpful tool in the Department's analysis of conditions of an ever-changing insurance marketplace. When survey results have shown constricted conditions for types of coverage and/or types of risks, the Department has been able to help develop availability by working with insurers and producer organizations.

### **b. Standby JUA Authority**

The Omnibus Liability Bill enacted in June 1986 and extended in 1988 granted the Superintendent of Insurance the authority to activate a mandatory joint underwriting association (JUA) whenever he determines after a public hearing that there is no meaningful market available for a line of insurance.

While coverages continued to be generally available in 2000, there were some difficulties in several key markets, particularly for properties located in coastal areas of the State. During 2000, discussions with insurers and other interested parties continued relative to this subject. The Department's efforts to find workable solutions to the coastal problem are discussed in Section 19, "Homeowners' Insurance".

## **18. Automobile Insurance Auto Unit**

### **a. General Issues**

#### **i. Automobile Repair Shop Referrals**

Two court cases, *Allstate Insurance Co v. Serio* and *GEICO v. Serio* challenged the constitutionality of section 2610(b) of the Insurance Law that prohibits insurers from recommending or suggesting particular repair shops unless requested to do so by the policyholder. The court ruled that section 2610(b) as applied by the Department violated the First Amendment of the United States Constitution as an unjustifiable burden on commercial free speech. The law prohibiting referrals was originally enacted in 1974.

In accordance with the ruling, Circular Letter No.16, (2000) was issued on May 10, 2000 to all insurers licensed to write motor vehicle physical damage insurance in New York State. It advised all insurers that write such insurance in New York State that they may now recommend or suggest that repairs to a damaged vehicle be made in a particular place or shop regardless of whether the policyholder requests a recommendation.

#### **ii. Public Automobile Issues**

In conjunction with the Department's ongoing effort to facilitate and continue the discussion of issues and developments affecting the livery industry, we continued to host meetings of the New York Taxi & Livery Advisory Committee. In the past, these meetings have proven their value in addressing significant issues and developments affecting the livery industry. The meeting was well attended by legislators, representatives of various segments of the livery industry, insurance companies and producers, and representatives from the New York Automobile Insurance Plan and its rating organization AIPSO (Automobile Insurance Plan Services Office).

A primary topic of discussion was a report of the Task Force's Classification Subcommittee, which had proposed industry-wide uniform definitions of the various livery classifications used for insurance rating purposes. The Sub-committee's recommendations were presented to the full committee, which voted unanimously to accept them. However, it was noted that the implementation of the uniform class definitions would require legislative approval in order to take effect. The Subcommittee members were encouraged to communicate with the Department of Motor Vehicles for their support of these classifications.

On September 8, 2000, a meeting was held with the Department of Motor Vehicles (DMV) and several insurers writing livery insurance, to discuss DMV's proposal to implement "staggered" expiration dates for livery registrations and insurance policies. Currently, these policies and registrations all expire annually on March 1, which historically has caused delays and inconvenience at DMV offices and the New York Taxi & Limousine Commission during this period.

#### **iii. Product or System Group Insurance Policies (Regulation 167)**

This regulation, which became effective October 18, 2000, implemented Section 3446 which permits manufacturers, distributors, or installers of a product or system to purchase a group insurance policy in connection with their products or systems (such as a vehicle that is purchased with an applied or installed security product or system is subsequently stolen and not recovered). Such a policy insures end-user consumers who have purchased a product or system where the manufacturer, distributor, or installer has represented that the product or system is designed to prevent loss or damage to property from a specific cause. The policy covers the loss or damage to the property from such cause, providing a pecuniary benefit to the purchaser or user of that product or system if damage results from the failure

of the product or system to perform as warranted. For example, in connection with a lock or other security device, or where a vehicle is etched with a unique identification code, an agreement is provided by the manufacturer, seller, installer, or other person that provides for the payment of a specified sum in the event the vehicle is stolen. Prior to the enactment of Section 3446, these agreements were not truly warranties or guarantees on the product itself, but rather were considered insurance contracts within the meaning of Insurance Law Section 1101 because there were intervening fortuitous events (in these examples, theft).

Under the regulation such a policy may not cover loss or damage resulting from a defect in materials or workmanship, wear and tear, and may not duplicate coverage available to the insured under any other applicable insurance policy. The policy may also provide coverage for unreimbursed incidental expenses that may be incurred as a result of the loss or damage to the property.

## **b. No-Fault Motor Vehicle Insurance Law Activity – 2000**

### **i. Insurance Department Administration of the Optional Arbitration System**

Effective December 1, 1999, the 24<sup>th</sup> Amendment to Insurance Department Regulation 68 transferred the administration of No-Fault arbitration for cases arising out of accidents occurring on and after 12/1/77, from the Department to the American Arbitration Association (AAA). This amendment was promulgated to respond to the dramatic increase in the number of arbitration requests filed with the Insurance Department, and in recognition of the Department's difficulty in meeting the regulatory mandates with respect to the prompt disposition of No-Fault arbitration requests.

While the AAA received all new requests for No-Fault arbitration, the Department also continued to process its remaining caseload over this same time period. All arbitration requests filed on and after December 1, 1999 fall under the jurisdiction of the American Arbitration Association and are resolved in accordance with its arbitration procedures.

During the AAA's first complete year of operation it received 73,352 requests for No-Fault arbitration. This represents a 20,364 case increase in filings from 1999. The entire increase is the direct result of assignee health providers using the system to collect unpaid fees. In calendar year 1994, 12,398 requests for No-Fault arbitration were filed of which individual claimants filed 3,894 and assignee providers filed 8,504. In 2000, individual claimants filed 2,433 cases and assignee providers filed 70,919. The increase in filings by assignee health providers has increased by 734% since 1994 and 38% since last year.

During the year 2000, the AAA conciliation staff conciliated 10,550 cases or 25.9% of all the cases closed by them. This represents an increase from the 1999 conciliation ratio of 12.97%. Of the disputes received prior to December 1, 1999 and processed by the Department, 5,428 cases were successfully conciliated. Accordingly, a total of 15,987 cases were conciliated in 2000.

The Insurance Department Arbitration forum (IDA) was established in 1988 to resolve disputes involving the correct computation of health service provider fees, amounts in dispute under \$400, and disputes solely involving interest and attorneys' fees. Effective with the 24<sup>th</sup> Amendment to Regulation 68, the IDA forum was eliminated for all cases that were filed on and after December 1, 1999. However, cases that were received by the Department prior to December 1, 1999 remain under the jurisdiction of the IDA forum. The IDA forum resolved 899 cases in 2000.

**Table 30  
DISPOSITION OF NO-FAULT ARBITRATION CASES  
New York State, 1998-2000**

	<u>2000</u>		<u>1999</u>		<u>1998</u>	
	No. of Cases	Percent of Closed Cases	No. of Cases	Percent of Closed Cases	No. of Cases	Percent of Closed Cases
Total Cases filed for arbitration	73,352		52,988		42,906	
Disposition:						
Disputes Conciliated	10,550	25.9%	2,672	14.6%	3,671	17.2%
Transmitted for Arbitration to:						
American Arbitration Forum (AAA)	29,210	71.8%	14,802	81.0%	16,102	75.6%
Insurance Department Arbitration Forum (IDA)			807	4.4%	1,523	7.2%
IDA and AAA Concurrently			3	0.0%	9	0.04%
Total Transmitted for Arbitration	29,210	71.8%	15,612	85.4%	17,634	82.8%
Withdrawn Cases	950	2.3%	0	0.0%	0	0.0%
Total Closed	40,710	100.0%	18,284	100.0%	21,305	100.0%
Pending Disposition	32,642		34,704		21,601	

**TABLE 31  
SOURCES OF APPLICATIONS FOR NO-FAULT ARBITRATION  
New York State, 1998-2000**

	<u>2000</u>		<u>1999</u>		<u>1998</u>	
	No. of Cases	% of Total	No. of Cases	% of Total	No. of Cases	% of Total
Applications Made By Assignee	70,919	96.7%	49,934	94.2%	39,939	93.1%
Applications Made By Claimants	2,433	3.3%	3,054	5.8%	2,967	6.9%
Total	73,352	100.0%	52,988	100.0%	42,906	100.0%

**ii. No-Fault Regulatory Changes**

The Department proposed a new amendment to the regulation implementing the Comprehensive Motor Vehicle Insurance Repairs Act. The revised Regulation 68 was promulgated on October 13, 1999 to be effective February 1, 2000. This regulation replaced the existing regulation and revised the time frames for submitting Notice and Proof of Claim; provided for examinations under oath of claimants and assignee health providers; revised attorney fee reimbursements to encourage settlement of claims without the need for No-Fault arbitration; required that insurers provide explanation of benefit forms to injured claimants; allowed for speedier claim processing and resolution by allowing for electronic filing of claims and lowered interest payments on claims from compounding to simple interest. The implementation of the regulation was challenged by a coalition of interested parties that questioned the Department's compliance with the requirements of the State Administrative Procedures Act (SAPA). As a result of this court challenge, the Honorable Justice Gangel-Jacob of the New York State Supreme Court declared revised Regulation 68 null and void and reinstated the prior regulation. The Department immediately requested a stay and appealed the decision. The Appellate Division rejected the Department's request for a stay and in February, 2001, the Appellate Division affirmed the lower court's decision.

Due to the uncertainty surrounding the court proceeding, the Department repropose Regulation 68 on August 2, 2000. The Department is currently reviewing the public comment it received in response to the proposal.

**19. Homeowners' Insurance**

**a. New York's Coastal Areas**

Consistent with past years, property/casualty insurers continued to re-evaluate the concentration of their business in coastal areas in order to determine their individual exposure to catastrophic storms. Homeowners' insurance is generally still available both on Long Island and statewide. However, due to major disasters such as Hurricane Andrew, insurers revised their eligibility criteria by limiting the number of policies written, particularly for properties located close to the shore.

The Department continues to carefully monitor the availability of coastal insurance. Staff continues to meet with interested parties to discuss the problems and arrive at workable solutions. In addition, the Department continues to respond to inquiries from producers and property owners received either by mail, in person, or on our hotline (212-480-6292) or toll-free line (800-522-4370).

Where appropriate, we have intervened to resolve disputes involving incorrect policy rating and declination of initial or renewal coverage. The Department's objectives have been—and continue to be—maximizing consumer protections, encouraging risk management, emphasizing responsible underwriting, and facilitating voluntary market homeowners' insurance coverage in shore communities.

The Legislature and the Insurance Department have taken several initiatives to assist New York State residents located near the shore or waterfront areas who have experienced difficulty in purchasing and maintaining homeowners' insurance. These initiatives have included the development of "wrap-around" policies, as well as permitting insurers to offer catastrophe windstorm deductibles in their homeowners' policies. Under wrap-around programs, an insurer provides liability, theft, and other coverages to an insured who has purchased fire and extended coverage through NYPIUA.

The coverage from NYPIUA and the wrap-around coverages from a voluntary insurer essentially provide an insured with the equivalent of a full homeowners' policy. Several insurers and rate service organizations have received approval for both windstorm deductible and wrap-around coverage programs. It is anticipated that the utilization of these innovative underwriting tools would enable those insurance companies with heightened concerns about the catastrophic potential posed by hurricanes to continue to provide comprehensive homeowners' coverage for shoreline residents.

The Superintendent activated the Department's Coastal Market Assistance Program (C-MAP) on April 2, 1996. C-MAP is a voluntary network of insurers and insurance producers that assists New York homeowners in coastal areas in obtaining and retaining insurance coverage. Information concerning C-MAP can be obtained through most insurance producers or through NYPIUA at 212-208-9898. Most companies participating in C-MAP are making use of the wrap-around coverage forms mentioned above.

Participating insurers have agreed to write 5,000 policies in total over a three-year period through the C-MAP program. From April 1996 through December 31, 2000, 3,789 policies have been issued through C-MAP. The Department believes C-MAP will continue to help consumers secure vital homeowners' coverage while still addressing insurers' coastal area concerns.

#### **b. Legislation and Regulations**

Chapter 30 of the Law of 2000 extended the operating authority of NYPIUA to April 30, 2001, thus maintaining the safety net for residents unable to obtain insurance in the voluntary market. The law also grants authority to the Superintendent to authorize NYPIUA to provide full homeowners' insurance coverage if deemed necessary. (NYPIUA currently provides fire and extended coverages, but does not provide protection for theft or personal liability.)

Chapter 44 of the Laws of 1998 directed the continuation of a special advisory panel, originally established in accordance with Chapter 42 of the Laws of 1996, to report to the Governor and the Legislature on the problems affecting the availability and affordability of homeowners' insurance in New York State by February 1, 1999. (See Item 1, "Reports and Publications"). Chapter 30 of the Laws of 2000 extended the life of the special advisory panel through April 30, 2001.

Regulation 154 establishes standards for the definitions of "material reduction of volume of policies" and establishes standards by which an insurer's application for such material reduction will be approved. In addition, the Regulation requires insurers to report information relative to homeowners' insurance policies on a quarterly basis in a format prescribed by the Superintendent, and defines those areas in which the Superintendent has deemed that writings by NYPIUA had increased significantly since January 1, 1992. Most policyholders affected by these plans were offered replacement coverage in the voluntary market.

### **c. Computer Hurricane Simulation Models in Rate Filings**

The Department is conducting an ongoing study of computer simulation models in response to some insurers' desire to incorporate this methodology into their rate filings. This is consistent with the findings of the 1997-1998 Temporary Panel on Homeowners' Insurance Coverage. The Panel recommended in its February 1998 report that the Department consider permitting computer simulation modeling to be used by insurers and rate service organizations as another acceptable actuarial technique for the development of appropriate rates and deductibles.

### **d. Reinsurance Cost Factors in Homeowners' Insurance Rate Filings**

The Department permits insurers to reflect the cost of catastrophe excess-of-loss reinsurance in homeowners' insurance rate filings, provided an insurer can reasonably allocate the cost of such reinsurance to its New York policyholders. During 1999, the Department accepted two homeowners' rate filings in which reinsurance costs were among the factors in the rate increase. These companies have previously used reinsurance costs in the development of their rates.

The Department has been reviewing the reinsurance contracts of insurers that used reinsurance costs as a factor in previous rate increases. This was initiated to determine that consideration is also given to reductions in reinsurance costs in insurers' preparations of rate revisions.

## **20. Market Conduct Activities**

### **a. Market Conduct Fines Collected**

The Property Bureau continued its program of reviewing insurance company underwriting, rating and claims practices to determine compliance with the Insurance Law and Department regulations.

There were 29 investigations and two rate service organization examinations in progress at the beginning of 2000. Thirty-four market conduct investigations were initiated during the year and 41 investigations and the two Rate Service Organization examinations were closed in the course of the year, leaving 22 investigations in progress at year-end. Thirty-nine stipulations were entered into during the year. The fines collected as a result of admitted violations totaled \$ 1,321,810.

### **b. Penalties Imposed Under Insurance Law Section 3425**

Section 3425 limits the total number of non-renewals of personal automobile insurance policies that an insurer is allowed. Generally, an insurer is permitted to non-renew up to 2% of the total number of covered policies that the insurer had in force at the previous year end in each such insurer's rating territory in use in this State. As a result of an analysis of reports to the Superintendent required by Section 3425(l)(1), 11 stipulated fines totaling \$ 64,000 were collected during calendar year 2000 (included in the total fines collected in item 'a' above).

### **c. Penalties for Failure to Pay Timely No-Fault Arbitration Awards**

The No-Fault Claims Administration Unit of the Property Bureau has received a significant number of complaints from applicants for no-fault arbitration. These complaints alleged that even after successfully arbitrating their entitlement to no-fault benefits or obtaining a conciliation of their dispute, they were not receiving all amounts due from insurers in a timely manner. The no-fault regulation requires insurers to pay within 30 days all amounts awarded.

The Department issued Circular Letter No. 4 (1992) reminding all insurers of their obligation to pay timely, and that with every request for enforcement, the Department would require insurers to either provide proof that full payment was made or an explanation as to why payment was not made.

Insurers were also advised that in accordance with Section 109(c)(1) of the Insurance Law, a penalty would be imposed on insurers for each complaint made where no justifiable reason for nonpayment or late payment was furnished to the Department. In addition, these complaints are recorded for the purpose of calculating the complaint ratios that form the basis of the Department's annual automobile complaint ranking. During calendar year 2000, the Department collected fines totaling \$35,750 from 34 companies for their failure to pay arbitration awards in a timely manner.

**d. Overcharges Remitted to Policyholders**

As a result of the terms agreed to in stipulated settlements of market conduct underwriting and rating investigations, three insurer groups were required to perform re-rating reviews for the periods specified. As a consequence of these reviews, the insurer groups refunded a total of \$283,644 in premium overcharges.

**e. Underpayments Remitted to Claimants**

As a result of findings of previous market conduct investigations verifying compliance with Insurance Department Regulations 64 and 68, six insurers signed stipulations whereby they agreed to review all automobile no-fault and/or automobile physical damage claim files as designated in the stipulations, and remit all underpayments to insureds and/or claimants. As a result of the terms of the stipulations, the six insurer groups remitted \$ 830,969.

**f. New York Public Automobile Reviews**

In response to an inordinate amount of complaints received regarding the Public Automobile marketplace, the Department held meetings with the industry members of the Public Automobile community. Market conduct investigations were performed to address allegations that insurers of these coverages were not complying with filed rates, using unapproved rates and rating plans and improper marketing practices.

Investigations that concluded in 2000 have resulted in the collection of fines totaling \$716,320 (included in total fines collected in item 'a' above) in 2000. The Department remains concerned over the behavior of this market and may take further action during 2001.

**g. Insurer Internet Web site Monitoring**

The Market Conduct Unit continued the monitoring and review of insurer Web sites during 2000. In addition, as part of these reviews, the Unit has been verifying the accuracy of quotes generated on-line. As part of Circular Letter No. 31, dated October 29, 1998, the Department advised the industry of the general guidelines that would be followed when monitoring the marketing of insurance products on the Internet. Supplement No. 1 to Circular Letter No.31 was issued May 28, 1999. This further advised the industry that Web based activities would be reviewed and/or monitored by the Department and that these reviews would be incorporated into the market conduct and financial review processes.

**h. Insurance Information & Enforcement System (IIES)**

The IIES, developed by the New York State Department of Motor Vehicles (DMV), utilizes an insurance information database to monitor the insurance status of New York State registered vehicles. The system went into effect in 2000 and replaced the DMV's previous Financial Security reporting system. The purpose of this electronic on-line registry program is to ensure that all motor vehicles registered and driven in New York State have adequate motor vehicle insurance in effect and helps to identify, sanction and ultimately remove uninsured vehicles from New York's highways. Articles 6 and 8 of the Vehicle and Traffic Law require insurers to notify the Commissioner of Motor Vehicles of certain insurance policy transactions. Insurers must fully comply with the reporting requirements contained in

Article 6 and 8 and in the regulations promulgated by the Commissioner of Motor Vehicles. All insurers writing automobile liability business in New York State are required to transmit the required policy transaction notices to DMV in an efficient, accurate and timely manner and in conformity with specifications set out in Part 34 of the DMV Commissioner's Regulations.

Section 317 of the New York Insurance Law authorizes the Superintendent to impose fines against insurers who fail to comply with the aforementioned reporting requirements. During 2000, the Insurance Department and DMV met with a number of insurer groups who DMV indicated were having the most difficulty complying with the new IIES program. These insurers were warned to correct any compliance problems they were having with IIES and that in 2001 the Department would begin taking disciplinary actions against those insurers who continued a pattern of non-compliance. In addition, Circular Letter No. 3, dated January 23, 2001, was sent to all insurers authorized to write motor vehicle insurance, advising them that appropriate disciplinary action would be taken against any insurer who is not in compliance with IIES.

## **21. Excess Line Insurance**

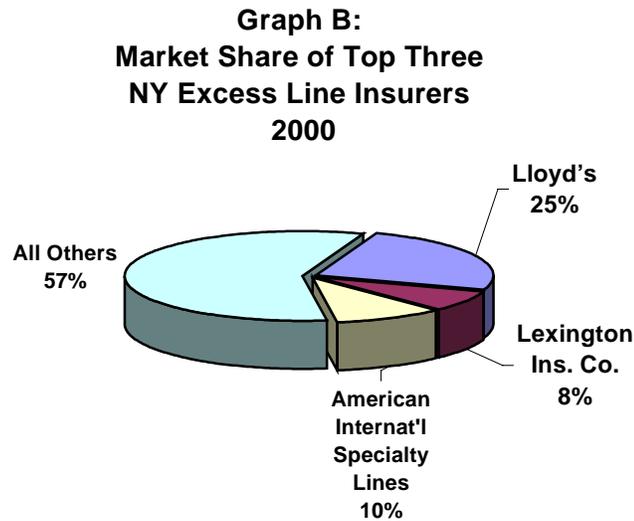
Potential insureds who cannot obtain coverage from companies licensed to write insurance in New York may, under circumstances prescribed in the New York Insurance Law and regulations, obtain such coverage from unlicensed companies through the auspices of a New York licensed excess line broker.

Since insurers providing this coverage are not licensed by this Department, statistical data relating to the amount and nature of premiums written in the excess line market must be obtained from excess line brokers through tax statements required to be filed no later than March 15 of each year relating to business written during the previous calendar year. For calendar year 2000, total excess line gross premiums written on risks located or resident both in and out of New York State amounted to approximately \$681 million, of which approximately \$518 million was attributable to risks located or resident wholly in New York State.

The data pertaining to excess line business used in this report were obtained from statistical reports provided to the Superintendent by the Excess Line Association of New York (ELANY) pursuant to Section 2130 of the New York Insurance Law. ELANY obtains the information from affidavits required to be filed by excess line brokers under Section 2118 of the Insurance Law. There are approximately 350 active licensed excess line brokers who filed approximately 58,496 affidavits for the year 2000. Thirty-five complaints and inquiries regarding excess line business were received in 2000.

In 2000, there were approximately 216 unauthorized insurers eligible to do business in New York pursuant to Regulation 41. This includes 76 foreign insurers; 45 alien insurers; and Lloyd's, with 95 Syndicates. These insurers are required to file Form EL-1 annually by March 15. The filing requirement was changed in 1997 to include the use of computer diskettes. In 2000, the Unit reviewed 113 EL-1 filings, 68 annual statements, 42 Alien financial statements, and 8 trust agreements.

The chart below shows the market share for the largest three New York excess line insurers:



**a. Business Written in New York**

Excess line premiums written in New York State increased from \$438 million to \$518 million in 2000, an increase of 18.14%. The largest dollar increase over the previous year occurred in the other liability line, up by \$38.9 million in 2000. The largest percentage increase occurred in the fidelity and surety line, although small in volume, was up by 108% and up \$1.78 million over the previous year. Other increases included errors and omissions, up by \$33.9 million; fire and allied lines, up by \$11.6 million; commercial multiple peril, up by \$4.7 million; auto physical damage, up by \$3.3 million; burglary and theft, up by \$0.7 million; inland marine, up \$0.5 million; and aircraft physical damage, up by \$ 0.3 million.

The largest dollar decline from the previous year occurred in the other lines peril line, down \$8 million, a decrease of nearly 15%. The largest percentage decline occurred in the malpractice line, which declined by 79%. Other decrease included auto liability, down by \$1.2 million.

**Table 32**  
**EXCESS LINE PREMIUMS WRITTEN**  
**Risks Located in New York State**  
**1997-2000**  
**(dollar amounts in thousands)**

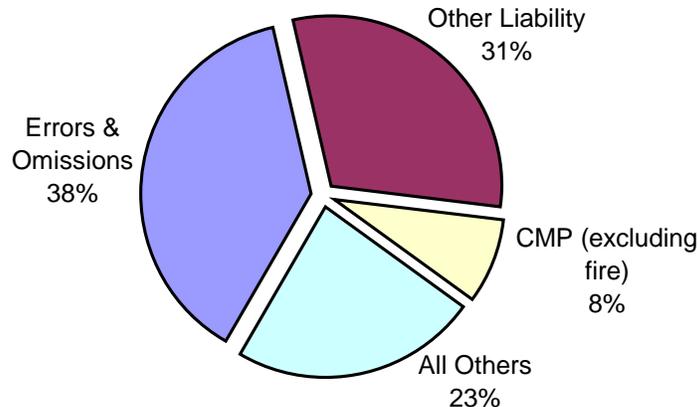
<b>Line of business</b>	<b>2000</b>	<b>1999</b>	<b>1998</b>	<b>1997</b>
Fire and allied lines	\$46,707	\$35,038	\$38,178	\$29,447
Inland marine	27,099	26,565	31,250	26,934
Auto liability	2,188	3,418	4,274	3,050
Malpractice	1,808	8,626	2,049	3,787
Errors and omissions	196,987	163,054	191,172	158,475
Commercial multiple peril (excluding fire)	42,321	37,588	32,713	29,656
Other liability	158,356	119,457	109,612	126,041
Auto physical damage	16,920	13,572	13,489	13,302
Aircraft physical damage	1,889	1,505	1,282	5,001
Burglary and theft	4,225	3,482	4,295	1,707
Fidelity and surety	3,425	1,646	21,145	5,382
Other lines	16,059	24,506	7,568	5,706
<b>Total</b>	<b><u>\$517,984</u></b>	<b><u>\$438,457</u></b>	<b><u>\$457,027</u></b>	<b><u>\$408,489</u></b>
 Excess line premiums as a percentage of all Property and casualty Insurance premiums Written in New York	 2.44%*	 1.99%	 2%	 1.85%

\*Estimated

Source: Excess Line Association of New York

The chart indicates the three major lines of business written in the excess line market:

**Graph C: New York's Excess Line Market**  
**by Line of Business, 2000**



#### **b. Weather Insurance/Derivatives**

An investigation of a licensed excess line broker revealed it had entered into a binding authority agreement with a New York eligible alien excess line insurer. The broker exceeded his underwriting authority by binding three excess line policies for more than the allowed authorized limits, and did not notify or remit the premiums to the insurer within the appropriate time frame. Payout on these three policies amount to more than \$10 million. The broker also fraudulently reinsured nine weather derivatives with this insurer even though it did not have authority to do so. Payout on the derivatives amount to almost \$27 million. It should be noted that the U.S. Attorney's Office has asked the Department to defer taking any action on this matter since they are preparing an indictment against this broker.

#### **c. Binding Authority**

Sections 2117 and 2118 of the Insurance Law were amended in 1997 to provide that an excess line broker, licensed pursuant to Section 2105 of the Insurance Law, may exercise binding authority, which the law defines as "...the authority to issue and deliver insurance policies on behalf of an insurer not licensed or authorized to do business in this state." Since the implementation of the amended statute, the Excess Line Association of New York (ELANY) has notified the Department that 57 excess line brokers have filed 134 binding authority agreements with ELANY representing insurers not licensed or authorized to do business in this state. During calendar year 2000, the Excess Line Association of New York reviewed and accepted 30 new, amended and/or cancelled binding authorities from New York licensed excess line brokers.

#### **d. Investigation of Fronting/Late Filed Affidavits**

An investigation of a licensed excess line broker disclosed that it was fronting for an affiliate, and had also filed approximately 1,200 excess line affidavits late. The affiliate of the excess line broker had set up a coastal homeowners' insurance program in areas adversely affected by windstorm, this included New York. Approximately 5,000 New York policies were insured under this program. The excess line broker did not actually place any of the New York insureds with the excess line insurer, it only filed the affidavits with ELANY and received a fee from its affiliate for doing this. As a result of this investigation a stipulation was issued and the excess line broker and its affiliate were fined \$87,970.

#### **e. Excess Line Tax Investigations**

An excess line broker failed to properly remit taxes to the Department and file appropriate affidavits with the Excess Line Association of New York and the Department. The investigations resulted in the broker having to pay premium taxes, penalty, and interest of approximately \$448,919.

#### **f. Ineligible Unauthorized Insurers**

A review of Schedule T of the annual statements filed with the NAIC revealed that there were several ineligible unauthorized insurers doing business in New York. These companies stated that the policies were direct procurement placements. Insureds were contacted to ensure that the direct procurement taxes were paid.

#### **g. Liability Risk Retention Act (LRRRA) of 1986 - Purchasing Groups**

Purchasing groups are allowed, pursuant to the federal Liability Risk Retention Act of 1986, to buy commercial liability insurance on behalf of their members on a group basis. These groups are exempt from any state insurance laws that hinder or prohibit group self-insurance programs and the purchase of liability insurance on a group basis.

Since the inception of the LRRRA, the Department has received notices of intent from 776 purchasing groups. Subsequently, 237 have withdrawn their notice of intent, 80 have notified the Department of their inactive status, and 41 have been given ineligible status by the Department due to failure to comply with all the requirements of the applicable laws and regulations. As of December 31, 2000, 28% of the remaining 418 purchasing groups (33 of which are in pending status) have named unlicensed companies as their intended insurers.

Some of the most common types of businesses and professions that have formed purchasing groups in the past year include real estate professionals, insurance professionals, entertainers, health care facilities and services, and manufacturers/dealers. Approximately 190 complaints and inquiries regarding purchasing groups were received in 2000.

## **22. Reports and Publications**

### **a. Report on the New York Automobile Insurance Plan**

As required by Section 338 of the Insurance Law, the fourth biennial report was submitted to the Governor and the Legislature on May 1, 2000. The report analyzed the New York Automobile Insurance Plan (Auto Plan); compliance with Section 3425 of the Insurance Law (cancellations and nonrenewal of voluntary private passenger automobile insurance policies); efforts to maintain or reduce the population of the Auto Plan; enforcement of Section 3429, 3430 and 3433 of the Insurance Law (discrimination by geographic location in regard to private passenger automobile insurance); and offered recommendations for statutory or administrative changes to reduce or maintain the Auto Plan population.

### **b. Consumer Guide For Automobile Insurance**

On October 1, 2000, the Department published two editions of the 2000 Consumers Guide to Automobile Insurance, one for upstate and one for downstate residents. The guide is required by Section 337 of the Insurance Law to be updated annually. This comprehensive guide helps consumers determine how much auto insurance they need and explains all mandatory and optional coverages available in New York State. The guide contains lists of insurers, telephone numbers, and sample rates to facilitate comparison shopping, and advice regarding how to file a claim or make a complaint against an insurer is also provided. Copies of the guide were distributed to every Department of Motor Vehicles office and public library in the State. The guide is also available free of charge directly from the Insurance Department and can be accessed via the Department's Web site.

## **23. Regulations and Circular Letters**

### **a. Regulations Adopted in 2000:**

**i. The Twenty-Sixth Amendment to Regulation 101** (Medical Malpractice Rate Modification, Provisional Rates, Required Policy Provisions and Availability of Additional Coverages) effective July 12, 2000, established physician and surgeon professional liability rates for primary and excess policies issued on or after July 1, 1999. The amendment also established rules and guidelines for collecting and allocating surcharges to recover deficits based on experience on policies effective between July 1, 1985 and June 30, 1998.

**ii. The Eighth Amendment to Regulation 96** was promulgated September 27, 2000. This amendment provided guidelines for insurers who request a waiver or suspension of the use of the anti-arson application upon the renewal of policies providing coverage for the perils of fire or explosion. Insurers may file these requests pursuant to Section 3403(h) of the Insurance Law.

**c. Circular Letters Issued in 2000:**

**i. Circular Letter No. 1** was issued on January 7, 2000 to all insurers licensed to write motor vehicle insurance and all motor vehicle self-insurers. This Circular Letter advised that a new Regulation 68 was going into effect on February 1, 2000 and that it contained new notice requirements and standards for the processing of no-fault injury claims.

**ii. Circular Letter No. 2** was issued on January 7, 2000 to all insurers licensed to write motor vehicle insurance and all insurance producer organizations. This Circular Letter advised insurers that, since the year 2000 was a leap year, existing public automobile policies would expire on February 29, 2000 rather than February 28, 2000, in accordance with the statutory one year policy period requirement.

**iii. Circular Letter No. 24** was issued on July 18, 2000 to all insurers licensed to write motor vehicle insurance and all motor vehicle self-insurers. It advised that, as of July 17, 2000, the Appellate Division determined the Department's promulgation of the revision to Regulation 68 was invalid, null and void pending the Department's appeal of that determination. Accordingly insurers were advised that the Regulation 68 in effect on January 31, 2000 is the no-fault regulation which is in effect.

**iv. Circular Letter No. 22** was issued on August 11, 2000 to insurers licensed to write marine insurance. It clarified what the Department considers to be inland and ocean marine insurance and provided general guidelines and rules of application for the classification and distinction of these kinds of insurance; it specified which inland marine classes are subject to filing; and established uniformity for submissions to the Department.

**v. Circular Letter No. 25** was issued on August 11, 2000 to insurers licensed to write motor vehicle insurance. It advised that actions by insurers to significantly curtail or eliminate installment payment programs for private passenger automobile insurance policies may constitute violations of Article 23 or Section 3425 of the Insurance Law.

**vi. Supplement No. 3 to Circular Letter No. 11 (1998)** was issued on August 21, 2000 to all authorized property/casualty insurers and rate service organizations. It described optional procedures that the Department had developed in an attempt to improve the "speed to market" objective for insurance products. The Circular Letter contained links to various Compliance Certification Forms, a Master List of Available Checklists and all necessary checklists.

**vii. Circular Letter No. 30** was issued on October 13, 2000 to all licensed property/casualty insurers and insurer producer organizations. The letter provided instructions for insurers to follow in submitting information to the Department's 2000 Insurance Availability Survey. This survey is used as a mechanism by the Department to annually appraise insurance market conditions and trends and to develop coverage sources when difficult market conditions exist.

**viii. Supplement No. 1 to Circular Letter No. 30 (1999)** was issued on November 22, 2000 to all insurers licensed to write motor vehicle insurance and all motor vehicle self-insurers. Insurers and self-insurers were directed to provide the name, address, telephone number and e-mail address of a contact person to the American Arbitration Association. The contact person would be responsible for handling all communications regarding assessments for the cost of the No-Fault Conciliation Center and Arbitration program.

**ix. Circular Letter No. 35** was issued on December 11, 2000 to all property/casualty insurers licensed to write workers' compensation insurance. It advised insurers of a pilot program being conducted by the Workers' Compensation Board in the Buffalo, New York area to determine if higher reimbursement rates have an effect on reducing utilization. Insurers were also provided with the data

reporting requirements established by the Workers' Compensation Board, which are necessary for it to conduct this study.

## **24. Individual Policyholder Complaints, Inquiries and Freedom of Information Requests**

Certain complaints and inquiries are processed independent of the Consumer Services Bureau. A total of 1,099 such complaints and inquiries were received by the Market Regulatory Section of the Property Bureau in 2000. This total consisted of 634 involving personal automobile insurance; 56 involving commercial automobile insurance; 59 involving homeowners' insurance; 98 involving other liability insurance; 18 involving commercial multiple peril insurance; 48 involving medical malpractice insurance; 9 involving title insurance; and 177 involving other types of insurance (fire and allied lines, surety, inland marine, workers' compensation, etc.). In addition, the Market Regulatory Section processed 1,258 Freedom of Information (FOIL) requests on policy form and rate information.

## **25. Casualty Actuarial Unit**

The Casualty Actuarial Unit reviews rate filings for workers' compensation insurance, Private passenger automobile insurance and private passenger and commercial insurance offered through the Automobile Insurance Plan. All workers' compensation filings are subject to prior approval. Private passenger automobile filings for rate changes within +/-7.0% can generally be implemented without prior approval under New York's "flex-rating" statute, which became effective July 1, 1995. However, filings for the Automobile Insurance Plan, voluntary insurers requesting changes greater than +/- 7.0% or filings involving classification revisions are all subject to prior approval. In terms of premium volume, Private Passenger Automobile and Workers' Compensation insurance are the largest property/casualty coverages; accounting for approximately \$11 billion dollars of premium volume in 2000.

In addition, the Casualty Actuarial Unit is a member of the Security Fund Task Force that calculates the property/casualty insurance security fund net value and contributions.

### **a. Private Passenger Automobile Insurance**

Automobile insurance is vital to New Yorkers. Drivers cannot register their cars unless they purchase automobile insurance. Insurers' rate submissions may include requests for changes in classification relativities, innovative rating rules or other types of modifications. These changes must be adequately justified.

In 2000, 78 private passenger automobile rate requests were implemented. Of these, 25 were prior approval rate changes; 37 were file and use changes and 16 were combinations of both prior approval and file and use changes. The following table lists both the requested and implemented rate changes and provides the liability and physical damage components of all such changes.

The average change for insurers receiving rate changes in 2000 was approximately 4.1%. For these insurers, liability rates increased 9.1% on average while physical damage rates, primarily collision and theft coverages, decreased 6.2% on average. The insurers receiving rate changes in 2000 represent 70% of the total market for private passenger automobile insurance. The overall impact on the rate level was an average increase of 2.9%. Allstate Insurance Company, the largest insurer in New York, increased its rate level by 1.8% in 2000. State Farm Mutual Automobile Insurance Company, the second largest insurer in New York, decreased its rates by an overall 1.9% in 2000.

**Table 33**  
**PRIVATE PASSENGER AUTOMOBILE RATE FILINGS REVIEWED IN 2000<sup>1</sup>**

Renewal Effective Date	Insurance Company or Insurance Group	Market Share (%)	Overall Change Requested (%)	Liability Change <sup>2</sup> (%)	Physical Damage Change <sup>2</sup> (%)	Overall Change Taken (%)
12/30/00	Allstate Ins Co <sup>4</sup>	14.10	1.80	6.72	-6.16	1.80
12/15/00	State Farm Mutual Auto Ins Co <sup>4</sup>	10.66	-1.90	1.65	-9.05	-1.90
4/15/00	AIPSO <sup>4</sup>	7.87	20.90	10.90	-11.00	9.50
2/23;5/7;10/6/00	Progressive: PNE,PNO,PNW <sup>3,3,4</sup>	5.34	20.00	23.52	-4.81	13.50
10/30/00	Travelers:TIC;PIC;COFIC;TRIC;NFMIC;SFIC;AICOHC;TICOA;TPCIC;TCCOC <sup>3</sup>	5.18	5.00	10.67	0.36	5.00
1/15/01	GEICO; GEICO General Ins Co <sup>3</sup>	4.60	6.60	14.33	-11.42	6.60
10/23;10/18/00	Liberty Mutual Fire Ins Co <sup>3,4</sup>	2.94	2.60	7.44	-4.00	2.60
5/1;12/15/00	CNA:CIC;F&CCNY;GFIC;NBFICIL;FIC;BUIC <sup>4,3</sup>	1.41	2.90	7.77	-5.46	2.90
5/15/00	Met P&C Ins Co; Met Casualty Ins Co <sup>3</sup>	1.14	2.80	4.59	-0.35	2.80
6/22/00;1/1/01	Kemper: Amer Manu Mut;Amer Prot Ins Co <sup>4,3</sup>	1.11	6.30	10.49	-0.32	6.30
5/22/00	Integon: ICIC,INIC,IPIC <sup>3</sup>	1.09	6.33	10.16	-0.62	6.33
3/1/00	Hartford: HFIC; HA&IC; HCIC; HUIC; TCFIC <sup>3</sup>	1.02	1.30	4.94	-5.04	1.30
8/7;9/11/00	GEICO Indemnity Co <sup>4,6</sup>	1.01	8.00	14.29	-10.04	8.00
5/15/00;1/15/01	Royal: A&FIC;GIC;RICA;RIC;SIC <sup>3,3</sup>	0.97	3.01	7.61	-2.42	3.01
6/1/00	Hartford Ins Co of the Midwest <sup>3</sup>	0.80	1.40	4.74	-6.14	1.40
4/29/00	Colonial Penn: CPIC;CPFIC;CPMIC <sup>3</sup>	0.73	3.10	6.50	-3.13	3.10
1/1/01	Utica National:UMIC;GAMIC;RFIC;UNAC <sup>3</sup>	0.65	3.10	8.60	-3.43	3.10
1/15;7/1/00	GEICO Casualty Co <sup>4,4</sup>	0.64	6.90	14.28	-23.62	6.90
12/15/00	State Farm Fire & Casualty Co <sup>4</sup>	0.63	-7.80	-3.32	-19.35	-7.80
5/6/00	National Grange Mutual Ins Co <sup>4</sup>	0.58	0.20	0.20	0.16	0.20
3/1/00	Empire Ins Co; Allcity Ins Co; Centurion <sup>3</sup>	0.55	3.50	3.53	3.76	3.50
1/19;8/15;11/17/00	Travelers: TICIL;TICCT;TCIC;TH&MIC <sup>4,3,4</sup>	0.46	16.20	20.45	2.50	16.20
7/1/00	Blue Ridge Ins Co; Blue Ridge Indemnity <sup>3</sup>	0.44	5.70	29.42	-14.44	5.70
9/1/00	Interboro Mutual Indemnity Ins Co <sup>3</sup>	0.37	6.50	15.75	-14.49	6.30
7/1/00	Merchants and Business Men's Mutual <sup>3</sup>	0.37	7.00	11.20	-25.50	7.00
12/11/00	Farmington Casualty Co <sup>4</sup>	0.35	10.60	15.44	-8.08	9.20
6/1/00	Peerless Ins Co; Excelsior Ins Co <sup>3</sup>	0.34	-6.40	-6.46	-8.29	-6.40
5/15/00	Maryland Cas Co; Northern Ins Co of NY; <sup>3</sup> Assurance Co of America	0.34	0.60	0.60	0.60	0.60
5/16/00	Worldwide Ins; Worldwide Direct Auto <sup>3</sup>	0.33	-0.20	-0.20	-0.20	-0.20
6/1/00	Preferred Mutual Ins Co <sup>4</sup>	0.32	-4.50	-5.14	-4.13	-4.50
7/1/00	Fireman's Fund Ins Co; Assoc Indem <sup>4</sup>	0.31	-1.30	6.72	-8.90	-1.30
10/15/00	Eagle Ins Co <sup>3</sup>	0.24	6.98	7.04	-7.68	6.98
7/1/00	Atlantic Mutual Ins Co; Centennial Ins Co <sup>3</sup>	0.24	-6.70	0.00	-15.09	-6.70
6/15/00	Newark Ins Co <sup>3</sup>	0.19	6.70	17.48	-13.68	6.70
7/1/00	Granite State Ins Co <sup>3</sup>	0.19	6.90	8.68	0.00	6.90
5/1;12/1/00;1/1/01	Erie Ins Co; Erie Ins Co of NY <sup>4,4,4,3</sup>	0.19	-0.60	1.61	-5.04	-0.60
4/1;8/1/00	Eveready Ins Co <sup>3,3</sup>	0.15	2.70	11.62	-14.89	2.70
5/15/00;2/28/01	Metropolitan General Ins Co <sup>3,4</sup>	0.15	16.00	26.11	-0.96	16.00
5/1/00;2/1/01	American Agents Ins Co <sup>3,4</sup>	0.14	22.10	47.85	-25.80	22.10
10/1/00	Infinity Ins Co; Infinity Select Ins Co <sup>3</sup>	0.14	3.80	7.09	-2.61	3.80
5/2/00	SAFECO: SICA; SNIC; GICA <sup>3</sup>	0.14	1.40	4.82	-3.47	1.40
9/15/00	St. Paul Guardian Ins Co <sup>3</sup>	0.13	-0.30	0.00	-0.60	-0.30
6/15/00	Lion Ins Co <sup>3</sup>	0.13	-5.90	-0.84	-16.85	-5.90

**Table 33  
PRIVATE PASSENGER AUTOMOBILE RATE FILINGS REVIEWED IN 2000<sup>1</sup>**

Renewal Effective Date	Insurance Company or Insurance Group	Market Share (%)	Overall Change Requested (%)	Liability Change <sup>2</sup> (%)	Physical Damage Change <sup>2</sup> (%)	Overall Change Taken (%)
10/27/00	AIG: ICOSOP;AHAC;NFIC;AIUIC; AIIC; INIC; BFIC <sup>4</sup>	0.11	4.40	10.50	-10.01	4.40
10/18/00	Liberty Ins Corp; The First Liberty <sup>3</sup>	0.11	3.00	7.84	-3.07	3.00
1/22/00;1/21/01	Victoria: VFCIC;VSIC <sup>3,4</sup>	0.10	32.43	20.92	11.27	19.94
1/31/00	Deerbrook Ins Co <sup>3</sup>	0.10	6.30	7.03	0.00	6.30
1/1/01	Michigan Millers Mutual Ins Co <sup>4</sup>	0.08	-5.20	-6.40	-3.97	-5.20
2/16;6/1/00	Response Ins Co <sup>3,3</sup>	0.08	7.00	5.70	2.68	7.00
4/23/00	Reliance National Ins Co;United Pacific <sup>4</sup>	0.08	8.00	10.23	2.65	8.00
4/11/00	Dairyland Ins Co <sup>3</sup>	0.07	4.10	4.29	4.12	4.10
7/1/00	West American Ins Co <sup>4</sup>	0.06	13.40	18.70	20.88	18.60
3/1/01	TIG Ins Corp of America <sup>4</sup>	0.06	15.60	18.71	3.46	10.30
11/21/00	Great American;American National Fire <sup>3</sup>	0.06	7.00	5.52	9.33	7.00
7/24;11/22/00	Reliance Ins Co; Reliance Direct Ins Co <sup>3,4</sup>	0.05	27.90	23.31	-0.75	15.00
9/1/00	Central Mutual Ins Co <sup>3</sup>	0.05	-0.23	-0.27	-0.22	-0.23
6/15/00	Holyoke Mutual Ins Co in Salem <sup>4</sup>	0.04	-5.90	0.90	-15.00	-5.90
4/10/00	Utica First Ins Co <sup>4,5,6</sup>	0.03	4.80	16.39	-10.37	4.80
9/15/00	Selective Ins Co of NY <sup>3</sup>	0.03	6.10	9.75	5.06	6.10
7/1/00;2/1/01	Utica National Ins Co of Texas <sup>4,3</sup>	0.02	-6.52	-4.90	-20.34	-9.64
2/21;8/10/00	Leader National Ins Co <sup>3,4</sup>	0.01	8.70	13.96	1.86	8.70
8/5/00	Providence Washington Ins Co of NY <sup>4</sup>	0.01	-1.00	-1.00	-1.00	-1.00
8/10/00	Horace Mann Ins Co <sup>3</sup>	0.01	-3.10	-2.86	-3.69	-3.10
4/1/00	Property & Casualty Ins Co of Hartford <sup>3</sup>	0.00	5.00	8.20	0.32	5.00
5/6/00	Main Street America Assurance Co <sup>4</sup>	0.00	0.20	0.30	0.18	0.20
5/3/00	Atlanta Cas Co; Atlanta Specialty Co <sup>4</sup>	0.00	1.58	12.85	-8.22	1.18
7/30/00	Titan Indemnity Co <sup>3</sup>	0.00	5.30	2.91	12.23	5.30
1/15;9/1/00;1/1/01	New Hampshire Indemnity Co <sup>4,3,4</sup>	0.00	33.80	37.95	-6.64	23.10
7/14/00	Argonaut Ins Co <sup>4,5</sup>	0.00	0.00	0.00	0.00	0.00
3/9/00	Ulico Cas Co <sup>4,5</sup>	0.00	0.00	0.00	0.00	0.00
4/1;4/15/12/1/00	Farmers New Century Ins Co <sup>3,4,6,3</sup>	0.00	-7.93	-7.92	-8.05	-7.93
1/1/01	Long Island Ins Co <sup>3</sup>	0.00	6.90	9.17	6.21	6.90
11/9/00	Trumbull Ins Co <sup>4</sup>	0.00	19.00	13.30	-0.28	10.00
7/1/00	Victoria National Ins Co <sup>4,5,6</sup>	0.00	0.00	0.00	0.00	0.00
2/1;9/15/00	Merastar Ins Co <sup>3,4</sup>	0.00	-11.20	-6.23	-23.09	-11.20
4/1/00	Commercial Underwriters Ins Co <sup>4,5,6</sup>	0.00	0.00	0.00	0.00	0.00
3/9;9/28/00	Kemper Auto & Home Ins Co; <sup>4,5,6,3</sup> Kemper Independence Ins Co	0.00	3.70	-1.11	6.95	3.70
5/4;11/15/00	GE Auto & Home Assurance Co <sup>3,3</sup>	0.00	4.20	7.03	-1.54	4.20

**See next page for year's rate change summary and footnotes to this table**

**Table 33 (continued)**  
**2000 Rate Change Summary**

	Prior Approval	Flex-Rating	Combination <sup>7</sup>	Total
• Number of companies implementing rate changes.....	25	37	16	78
• Average liability % change for insurers implementing changes.....	6.68%	9.34%	16.71%	9.0%
• Percentage of total liability industry premium affected.....	38.81	20.59	11.55	70.95
• % impact on entire market of overall average liability rate change...	2.59	1.92	1.93	6.44
• Avg. phys. damage % change for insurers implementing changes...	-7.81	-5.05	-4.08	-6.22
• Percentage of total physical damage industry premium affected.....	33.22	22.15	12.67	68.05
• Impact on entire market of the overall avg. phys. damage change...	-2.59	-1.12	-0.52	-4.23
• Avg combined liability and phys. damage % change for insurers.....	2.33	4.30	9.46	4.13
• Percentage of total industry premium affected.....	36.95	21.11	11.78	69.84
• Percentage impact on the entire market of the overall average liability and physical damage rate change.....	0.86	0.91	1.11	2.88

<sup>1</sup> Under the flex-rating system currently in effect, rate changes are either prior approval or file and use. Rate filings that include any classification changes are prior approval.

<sup>2</sup> These rate changes are calculated using 1998 Annual Statement premiums.

<sup>3</sup> Flex-Rating changes that, by statute are within +/- 7.0%.

<sup>4</sup> Prior Approval

<sup>5</sup> New Program

<sup>6</sup> Multi-Tier Program

<sup>7</sup> Combination filings refer to companies that implemented separate flex-rating and prior approval filings. These companies are denoted with superscripts 3 and 4.

## **b. New York Automobile Insurance Plan**

In 2000 the New York Automobile Insurance Plan (AIP) was granted an 9.5% rate increase for private passenger automobiles written through the AIP, covering those drivers who cannot obtain coverage in the voluntary market. It was the second rate change since October 1995. The change was effective March 1, 2000 for new business and April 15, 2000 for renewals. The change was divided into a 10.9% increase for liability coverages and an 11.1% decrease for physical damage coverages.

### **Plan Experience in 1998 and 1999**

#### **i. Earned Car Years**

An important indicator of the size of the Assigned Risk Plan is earned car years. This reflects the size of the Plan as measured by the duration of coverage. {One car insured for one year is one earned car year}. The number of private passenger automobiles (not including commercial autos) insured through the Plan decreased 40.1% for liability and decreased 51.5% for collision in 1999 over 1998. Table 36 shows a ten year history for voluntary and assigned liability and assigned collision earned car years. This marks the ninth consecutive year that assigned collision earned car years decreased from the previous year and the fifth consecutive year that assigned liability earned car years decreased from the previous year.

#### **ii. Risks by Surcharge Category**

In 1999, 324,355 earned private passenger car years for liability and 11,631 for collision coverage were insured through the Plan. Table 37 shows the distribution of New York private passenger liability and collision assigned risks by surcharge category for 1997, 1998 and 1999.

### **iii. Risks by Rating Territory**

The number of private passenger assigned risks, voluntary risks and total risks, listed by rating territory for 1998 and 1999, appear in Table 35. During 1999, 3.9% of all New York State private passenger automobiles were assigned risks as opposed to 6.8% in 1998. The number of voluntary risks increased 602,471 while the number of assigned risks decreased 216,892. The proportion of assigned risks was 10% or higher in 7 of the 70 rating territories in 1998 and was 10% or higher in 6 of the 70 in 1999. The highest 1999 ratio was 34.3% in the Bronx Territory and the lowest was 0.1% in the Corning Territory. Between 1998 and 1999 the percentage of Assigned Risks decreased in all of the 70 rating territories. As usual, the congested urban areas of New York City produced the highest assigned risk-to-voluntary ratios in the State.

Table 34 displays a seven year history of the percentage of assigned to voluntary risks by territory, ranked from the highest down to the lowest.

**Table 34: Percentage of Private Passenger Automobiles Insured Through the Automobile Insurance Plan by Territory, 1993-1999\***

Territory	1993		1994		1995		1996		1997		1998		1999	
	(%)	Rank												
01 Bronx Territory	84.4	1	86.0	1	84.4	1	77.8	1	65.3	1	52.4	1	34.3	1
19 Queens	57.6	2	60.9	2	62.0	2	54.9	2	46.1	2	39.7	2	26.0	2
18 Manhattan	46.6	3	46.5	4	46.5	3	39.7	3	30.1	3	23.5	3	14.7	3
03 Bronx Suburban Territory	46.8	4	46.7	3	44.5	5	37.4	4	27.6	4	21.8	5	13.2	4
17 Kings County	45.5	5	46.4	5	45.2	4	36.9	5	25.8	5	22.3	4	13.1	5
55 Queens Suburban	36.7	6	38.0	6	37.2	6	32.6	6	24.2	6	19.9	6	11.9	6
94 Mount Vernon & Yonkers	26.4	7	26.9	7	26.7	7	21.8	7	16.5	7	12.3	7	7.2	7
05 Staten Island	19.0	9	19.5	9	18.6	9	14.8	8	10.0	12	8.0	8	4.6	8
76 Suffolk County East	15.0	15	16.1	10	16.6	11	14.4	9	11.2	8	7.9	9	4.4	9
75 Suffolk County West	14.6	14	15.4	13	15.8	12	13.6	11	10.8	9	7.6	10	4.3	10
20 Hempstead	15.3	11	15.9	11	15.8	13	13.5	13	10.3	11	7.5	11	4.1	11
97 New York City Suburban	14.6	13	13.9	17	13.0	17	10.7	14	7.9	14	5.8	14	3.2	12
21 North Hempstead	12.1	21	12.2	22	12.0	21	10.0	16	7.6	16	5.4	15	3.1	13
95 White Plains	10.9	40	14.1	16	16.9	10	14.1	10	10.7	10	5.8	13	2.9	14
22 Oyster Bay	10.8	32	11.0	25	10.9	24	8.9	20	6.8	19	4.7	16	2.8	15
82 Sullivan County Central	21.6	8	20.4	8	18.8	8	13.6	12	9.9	13	5.9	12	2.8	16
46 Putnam County	11.7	24	10.8	27	9.9	29	7.4	26	5.5	23	3.9	21	2.3	17
64 Middletown	14.6	12	13.8	18	12.7	19	9.0	19	6.9	18	4.3	17	2.3	18
65 Ossining	10.6	30	9.9	33	9.2	34	7.1	30	5.2	25	3.7	22	2.2	19
83 Sullivan County (Balance)	15.1	10	14.8	14	13.5	16	9.6	17	6.8	20	4.2	18	2.1	20
62 Highland, Kingston	13.8	18	13.6	19	12.5	20	8.8	22	6.2	22	3.5	23	1.8	21
81 Monticello-Liberty	15.7	16	15.7	12	14.8	14	10.5	15	7.7	15	4.0	20	1.7	22
37 Oswego	13.1	22	12.1	23	11.9	23	8.9	21	7.2	17	4.2	19	1.7	23
33 Poughkeepsie	11.5	25	10.7	28	9.9	28	7.3	28	5.4	24	3.3	25	1.6	24
58 Dutchess (Balance)	11.2	28	10.6	29	10.0	27	7.4	27	5.1	27	3.2	26	1.6	25
67 Clinton County, etc.	11.1	29	10.4	30	9.7	30	7.0	31	4.5	32	2.7	31	1.4	26
59 Columbia County, etc.	9.6	36	9.2	37	9.0	35	6.4	34	4.2	33	2.7	29	1.3	27
34 Troy	13.4	20	13.0	20	11.9	22	8.0	24	5.2	26	3.0	27	1.3	28
61 Delaware County, etc.	10.8	31	10.3	31	9.5	32	6.5	33	4.2	34	2.5	33	1.2	29
68 Rockland County	11.8	23	11.2	24	10.1	26	7.3	29	4.7	30	2.7	32	1.2	30
07 Buffalo	14.4	17	14.2	15	13.7	15	9.1	18	6.7	21	3.4	24	1.2	31
32 Newburgh	9.8	45	9.7	34	9.6	31	6.8	32	4.8	29	2.7	30	1.1	32
54 Cortland County, etc.	9.0	43	8.5	43	8.2	42	5.5	41	3.5	38	2.1	37	1.1	33
36 Glens Falls	11.5	26	10.9	26	10.9	25	7.6	25	4.6	31	2.8	28	1.0	34
13 Albany	10.0	34	9.7	35	9.0	36	5.9	36	3.8	36	2.1	35	1.0	35
42 Buffalo Suburban	7.2	55	6.6	61	5.8	61	4.1	52	2.7	49	1.7	42	0.9	36

**Table 34: Percentage of Private Passenger Automobiles Insured Through the Automobile Insurance Plan  
by Territory , 1993-1999\***

Territory	1993		1994		1995		1996		1997		1998		1999	
	(%)	Rank	(%)	Rank	(%)	Rank	(%)	Rank	(%)	Rank	(%)	Rank	(%)	Rank
74 Jefferson County	11.3	27	10.1	32	9.3	33	6.2	35	3.9	35	2.1	36	0.9	37
84 Allegany County, etc.	9.3	37	8.8	41	8.4	41	5.5	40	3.4	39	1.9	38	0.9	38
28 Binghamton	7.6	56	7.3	54	6.8	53	4.6	45	3.6	37	1.9	40	0.9	39
51 Ontario County, etc.	8.8	42	8.1	47	7.7	44	5.2	42	3.2	43	1.9	39	0.8	40
08 Buffalo Semi-Suburban	6.5	58	6.0	64	5.4	64	3.6	58	2.7	47	1.5	45	0.7	41
29 Gloversville	13.1	19	12.6	21	13.0	18	8.2	23	4.9	28	2.1	34	0.7	42
14 Niagara Falls	10.0	33	9.3	36	8.8	39	5.5	38	3.3	41	1.6	44	0.6	43
09 Schenectady County	8.3	50	7.7	49	7.0	49	4.5	50	3.0	45	1.7	43	0.6	44
73 Rensselaer (Balance)	8.8	44	8.1	48	7.5	46	4.6	48	2.4	55	1.5	46	0.6	45
11 Rochester	7.8	51	7.6	53	7.1	48	5.0	43	3.3	40	1.8	41	0.6	46
31 Chautauqua County	8.9	46	8.8	42	8.9	37	5.8	37	3.1	44	1.4	47	0.6	47
41 Erie County (Balance)	7.5	65	7.7	50	7.0	50	4.1	51	2.6	50	1.4	48	0.6	48
47 Orleans County	9.2	39	8.8	40	8.1	43	4.6	47	2.6	51	1.3	52	0.5	49
52 Fort Plain, Herkimer	9.3	38	9.2	38	8.9	38	5.5	39	2.9	46	1.4	50	0.5	50
86 Oneida	7.7	54	7.1	57	6.3	58	3.9	54	2.6	52	1.1	55	0.5	51
24 Rome	5.9	62	7.6	52	7.0	51	3.7	56	2.6	53	1.2	53	0.5	52
12 Syracuse	8.5	49	8.2	45	7.4	47	4.6	46	3.2	42	1.4	49	0.5	53
30 Saratoga Springs	8.3	60	7.7	51	6.7	54	3.9	55	2.3	56	1.1	56	0.5	54
60 Genesee County	7.1	57	6.6	60	5.6	63	3.2	64	1.9	59	0.8	60	0.4	55
35 Amsterdam	8.0	53	8.1	46	6.9	52	3.7	57	2.0	58	1.0	57	0.4	56
44 Broome County (Balance)	8.0	48	7.2	56	6.2	59	3.4	61	1.7	62	0.8	62	0.4	57
43 Niagara Falls Suburban	9.1	35	8.4	44	7.7	45	4.7	44	2.7	48	1.3	51	0.4	58
72 Albany County (Balance)	7.2	52	6.4	62	6.1	60	3.4	60	1.8	60	0.9	59	0.3	59
25 Auburn	7.2	59	6.9	59	6.7	55	4.1	53	2.5	54	1.1	54	0.3	60
56 Saratoga County (Balance)	8.9	41	9.1	39	8.4	40	4.5	49	2.1	57	0.9	58	0.3	61
38 Syracuse Suburban	5.1	69	4.7	70	3.9	70	2.1	69	1.3	67	0.7	64	0.3	62
49 Niagara County (Balance)	6.5	64	6.2	63	5.6	62	3.3	63	1.4	65	0.6	66	0.2	63
15 Utica	6.4	61	5.3	66	4.6	66	2.5	65	1.6	63	0.7	65	0.2	64
39 Rochester Suburban	5.2	66	4.7	69	4.0	69	2.4	66	1.3	66	0.5	68	0.2	65
16 Saratoga Springs Suburban	8.2	47	7.2	55	6.5	57	3.5	59	1.6	64	0.8	61	0.2	66
71 Saratoga County South	5.6	63	4.9	68	4.3	67	2.2	67	1.2	68	0.6	67	0.2	67
48 Monroe County (Balance)	6.5	70	7.1	58	6.6	56	3.3	62	1.7	61	0.7	63	0.2	68
27 Elmira	5.6	67	5.6	65	5.3	65	2.2	68	0.6	70	0.3	69	0.1	69
40 Corning	5.6	68	5.0	67	4.0	68	1.7	70	0.7	69	0.2	70	0.1	70
<b>Entire State</b>	<b>16.4</b>		<b>16.4</b>		<b>16.0</b>		<b>12.8</b>		<b>9.6</b>		<b>6.8</b>		<b>3.9</b>	

\* Derived from data provided by the Automobile Insurance Plan Service Office.

Territory	1998			1999			(#)	(%)	(#)	(%)
	Assigned	Voluntary	Total Market	Assigned	Voluntary	Total Market	Change In A/R	Change In A/R	Change In Market	Change in Market
01 Bronx Territory	24,201	22,009	46,210	17,868	34,179	52,047	-6,333	-26.2	5,837	12.6
19 Queens	20,348	30,850	51,198	13,919	39,715	53,634	-6,429	-31.6	2,436	4.8
18 Manhattan	34,324	111,701	146,025	23,012	133,467	156,479	-11,312	-33.0	10,454	7.2
03 Bronx Suburban Territory	32,535	116,486	149,021	20,542	135,276	155,818	-11,993	-36.9	6,797	4.6
17 Kings County	71,209	248,590	319,799	44,429	293,487	337,916	-26,780	-37.6	18,117	5.7
55 Queens Suburban	100,355	402,811	503,166	62,914	464,606	527,520	-37,441	-37.3	24,354	4.8
94 Mount Vernon and Yonkers	12,506	89,385	101,891	7,519	96,713	104,232	-4,987	-39.9	2,341	2.3
05 Staten Island	15,673	180,492	196,165	9,367	195,591	204,958	-6,306	-40.2	8,793	4.5
76 Suffolk County East	31,449	367,678	399,127	18,527	399,155	417,682	-12,922	-41.1	18,555	4.6
75 Suffolk County West	36,781	445,906	482,687	21,658	481,181	502,839	-15,123	-41.1	20,152	4.2
20 Hempstead	30,923	382,703	413,626	17,759	412,817	430,576	-13,164	-42.6	16,950	4.1
97 New York City Suburban	12,100	197,792	209,892	7,080	213,392	220,472	-5,020	-41.5	10,580	5.0
21 North Hempstead	7,884	138,709	146,593	4,628	144,561	149,189	-3,256	-41.3	2,596	1.8
95 White Plains	2,418	39,473	41,891	1,275	42,221	43,496	-1,143	-47.3	1,605	3.8
22 Oyster Bay	11,246	229,042	240,288	6,747	235,938	242,685	-4,499	-40.0	2,397	1.0
82 Sullivan County Central	741	11,915	12,656	359	12,687	13,046	-382	-51.6	390	3.1
46 Putnam County	2,687	66,565	69,252	1,675	70,354	72,029	-1,012	-37.7	2,777	4.0
64 Middletown	5,603	125,059	130,662	3,196	135,410	138,606	-2,407	-43.0	7,944	6.1
65 Ossining	6,396	166,521	172,917	3,897	174,352	178,249	-2,499	-39.1	5,332	3.1
83 Sullivan County (Balance)	882	19,984	20,866	490	22,806	23,296	-392	-44.4	2,430	11.6
62 Highland, Kingston	2,527	70,421	72,948	1,377	74,736	76,113	-1,150	-45.5	3,165	4.3
81 Monticello-Liberty	431	10,479	10,910	192	11,046	11,238	-239	-55.5	328	3.0
37 Oswego	1,312	29,994	31,306	550	32,154	32,704	-762	-58.1	1,398	4.5
33 Poughkeepsie	3,064	90,735	93,799	1,590	96,973	98,563	-1,474	-48.1	4,764	5.1
58 Dutchess County (Balance)	2,622	79,911	82,533	1,391	87,094	88,485	-1,231	-46.9	5,952	7.2
67 Clinton County, etc.	8,809	319,239	328,048	4,879	349,560	354,439	-3,930	-44.6	26,391	8.0
59 Columbia County, etc.	1,980	70,556	72,536	1,016	76,022	77,038	-964	-48.7	4,502	6.2
34 Troy	1,638	52,837	54,475	742	57,435	58,177	-896	-54.7	3,702	6.8
61 Delaware County, etc.	3,199	125,289	128,488	1,690	135,805	137,495	-1,509	-47.2	9,007	7.0
68 Rockland County	4,641	168,645	173,286	2,060	176,124	178,184	-2,581	-55.6	4,898	2.8
07 Buffalo	3,532	101,554	105,086	1,238	106,009	107,247	-2,294	-64.9	2,161	2.1
32 Newburgh	1,708	61,674	63,382	741	65,422	66,163	-967	-56.6	2,781	4.4
54 Cortland County, etc.	3,846	181,773	185,619	2,167	192,184	194,351	-1,679	-43.7	8,732	4.7
36 Glens Falls	1,033	36,449	37,482	416	41,355	41,771	-617	-59.7	4,289	11.4
13 Albany	3,181	145,309	148,490	1,506	156,115	157,621	-1,675	-52.7	9,131	6.1
42 Buffalo Suburban	2,825	159,250	162,075	1,522	164,490	166,012	-1,303	-46.1	3,937	2.4

Territory	1998			1999			(#)	(%)	(#)	(%)
	Assigned	Voluntary	Total Market	Assigned	Voluntary	Total Market	Change In A/R	Change In A/R	Change In Market	Change in Market
74 Jefferson County	1,317	61,259	62,576	574	64,445	65,019	-743	-56.4	2,443	3.9
84 Allegany County, etc.	3,493	179,662	183,155	1,661	186,659	188,320	-1,832	-52.4	5,165	2.8
28 Binghamton	2,146	111,434	113,580	1,006	116,409	117,415	-1,140	-53.1	3,835	3.4
51 Ontario County, etc.	3,481	179,185	182,666	1,637	191,752	193,389	-1,844	-53.0	10,723	5.9
08 Buffalo Semi-Suburban	3,036	199,252	202,288	1,544	204,835	206,379	-1,492	-49.1	4,091	2.0
29 Gloversville	519	23,667	24,186	193	26,118	26,311	-326	-62.8	2,125	8.8
14 Niagara Falls	1,115	66,830	67,945	441	69,371	69,812	-674	-60.4	1,867	2.7
09 Schenectady County	1,519	88,500	90,019	639	100,831	101,470	-880	-57.9	11,451	12.7
73 Rensselaer County (Balance)	519	35,048	35,567	236	37,901	38,137	-283	-54.5	2,570	7.2
11 Rochester	7,342	391,010	398,352	2,464	408,429	410,893	-4,878	-66.4	12,541	3.1
31 Chautauqua County	1,140	79,697	80,837	495	84,652	85,147	-645	-56.6	4,310	5.3
41 Erie County (Balance)	879	61,737	62,616	386	68,932	69,318	-493	-56.1	6,702	10.7
47 Orleans County	337	25,045	25,382	141	26,166	26,307	-196	-58.2	925	3.6
52 Fort Plain, Herkimer	491	35,417	35,908	202	37,908	38,110	-289	-58.9	2,202	6.1
86 Oneida	445	38,680	39,125	214	40,892	41,106	-231	-51.9	1,981	5.1
24 Rome	247	19,955	20,202	103	20,993	21,096	-144	-58.3	894	4.4
12 Syracuse	2,746	196,876	199,622	997	213,014	214,011	-1,749	-63.7	14,389	7.2
30 Saratoga Springs	181	16,949	17,130	86	19,008	19,094	-95	-52.5	1,964	11.5
60 Genesee County	322	37,966	38,288	175	39,201	39,376	-147	-45.7	1,088	2.8
35 Amsterdam	180	18,296	18,476	80	20,029	20,109	-100	-55.6	1,633	8.8
44 Broome County (Balance)	118	15,282	15,400	62	15,524	15,586	-56	-47.5	186	1.2
43 Niagara Falls Suburban	449	32,897	33,346	127	34,092	34,219	-322	-71.7	873	2.6
72 Albany County (Balance)	98	11,003	11,101	43	12,509	12,552	-55	-56.1	1,451	13.1
25 Auburn	278	23,918	24,196	82	25,372	25,454	-196	-70.5	1,258	5.2
56 Saratoga County (Balance)	210	21,973	22,183	83	25,755	25,838	-127	-60.5	3,655	16.5
38 Syracuse Suburban	398	59,983	60,381	163	61,053	61,216	-235	-59.0	835	1.4
49 Niagara County (Balance)	204	31,347	31,551	80	33,202	33,282	-124	-60.8	1,731	5.5
15 Utica	398	60,780	61,178	154	64,175	64,329	-244	-61.3	3,151	5.2
39 Rochester Suburban	188	39,436	39,624	76	38,320	38,396	-112	-59.6	-1,228	-3.1
16 Saratoga Springs Suburban	315	40,720	41,035	85	45,387	45,472	-230	-73.0	4,437	10.8
71 Saratoga County South	216	38,976	39,192	77	43,103	43,180	-139	-64.4	3,988	10.2
48 Monroe County (Balance)	125	17,538	17,663	36	20,222	20,258	-89	-71.2	2,595	14.7
27 Elmira	141	47,625	47,766	52	49,480	49,532	-89	-63.1	1,766	3.7
40 Corning	45	22,817	22,862	23	24,846	24,869	-22	-48.9	2,007	8.8
<b>Entire State</b>	<b>541,247</b>	<b>7,428,546</b>	<b>7,969,793</b>	<b>324,355</b>	<b>8,031,017</b>	<b>8,355,372</b>	<b>-216,892</b>	<b>-40.1</b>	<b>385,579</b>	<b>4.8</b>

\* Derived From data provided by the Automobile Insurance Plan Service Office.

**Table 36**  
**Liability and Collision Earned Car Years in the Voluntary and Assigned Risk Markets**  
**For Years 1990 - 1999**

Calendar Year	Voluntary Liability	Vol. (%) Change	A/R Liability	A/R (%) Change	Total Market Liability	Total (%) Change	A/R Collision	A/R (%) Change
1990	6,472,573		1,322,054		7,794,627		124,142	
1991	6,585,328	1.7	1,321,828	0.0	7,907,156	1.4	108,409	-12.7
1992	6,475,638	-1.7	1,331,695	0.7	7,807,333	-1.3	83,824	-22.7
1993	6,536,919	0.9	1,257,622	-5.6	7,794,541	-0.2	70,991	-15.3
1994	6,487,828	-0.8	1,276,617	1.5	7,764,445	-0.4	64,053	-9.8
1995	6,643,605	2.4	1,196,578	-6.3	7,840,183	1.0	62,517	-2.4
1996	6,662,881	0.3	970,552	-18.9	7,633,433	-2.6	51,547	-17.5
1997	7,049,333	5.8	744,973	-23.2	7,794,306	2.1	39,948	-22.5
1998	7,428,546	5.4	541,247	-27.3	7,969,793	2.3	23,988	-40.0
1999	8,031,017	8.1	324,355	-40.1	8,355,372	4.8	11,631	-51.5

**Table 37**  
**Distribution of Private Passenger Automobile Assigned for the Liability and Collision Coverages**  
**by Discount or Surcharge Category for Years 1997-1999**

Discount or Surcharge Category	Liability			Collision		
	1997 (%)	1998 (%)	1999 (%)	1997 (%)	1998 (%)	1999 (%)
Total, All Categories	100.0	100.0	100.0	100.0	100.0	100.0
Total Not Surcharged:	68.0	68.1	68.0	62.6	62.3	61.4
3 Years Claim Free-one or less w/Plan (Manual Rates)	34.5	32.7	30.3	31.2	28.7	26.6
Experience Discount:						
4 Years (One or more with Plan) 18 % Credit	13.1	13.5	13.0	12.7	12.9	11.8
5 Years (Two or more with Plan) 25% Credit	9.3	10.1	11.5	10.0	10.7	11.3
6 Years or More (Three or more with Plan) 30% Credit	11.1	11.7	13.2	8.7	10.1	11.7
Total Surcharged	31.5	31.9	32.0	37.4	37.7	38.6
Inexperienced Operator Surcharge	12.6	13.6	14.5	9.8	9.8	10.4
Experienced Operator Surcharge:						
15%	11.7	11.6	11.2	16.0	16.6	16.7
25%	0.1	0.1	0.1	0.1	0.1	0.1
35%	2.6	2.6	2.5	4.7	4.7	4.7
50%	1.4	1.3	1.2	1.6	1.6	1.5
75%	1.1	1.0	1.0	2.0	2.2	2.2
100%-150%	1.9	1.7	1.5	3.2	2.8	3.1



**Table 39  
WORKERS' COMPENSATION RATE HISTORY  
New York State, 1980-2000**

Effect. Date	Policy Year	Calendar Year	Law Amendments & Medical & Hospital Agreements		Wage & L/R Trend Factors	Expenses	Effect on Rate Level	Assessments		Filed	Approved	Cumulative Approved
			Indemnity	Medical				WCB	SDF&RCF			
7/80	-4.5%	-7.1%	0.0%		1.0133	-4.1%	-0.1%	-2.5%	-3.1%	-10.1%	-10.1%	
10/80									2.9%	2.9%	-7.5%	
7/81	-11.5%	-11.5%	7.7%		0.8600	-3.1%	-0.4%	0.3%	-14.3%	-20.4%	-26.4%	
7/82	-4.6%	-11.6%	4.3%		0.9895	0.3%	0.1%	1.2%	-2.1%	-3.4%	-28.9%	
7/83 <sup>1</sup>	-0.3%	-7.8%	19.5%		0.8807	-0.1%	0.1%	-4.1%	5.4%	-2.0%	-30.3%	
7/84	6.6%	3.5%	7.8%		0.8979	3.8%	0.1%	2.6%	9.4%	8.1%	-24.6%	
7/85 <sup>2</sup>	7.7%	0.9%	8.3%		0.9725	2.2%	-0.3%	-1.5%	14.2%	10.2%	-17.0%	
7/86	-1.3%	-8.4%	3.8%		0.9257	3.0%	0.2%	1.0%	1.5%	-4.7%	-20.9%	
7/87	7.5%	12.8%	2.2%		0.9134	0.4%	0.3%	0.5%	6.5%	5.1%	-16.9%	
7/88	9.2%	12.2%	7.2%		0.9470	0.7%	-0.4%	-1.4%	28.3%	11.1%	-7.7%	
7/89	17.6%	22.5%	2.0%		0.9254	0.7%	-0.3%	1.5%	28.5%	15.5%	6.6%	
7/90	12.8%	13.5%	18.0%	3.4%	0.9478	0.4%	-0.4%	-0.7%	39.1%	29.4%	38.1%	
7/91	23.4%	20.9%	3.7%	2.1%	0.9012	-4.2%	0.3%	4.1%	25.1%	15.3%	59.2%	
7/92	20.5%	13.1%	4.2%	1.2%	0.9500	-0.3%	-0.4%	4.1% <sup>3</sup>	18.4%	15.6%	84.1%	
7/93	12.0%	17.1%	1.0%		1.0010	0.0%	-0.3%	-1.0% <sup>3</sup>	18.7%	14.4%	110.6%	
4/94	-4.9%	-0.1%	-1.9% <sup>4</sup>		1.0010	0.0%	-16.3% <sup>5</sup>	13.5% <sup>5</sup>	-5.0%	-5.0%	100.1%	
10/94	8.0%	1.9%	0.8%		0.9640	-1.2%	1.4%	-3.1% <sup>5</sup>	-1.6%	-1.7%	96.7%	
10/95	-17.1%	-15.3%	0.05%		1.0960	0.8%	-8.4%	3.7%	-2.8%	-5.0%	86.9%	
	<u>Pol. Yr.</u>	<u>Acc. Yr.</u>										
10/96	-14.9%	-16.5%	-3.2%		1.0430	0.0%	-14.9%	-0.2%	-15.1%	-18.2%	52.9%	
10/97	-9.1%	-9.5%	0.0%		1.0140	-0.1%	-7.5%	-1.0%	-3.8%	-8.4%	40.1%	
10/98	8.9%	2.9%	0.0%		0.9080	0.8%	-3.1%	-3.0%	-0.4%	-6.0%	31.7%	
10/99	17.1%	8.5%	0.0%		0.9860	1.2%	0.0%	3.9%	17.0%	3.9%	36.8%	
10/00	4.5%	-0.2%	0.0%		.962	0.1%	-2.5%	2.6%	0.0%	0.0%	36.8%	

<sup>1</sup> Includes Stock Security Fund Tax of 1.012.

<sup>2</sup> The Loss Constant Offset was removed in 1985.

<sup>3</sup> Includes OSHA assessment of 1.25%.

<sup>4</sup> Includes elimination of 13.0% Hospital Surcharge.

<sup>5</sup> Assessments are included in a fee. In April 1994, this produced an effect of -15.0% on the rate level.

**Table 40**  
**WORKERS' COMPENSATION--APPROVED RATE DEVIATIONS CURRENTLY IN EFFECT**  
**As of February 1, 2001**

<b>Company Name</b>	<b>Effective Date</b>	<b>Downward Deviation</b>	<b>Company Name</b>	<b>Effective Date</b>	<b>Downward Deviation</b>
A.I.U. Ins Co	05/15/96	15.0	Clarendon National Ins Co	07/10/97	10.0
Acadia Ins Co	11/01/97	10.0	Colonial American Casualty & Surety Co	10/15/97	10.0
Agricultural Ins Co	10/01/00	10.0	Commercial Compensation Ins Co	04/01/98	10.0
All America Ins Co	08/01/96	10.0	Commercial Ins Co of Newark, NJ	01/09/01	0.0
American Alliance Ins Co	10/01/00	15.0	Commercial Union Ins Co	10/01/99	10.0
American Alternative Ins Corporation	01/08/99	10.0	Connecticut Indemnity Co	02/27/97	15.0
American Automobile Ins Co	06/13/83	16.0	Credit General Ins Co	07/10/98	10.0
American Casualty Co of Reading, PA	10/01/95	10.0	Erie Ins Co of New York	08/01/99	12.5
American Economy Ins Co	06/01/96	10.0	Erie Insurance Company	11/01/96	5.0
American Employers' Ins Co	10/01/99	15.0	Fairfield Ins Co	12/03/97	10.0
American Fire & Casualty Co	12/20/99	17.5	Federated Mutual Ins Co	05/17/96	15.0
American Guarantee & Liability Ins Co	03/04/97	15.0	FICO Insurance Company	05/17/96	15.0
American Manufacturers Mutual Ins Co	10/01/85	10.0	Fidelity & Deposit Co of Maryland	10/15/97	10.0
American Protection Ins Co	06/02/93	15.0	Fidelity & Guaranty Ins Co	08/04/83	15.0
American-Zurich Ins Co	12/01/96	15.0	Fidelity & Guaranty Ins Underwriters Inc.	12/22/97	10.0
AmGuard Ins Co	11/01/99	10.0	Fire & Casualty Ins Co of CT	02/13/98	10.0
Argonaut-Midwest Ins Co	09/01/96	15.0	Fire Districts of NY Mutual Ins Co	12/17/97	9.0
Assurance Co of America	06/13/83	15.0	Fireman's Fund Ins Co	02/15/85	10.0
Atlantic Mutual Ins Co	06/01/00	5.0	Fireman's Ins Co of Newark, NJ	01/09/01	0.0
Atlantic Specialty Ins Co	08/01/96	15.0	Florists' Mutual Ins Co.	08/01/98	10.0
Automobile Ins Co of Hartford, CT	05/25/83	15.0	Fremont Indemnity Ins Co	10/28/97	15.0
Bankers Standard Ins Co	03/23/95	15.0	Frontier Ins Co	04/07/98	10.0
Blue Ridge Ins Co	05/15/96 <sup>1</sup>	15.0	GA Ins Co of New York	01/01/01	17.5
Blue Ridge Ins Co	08/01/96 <sup>2</sup>	15.0	General Security P&C Ins Co	06/03/99	10.0
Business Ins Co	02/01/97	15.0	Globe Indemnity Co	09/01/97	15.0
Casualty Ins Co	10/28/97	15.0	Graphic Arts Mutual Ins Co	01/01/84	15.0
Centennial Ins Co	07/15/88	10.0	Great Northern Ins Co	08/12/85	7.0
Centre Ins Co (formerly Business Ins Co)	02/01/97	15.0	Guidant Mutual (formerly Preferred Risk Mut)	02/01/94	12.5
Centurion Ins Co	08/01/99	10.0	Hartford Casualty Ins Co	04/01/99	15.0
Chubb Indemnity Co	05/01/96	15.0	Hartford Fire Ins Co	10/01/86	15.0
Church Mutual Ins Co.	10/01/00	15.0	Hartford Ins. Co. of the Midwest	05/02/86	10.0
Cigna Fire Underwriters Ins Co	03/23/95	10.0	Hartford Underwriters Ins Co	04/01/99	5.0
Cigna Property & Casualty Ins Co	01/01/97	10.0	Houston General Ins Co	08/22/96	15.0
Cincinnati Ins Co	12/15/99	10.0	Indemnity Ins Co of North America	01/01/97	15.0

**Table 40**  
**WORKERS' COMPENSATION--APPROVED RATE DEVIATIONS CURRENTLY IN EFFECT**  
**As of February 1, 2001**

<b>Company Name</b>	<b>Effective Date</b>	<b>Downward Deviation</b>	<b>Company Name</b>	<b>Effective Date</b>	<b>Downward Deviation</b>
Citizens Ins Co of America	02/01/85	15.0	Insurance Co of Greater New York	02/01/01	10.0
Legion Ins Co	12/01/96	15.0	Republic-Franklin Ins Co	01/01/88	10.0
Liberty Insurance Corporation	01/01/00	14.0	Royal Indemnity Co	09/01/97	17.5
Liberty Mutual Fire Ins Co	01/01/00	5.0	Safeco Ins Co of America	02/01/97	15.0
Lumber Mutual Ins Co	11/17/97	10.0	Safeguard Ins Co	05/01/95	10.0
Main Street America Assurance Co	06/24/96	10.0	Safety National Casualty Corp	01/02/98	10.0
Markel (formerly Ins Co of Evanston)	07/26/95	10.0	Selective Ins Co of South Carolina	08/19/96	15.0
Massachusetts Bay Ins Co	08/01/96	10.0	Selective Way Ins Co	07/01/94	7.5
Michigan Millers Mutual Ins Co	06/01/98	10.0	Sentry Select Ins Co (formerly John Deere)	08/01/97	10.0
Mount Vernon Fire Ins Co	07/10/97	10.0	St. Paul Mercury Ins Co	02/13/96	15.0
Netherlands Ins Co	04/01/97	15.0	Star Ins Co	01/08/97	15.0
New Hampshire Ins Co	05/15/96	15.0	Strathmore Ins Co	01/01/01	15.0
New York Casualty Ins Co	02/13/98	10.0	TIG Ins Co	01/01/01	7.5
Newark Ins Co	05/01/95	7.5	TIG Ins Co of New York	01/01/01	12.5
Niagara Fire Ins Co	01/09/01	0.0	TM Casualty Ins Co	11/01/00	15.0
NorGuard Ins Co	02/01/99	5.0	Transcontinental Ins Co	10/01/95	17.5
North River Ins Co	02/04/97	15.0	Travelers Casualty & Surety Co of Illinois	08/12/85	15.0
Northern Assurance Co of America	10/01/99	15.0	Travelers Indemnity Co of America	01/16/91	15.0
Northern Ins Co of New York	06/13/83	15.0	Travelers Indemnity Co of Connecticut	08/01/98	10.0
Oriska Ins Co	04/01/96	15.0	Ulico Casualty Co	01/11/96 <sup>3</sup>	15.0
Pacific Indemnity Co	01/13/83	15.0	Ulico Casualty Co	06/24/96 <sup>4</sup>	10.0
Paramount Ins Co	10/03/83	15.0	United Pacific Ins Co	07/01/96	7.5
Patriot General Ins Co	01/01/87	15.0	Universal Underwriters Ins Co	04/01/98	10.0
Peerless Ins Co	05/01/96	7.5	Utica National Assurance Co	01/07/98	17.5
Pennsylvania General Ins Co	10/01/99	17.5	Utica National Ins Co of Texas	01/01/96	17.5
Pennsylvania Manufacturers Assn. Ins. Co	10/01/96	10.0	Valley Forge Ins Co	06/15/83	15.0
Pennsylvania Manufacturers Indemnity Co	10/01/96	15.0	Wausau Business Ins Co	06/10/96	15.0
PG Ins Co of New York	10/01/99	15.0	Wausau Underwriters Ins Co	10/08/98	7.5
Princeton Ins Co	12/03/97	10.0	West American Ins Co	10/01/99	15.0
Realm Ins Co	01/03/97	10.0	Westport Insurance Corp.	08/20/98	10.0
Reliance National Ins Co	06/15/96	15.0	White Mountains Ins Co	03/15/99	10.0
Regent Ins Co	07/01/99	10.0	Worcester Ins Co	10/01/85	10.0

<sup>1</sup> New Business <sup>2</sup> Renewal Business <sup>3</sup> ADR (Alternative Dispute Resolution) Policies <sup>4</sup> Non-ADR (Alternative Dispute Resolution) Policies.

#### 4. Property/Casualty Insurance Security Fund (PCISF) Net Value and Contributions

Pursuant to Article 76 of the New York State Insurance Law, the Superintendent is required to annually determine the PCISF net value and any necessary PCISF contributions. To this end, there exists a Security Fund Task Force, consisting of members from different Bureaus in the Insurance Department, which formulates guidelines for calculating both the PCISF net value and the quarterly contributions. In order for the Superintendent to have the necessary flexibility to carry out the statutory obligations concerning the PCISF and the dynamic insurance market in general, the Task Force periodically reviews and revises the PCISF guidelines as circumstances warrant. A subgroup of this Task Force annually calculates the PCISF net value and any necessary quarterly contributions.

Prior to 1988, contributions were last required in 1973. In 1988, contributions resumed as a consequence of the Superintendent's determination that the fund's net value as of 12/31/87 had fallen below \$150 million. By statute, the quarterly contributions for the 1988 fund year were due on May 15, 1988, August 15, 1988, November 15, 1988 and February 15, 1989. Similarly contributions continued through 1992. For the 1993 fund year, the Superintendent determined that the PCISF net value was greater than \$150 million. Except for contributions that were due on February 15, 1993 from the prior fund year, no additional contributions were required in 1993. The same circumstances held true for the 1994, 1995, 1996 and 1997 fund years. In 1998, the Superintendent determined that the PCISF net value had once again fallen below \$150 million and contributions resumed. In 1999, however, the net value of the PCISF was determined to be greater than \$150 million, and in accordance with 7603 (C)(1), three additional contributions were due after this determination. In 2000, the Superintendent determined that the PCISF net value had once again fallen below \$150 million and the quarterly contributions resumed.

Table 48 below displays the amount of the estimated PCISF contributions per quarter since contributions first resumed in the 1988 fund year. The variation from year to year in both the magnitude of the PCISF net value and the estimated quarterly contributions reflects, in part, the variability associated with the PCISF payouts for awards and expenses and the PCISF dividends (returns from estates in liquidation) over the years.

#### PCISF Contributions\* 1988 - 2000

<u>Fund Year</u>	<u>Estimated Quarterly Contributions</u>
1988	\$15.0 million
1989	\$37.5 million
1990	\$ 5.5 million
1991	\$25.0 million
1992	\$ 7.5 million
1993 – 97	\$0
1998	\$8.3 million
1999	\$4.0 million
2000	\$18.8 million

During 1993, settlement was reached with respect to Alliance of American Insurers et al v. Chu et al (Albany County, Index No. 3279/88).

The 1993 through 2000 fund year net values and contribution amounts reflect the impact of that settlement.

## C. HEALTH BUREAU

### 1. Entities Under Health Bureau Supervision

The Health Bureau has responsibility for review and approval of accident and health insurance form, rate and rate adjustment filings made by any insurer licensed to write such insurance, including not-for-profit insurers, HMOs and commercial insurance companies licensed as life insurers, property / casualty insurers, fraternal benefit societies, etc. The Bureau had regulatory authority over all aspects of the fiscal solvency and market conduct of 75 insurers and HMOs as of December 31, 2000. These include 19 accident and health insurers, 1 property/casualty insurer (writing accident and health insurance only), 1 life insurer (writing accident and health insurance only), 14 health service and medical and dental expense indemnity corporations, 2 Article 43 of the Insurance Law HMOs, 35 Article 44 of the Public Health Law HMOs, 2 Article 47 of the Insurance Law Municipal Cooperative Health Benefits Plans and 1 Article 44 of the Public Health Law Integrated Delivery Systems.

In 2000, the Health Bureau received two applications for accident and health insurance licenses. One accident and health company was licensed and one accident and health application is still pending. With respect to the health maintenance organizations (HMO), 1 Article 44 HMO was issued a Certificate of Authority and one application was withdrawn in 2000.

The Bureau is closely monitoring the financial condition of one distressed HMO and the winding down operation of another. Two HMOs merged and 1 was placed in liquidation.

Article 47 of the New York Insurance Law, enacted in 1994, permits the formation of municipal cooperative health benefit plans. In 2000, an additional municipal cooperative health benefit plan was issued a Certificate of Authority, and 10 applications are pending.

Section 4408(a) of Public Health Law, enacted in 1996, permits the formation of integrated delivery systems. One such entity was issued a Certificate of Authority in 2000 and one application was closed.

### 2. Accident and Health Insurers

Fourteen stock and four mutual companies were licensed to transact only accident and health insurance at year-end 1999. In addition, the Bureau regulates one life insurer. The net premium written of the accident and health business for this life insurer is included in the following table.

**Table 41**  
**SELECTED ANNUAL STATEMENT DATA**  
**Accident and Health Insurers, 1997-1999**  
**(dollar amounts in millions)**

	1999	1998	1997
Number of Insurers	19	17	16
Net premiums written	\$4,288.5	\$3,682.0	\$3,756.1
Admitted assets	6,378.2	6,172.4	5,958.6
Unearned premium & loss reserves	958.6	930.0	883.9
Other liabilities	2,786.3	2,764.7	2,678.5
Capital	24.1	21.5	21.1
Surplus	2,609.2	2,456.2	2,375.1
Ratio of premiums written to capital and surplus	1.6	1.5	1.6

Source: New York State Insurance Department

**3. Article 43 and Article 44 Corporations**

Article 43 of the Insurance Law governs various non-profit health insurers and Article 44 of the Public Health Law governs health maintenance organizations (HMOs).

**a. Subscriber Rate Changes-HMOS**

Chapter 504 of the Laws of 1995 established a procedure for premium rate changes for Article 43 and Article 44 corporations that replaced the prior approval requirements of Section 4308(c) of the Insurance Law under specific conditions. This law permits an Article 43 or Article 44 corporation to submit a filing for a premium rate adjustment and such filing will be deemed approved upon a demonstration that the expected loss ratio will meet the minimum and maximum loss ratios prescribed in Insurance Law Section 4308(g). Premium adjustments using this methodology were previously limited to no more than 10% annually, but this annual cap was removed on January 1, 2000.

**Table 42  
SUBSCRIBER RATE CHANGES  
Subject to Prior Approval  
2000**

	<b>Average Percent Requested</b>	<b>Average Percent Approved</b>	<b>Effective Date</b>
<b>Insurance Law Article 43 Health Insurers</b>			
<b>HealthNow New York, Inc.</b> Albany Division	14.6%	13.9%	1/1/00
<b>Health Maintenance Organizations</b>			
<b>Empire Healthnet</b> Prescription Drug Riders for Blue Choice products	69.1	44.2	1/1/00
<b>Capital District Physicians Health Plan</b> Direct Pay Prescription Drug Riders Medicare Carve-out riders w/ drugs	37.9 58.6 35.0	25.9 50.9 20.7	1/1/00
<b>HUM HealthCare Systems</b> Base contracts Prescription Drug Riders Direct Pay	17.0 84.0 29.0	17.0 84.0 14.0	1/1/00

	<b>Average Percent Requested</b>	<b>Average Percent Approved</b>	<b>Effective Date</b>
<b>Independent Health Association (Hudson Valley)</b>			
Prescription Drug Riders (HMO only)	50.6%	13.0%	1/1/00
Prescription Drug Riders (POS)	78.4	33.8	
Direct Pay	39.7	9.9	
<b>MVP Health Plan</b>			
Group	11.8 to 26	11.8 to 26.0	1/1/00
Direct Pay	68.8 to 105.6 varies by region	14.4 to 38.4 varies by region	
<b>MVP Health Plan</b>			
Prescription Drug Riders	14.0	10.0	4/1/00
<b>North American Health Plans</b>			
Prescription Drug Riders	56.1	45.6	1/1/00
<b>North American Health Plans</b>			
Prescription Drug Riders	10.8	denied	5/1/00
<b>Preferred Care</b>			
Basic Group contract	6.67	6.67	
Prescription Drug Riders	8.50	8.50	4/1/00
Overall	7.0	7.0	
<b>Univera Healthcare – CNY</b>			
Basic Group Contract	7.0	7.0	
Prescription Drug Riders	48.6	34.5	1/1/00
Individual (Direct Pay)	12.2	12.2	
<b>Univera Healthcare – CNY</b>			
Prescription Drug Riders	15.0	15.0	5/1/00
<b>Univera Healthcare – WNY</b>			
Prescription Drug Riders	45.0	45.0	1/1/00
HH Subscriber Agreement	14.5	14.5	

**b. Subscriber Rate Changes - Article 43 and Article 44 Corporations:**

The following tables show aggregate figures on assets, liabilities, surplus funds, premium income and membership for years 1997-1999:

**Table 43**  
**HEALTH SERVICE CORPORATIONS\***  
**Selected Data, New York State**  
**1997-1999**  
**(dollar amounts in millions)**

	1999	1998	1997
Number of Companies	11	11**	14
Admitted Assets	\$4,321.0	\$4,052.6	\$3,740.1
Liabilities	3,084.0	3,072.2	2,748.1
Surplus Funds	1,237.0	980.4	992.0
Net Premium Income:			
Hospital	\$5,361.9	\$5,136.9	\$4,922.7
Medical/Dental	4,108.0	4,032.0	3,910.2
Number of Contracts & Riders in Force:			
Hospital	2.7***	2.6***	2.7***
Medical/Dental	2.3***	2.5***	2.7***

\* Insurance Law Article 43 health service corporations are permitted by the provisions of Section 4301(e) of the Insurance Law to provide coverage for hospital service and medical and dental care. They are also granted certain additional powers to permit the development of comprehensive health care plans.

\*\* On December 31, 1998, Excellus Health Plan, Inc. merged with Finger Lakes Health Insurance Company, Inc., Finger Lakes Medical Insurance Company, Inc., and Utica-Watertown Health Insurance Co., Inc. The surviving company was Excellus Health Plan, Inc.

\*\*\* in millions

**Note:** See first footnote, Table 45

Source: New York State Insurance Department

**Table 44**  
**MEDICAL & DENTAL EXPENSE INDEMNITY CORPORATIONS**  
**Selected Data, New York State, 1997-1999**  
**(dollar amounts in millions)**

	1999	1998	1997
Number of Companies	3	3	3
Admitted Assets	\$19.0	\$13.4	\$11.3
Liabilities	10.5	6.9	7.0
Surplus Funds	8.5	6.5	4.3
Net Premium Income	18.3	12.5	8.9
Number of Contracts in Force	622	556	490

Source: New York State Insurance Department

**Table 45**  
**HEALTH MAINTENANCE ORGANIZATIONS**  
**That Are a Line of Business of a Health Service Corporation\***  
**Selected Data, New York State**  
**1997-1999**  
**(dollar amounts in millions)**

	1999	1998	1997
Number of Companies	4	4**	5
Net Premium Income	\$4,046.7	\$3,376.6	\$2,892.0
Number of Participants	2.2***	2.1***	1.9***

\* Figures shown in this Table are included in the corresponding figures shown in the Table 43, "Health Service Corporations."

\*\* Due to the merger of the four Article 43 Corporations mentioned in the above section, Finger Lakes HMO (the HMO line of business of Finger Lakes Health Insurance Company, Inc.) and HMO Blue (the HMO line of business of Utica-Watertown Health Insurance, Inc.) were consolidated.

\*\*\* in millions

Source: New York State Insurance Department

**Table 46**  
**HEALTH MAINTENANCE ORGANIZATIONS**  
**That Are Not a Line of Business**  
**Selected Data, New York State**  
**1997-1999**  
**(dollar amounts in millions)**

	1999	1998	1997
Number of Companies	34	32	32
Admitted Assets	\$3,137.8	\$2,975.6	\$2,904.5
Liabilities	2,247.8	2,344.1	2,188.7
Surplus Funds	890.0	631.5	715.8
Net Premium Income	9,875.0	9,415.2	8,411.6
Number of Participants	4.7*	4.8*	4.7*

\* in millions

Source: New York State Insurance Department

#### 4. Examinations Conducted by the Health Bureau

During the year 2000, the field unit of the Health Bureau conducted 40 examinations of regulated entities, as itemized in the following chart:

	Total	Regular Scheduled		Other		
		Initiated in 2000	Prior to 2000	Special	On Organization	
<b>By type of insurer</b>						
HMO	18	12	5	1	0	
HMDI	9	4	4	1	0	
Commercial	11	6	5	0	0	
Other	2	0	0	0	2	
<b>Total</b>	<b>40</b>	<b>22</b>	<b>14</b>	<b>2</b>	<b>2</b>	
<b>By type of exam</b>						
Financial	10	9	1	0	0	
Market Conduct	11	3	8	0	0	
Combined	15	10	5	0	0	
Other	4	0	0	2	2	
<b>Total</b>	<b>40</b>	<b>22</b>	<b>14</b>	<b>2</b>	<b>2</b>	

#### 5. Review of Accident and Health Policy Forms

The Health Bureau processed 8,734 accident and health policy forms in 2000.

**Table 47  
ACCIDENT & HEALTH  
Policy Forms Processed  
2000**

Individual Accident and Health	1,387
Group Accident and Health	5,059
Blanket	533
Article 43 Organizations (group)	559
Article 43 Organizations (individual)	57
HMO	1,009
Franchise	114
Fraternal Benefit Societies	16
<b>Total</b>	<b>8,734</b>

Of the 8,734 total, 4,253 forms were approved for use both in and out of state; 1,304 forms were disapproved, withdrawn, or closed for lack of company action; 2,044 forms were filed for use in states other than New York; 449 forms were filed for reference purposes or otherwise processed and closed; and 684 forms were closed pursuant to Circular 14 (1997). This circular letter permits the Department to return all product and rate submissions that are incomplete, that are not drafted to comply with New York's statutory and regulatory requirements, or that are poorly organized or difficult to understand.

Eleven submissions were received under the deemer provisions of Section 3201(b)(6) of the Insurance Law. All submissions were handled within the statutory time frames. No submissions were deemed approved.

## **6. Review of Rate Filings by the Accident and Health Rating Section**

The Accident and Health Rating Section received 1,489 rate filings and processed 1,424 rate filings during 2000. These include initial rate filings for new policy forms submitted by commercial insurers and Article 43 and Article 44 corporations and HMOs, and rate adjustment filings for commercial insurers.

## **7. Pre-filings, Inquiries and Complaints**

In conjunction with the policy form and premium rate review process, the Bureau processes pre-filings submitted in accordance with section 52.32 of Regulation 62 (11 NYCRR 52.32) and responds to inquiries and complaints. The Bureau processed 20 pre-filings of policy form submissions in 2000 and provided written answers to 78 formal consumer inquiries and complaints concerning policy forms or related issues. In addition to formal responses to written complaints and inquiries, the Health Bureau monitors a dedicated mailbox on the Department's Web page. On average, between 15 and 20 e-mail inquiries or complaints are received each week. Also, the Bureau responds to several hundred telephone inquiries each year.

## **8. Integrated Delivery Systems**

Section 4408-a of the Public Health Law, enacted in 1996, permits the formation of integrated delivery systems. However, this section of the law provides that integrated delivery systems may not be certified after April 1, 2002 and that integrated delivery systems issued certificates of authority before that date may not accept any new enrollees thereafter. In 2000, one integrated delivery system was issued a certificate of authority.

## **9. The External Appeal Law and Program (Chapter 586 of the Laws of 1998)**

On July 1, 1999 New York's landmark external appeal law became effective. This law permits consumers to obtain an independent review of a health plan's denial of coverage on the basis of medical necessity or because the services are considered experimental or investigational. To be eligible for an external review, the denial must first be appealed through the health plan's internal appeal process or the health plan and the patient must jointly agree to waive the internal appeal process. A patient then has 45 days from receipt of the final adverse determination from the first level of internal appeal with the health plan or from notification of the waiver to request an external appeal.

External appeal requests are submitted to the New York State Insurance Department, which is responsible for screening requests for eligibility and completeness. The Insurance Department must review external appeal requests within 24 hours for expedited appeals and five business days for standard appeals. If the request is complete and eligible for external review, Insurance Department staff will assign the request to a randomly selected external appeal agent.

External appeal agents have comprehensive panels of medical experts available to review appeals. Two external appeal agents have been jointly certified by the Health Bureau of the Insurance Department and the New York State Health Department; Island Peer Review Organization (IPRO), located in Lake Success, New York, and Medical Care Management Corporation (MCMC), located in Bethesda Maryland. Once a request is assigned to an external appeal agent, the agent must make a determination within three days for an expedited appeal or within 30 days for a standard appeal. An appeal is expedited when a physician attests that a delay in providing the health service would pose an imminent or serious threat to the health of the patient.

In order to ensure that the external appeal program would be operational for July 1, 1999 the Health Bureau of the Insurance Department, in consultation with the Health Department, promulgated regulations, developed an application and process for certification of external appeal agents, developed

instructions and an application for patients and providers to request an external appeal, developed an internal intake, screening and electronic tracking process for external appeal requests, developed a schedule for Insurance Department staff to be on-call on weekends and holidays to handle expedited external appeal requests and conducted outreach so that consumers and health plans were made aware of their rights and responsibilities under the new legislation.

As part of the outreach, the Insurance Department launched a dedicated toll free hotline (1-800-400-8882) to respond to questions and assist in the filing of external appeal requests. The Insurance Department has responded to over 8,000 calls on the hotline. External appeal applications, questions and answers concerning the external appeal process and information on certified external appeal agents is also available on the Insurance Department's Web site at: [www.ins.state.ny.us](http://www.ins.state.ny.us).

The Insurance Department's outreach has been successful as indicated by the volume of external appeals requested. The Insurance Department received over 2,500 external appeal requests from July 1, 1999 through March 1, 2001. The overwhelming majority of external appeal requests concern denials based on medical necessity rather than denials because the service is considered experimental or investigational. Also, the majority of external appeals assigned to agents have been standard as opposed to expedited. It should be noted that not all of the 2,500 requests for external reviews will be identified as closed cases. Some are rejected as ineligible; others are reversed voluntarily by the health plan before an agent is assigned or renders the decision; still others are pending with the agent (agent has 30 days to make a decision) or pending with the department because information was missing from the appeal application.

The Table 47A breaks out the number of health plan determinations that have been either upheld or overturned by external appeal agents based on whether the appeal was standard or expedited. Table 47B distributes the number of appeal determinations by the type of denial (either a medical necessity denial or an experimental/investigational denial). Table 47C breaks down external appeal results by the specific external review agent handling the appeal.

**Table 48**

**A. External Appeal Determinations by Type of Appeal from July 1, 1999 – March 1, 2001**

<b>Type of Appeal</b>	<b>Total</b>	<b>Overturned</b>	<b>Upheld</b>
Expedited	87	44	43
Standard	1,215	600	615
Total	1,302	644	658

**B. External Appeal Determinations by Type of Denial from July 1, 1999 – March 1, 2001**

<b>Type of Denial</b>	<b>Total</b>	<b>Overturned</b>	<b>Upheld</b>
Medical Necessity	1,198	609	589
Experimental or Investigational	104	35	69
Total	1,302	644	658

**C. External Appeal Determinations by Agent from July 1, 1999 – March 1, 2001**

<b>Agent</b>	<b>Total</b>	<b>Overturned</b>	<b>Upheld</b>
I PRO	607	306	301
MCMC	695	338	357
Total	1302	644	658

## 10. Market Stabilization Mechanisms for Individual and Small Group Health Insurance

The Health Bureau oversees the operations of The New York Market Stabilization Pools. The Pools, initially established by Regulation 146 in 1993 to stabilize premium rates in the individual and small group markets, process annual revenues averaging in excess of \$100 million, through contributions from HMOs and insurers who insure a low proportion of high risk, high cost persons under their individual and small group health insurance policies. Under the pool formula, contributions are paid out each year to carriers that insure a disproportionately large share of such persons under their individual and small group health insurance policies. The purpose is to protect HMOs and insurers against potential excessive losses associated with high-risk exposures with the aim of maintaining such carriers' presence in the individual and small group markets, thereby sustaining viable competition and making affordable coverage available to individuals and small businesses. The Health Bureau is responsible for the oversight of all pool activities and operations, including, but not limited to:

- Assessing pool administrative needs, summarizing functions, preparing and distributing Requests for Proposals (RFP) for pool administration, reviewing proposals and selecting a pool administrator;
- Oversight of the pool administrator's collection, distribution and accounting activities related to the operation of a total of 21 pools in seven regions, including quarterly review and authorization of pool distributions;
- On-site audit of pool administration, including operations, finances, accounts, controls and results;
- Directing the pool administrator's Audit Manager in prioritizing triennial field audits of the more than 70 pool participants, including not-for-profit and commercial insurers, and HMOs;
- Resolving issues directly with pool participants when such issues cannot be resolved by the pool administrator;
- Ongoing review/desk-audit (monthly) of administrative fees billed by the pool administrator for consistency with contract terms, and authorization of fee payments;
- Review and re-design of pooling processes, rules and the contribution/distribution formulas;

During the past year, the Insurance Department promulgated the third amendment to Regulation 146 and proposed a fourth amendment to Regulation 146. The amendments were drafted by Health Bureau staff in consideration of the advice and recommendations of a Technical Advisory Committee, which was established by the Governor and the Legislature and made up of representatives of not-for-profit and commercial insurers, health maintenance organizations, and consumers. After careful review and analysis of risk adjustment methods and pertinent industry data, in consultation with an independent actuary, the amendments were proposed to provide for the phase out of the original demographic-based pooling formula for pools that deal with individual health insurance policies and small group health insurance policies, other than Medicare supplement insurance policies, to be replaced by a new claims-based pooling mechanism as required by the Insurance Law.

Specifically, the third amendment establishes interim mechanisms for distribution of funds from pool years 1997 and 1998. Pursuant to the provisions of that amendment, approximately \$90 million has already been distributed to participants by the pool administrator under the direct supervision of Health Bureau staff.

The proposed fourth amendment establishes a permanent mechanism for calculating contributions to and distributions from market stabilization pools from January 1, 1999 forward. This mechanism utilizes a claims-based relative weighting formula, which will require certain claims data submission that was not required under the former demographic pools. Health Bureau staff, after careful analysis of the formula, criteria, and rules, have begun constructing detailed Instructions and Exhibits which are to be disseminated to carriers in the individual and small group pools once the amendment is formally adopted. Prototype spreadsheets are being developed to allow for direct data entry and electronic transmission to the pool administrator, automated computation of each carrier's average relative cost

factor and regional average relative cost factors, and as a result, the expedited distribution of needed risk adjustment funds.

The Health Bureau is in ongoing discussions with the pool administrator relative to establishing audit processes and priorities suitable for review of the new market stabilization mechanisms, while overseeing the distribution of funds from the old pools in the individual and small group markets.

## **11. Health Care Reform Act of 2000 – Individual Market Reform**

The recently passed Health Care Reform Act of 2000 (HCRA) required the Insurance Department to implement a unique program designed to ensure that individual consumers have continued access to comprehensive health insurance. HCRA allocated \$130 million dollars over a three and ½ year period commencing 1/1/2000 and ending 7/1/2003 to direct payment market reforms. The Department has been working since early 1999 to build and implement the components of this program.

HCRA requires the establishment of two state funded stop loss funds which will operate on a calendar year basis from which health maintenance organizations may receive reimbursement for certain claims paid on behalf of members covered under individual enrollee direct payment contracts. These stop loss funds are established for the purpose of stabilizing the premium rates for such individual standardized health insurance contracts for the benefit of both existing enrollees and currently uninsured individuals seeking to purchase health insurance coverage.

During calendar year 2000, after engaging in extensive public outreach, the Department drafted regulations designed to implement the HCRA Direct Payment Market Reforms. The regulations have been shepherded through the SAPA process, put through one public comment period and revised based upon comments received. They are now moving towards finalization.

The Department is responsible for ensuring that the rates imposed in the standardized direct payment market correctly account for the availability of stop loss funding. The Department has issued multiple industry surveys for the purposes of: (1) ensuring that HMOs have appropriately adjusted for the stop loss funds in utilizing the file and use mechanism for effectuating rate increases; (2) monitoring anticipated claims against the stop loss funds and (3) ensuring that loss ratios for these products are satisfied.

The Department is also responsible for oversight of the distribution of the allocated funding to HMOs submitting valid claims for reimbursement from the stop loss funds. For administration of the stop loss funds in year 1, the Department developed a request for proposal to hire a stop loss fund administrator and convened a bidders conference to review questions and related matters. The Department has selected an administrator and the terms of a proposed contract are being reviewed by the Comptroller's Office. Until such time as a final contract is actually in place, the Health Bureau is handling the administration of the Stop Loss Funds directly. The Department must then train and oversee the stop loss fund administrator in the processing of claims requests for the program.

The Department has developed a claims submission process for the HMOs to permit claims to be made against the stop loss funds and has provided HMOs with guidance on utilization of this process. The Department has also developed a quarterly reporting process that will track expected expenditures from the stop loss pools. The Department has been in daily discussions with industry representatives, responding to questions. The Department must make application for the release of the allocated stop loss funding and must distribute such funds to the eligible HMOs. The Department is responsible for the annual submission of a report on the affairs and operations of the stop loss funds to the Senate Finance Committee and the Assembly Ways and Means Committee.

## **12. Health Care Reform Act of 2000 – The Healthy NY Program**

The recently passed Health Care Reform Act of 2000 (HCRA) requires the Insurance Department to implement the Healthy NY program. The program is designed to bring health insurance coverage to a portion of New York's 3.1 million uninsured residents and has been allocated \$219 million over a 2½ year period, commencing January 1, 2001.

The Healthy NY program is a unique and ambitious approach to addressing the ever-worsening problem of the uninsured. New York is unable to rely upon prior experience or the experience of other states in implementing the program. The Department has been working since early 1999 to build and implement the components of the program.

The Healthy NY program has been up and running since January 1, 2001. The program attempts to address the problem of the uninsured through both a small employer based approach and an individual approach. All HMOs licensed in New York State are required to sell a "scaled down" standardized comprehensive health insurance benefit package to qualifying small employers, sole proprietors and individuals. The eligibility criteria for the program differs significantly depending upon whether the applicant is a working uninsured individual, a sole proprietor or a small employer group. The Healthy NY product includes a unique rating structure designed to pool the experience of participating individuals and small groups. The program also utilizes a state funded stop-loss feature designed to contain premium rates and limit the exposure of HMOs to excessive health care costs.

The major responsibilities of the Department in connection with implementation of the Healthy NY program for year 2000 included:

### **a. Program Development:**

Throughout calendar year 2000, the Department engaged in extensive outreach to the insurance industry, the small business community, providers, interested parties, the legislature and other agencies in the development of the Healthy NY program. Based upon this input, regulations designed to serve as the foundation for program implementation have been drafted, put through a formal comment period, and revised based upon input from interested parties.

### **b. Eligibility Screening and Industry Education:**

The Healthy NY program includes fairly complex eligibility rules - which differ entirely for individuals vs. individual proprietors vs. small employer groups. All HMOs must have staff fully versed in making eligibility determinations. The Department has provided and continues to provide extensive training and guidance to HMOs in this regard. Policy with respect to eligibility determinations continues to evolve. The Department handles consumer appeals regarding adverse eligibility determinations. The Department has established a Healthy NY consumer hotline to address consumer questions.

### **c. Subscriber Contracts**

The Department has reviewed and issued approvals of standardized subscriber contracts and certificates for the Healthy NY program. The Department provided the industry with extensive guidance (including complete model subscriber contracts) on the development of the Healthy NY contracts. Extensive guidance has also been issued to ensure standardized administration of the Healthy NY product.

**d. Rating of the Healthy NY Product**

The Department is responsible for the review and approval of the rates for the Healthy NY product. Given the uniqueness of the Healthy NY product, it was necessary for the Department to provide extensive guidance to insurers to ensure that the premium rates were established appropriately. Rates needed to account for the availability of stop loss funding. Twenty-six rate reviews were conducted during calendar year 2000 to establish initial 2001 program rates. Rate increases in future years must be monitored based on actual claim and stop loss experience.

**e. Re-certification**

The Healthy NY program requires participants to re-certify as to their eligibility on an annual basis. The Department has developed the re-certification process and will be engaged in educating the HMOs regarding that process. The Department will also be responsible for handling appeals of eligibility denials emanating from that process.

**f. Stop Loss Fund Administration**

The Department is responsible for oversight of the distribution of the allocated funding to HMOs submitting valid claims for reimbursement from the stop loss funds. For administration of the stop loss funds in year 1, the Department developed a request for proposal to hire a stop loss fund administrator and convened a bidders conference to review questions and related matters. The Department has selected an administrator and the terms of a proposed contract are being reviewed by the Comptroller's Office. Until such time as a final contract is actually in place, the Health Bureau is handling the administration of the stop loss funds directly. The Department must then train and oversee the stop loss fund administrator in the processing of claims requests for the program.

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**g. Tracking Maximum Enrollment**

The Department must annually assess and estimate maximum enrollment in the Healthy NY program so that enrollment could be suspended in the event that demand for the program exceeds available funding. The Department has been working to develop estimates of enrollment and the resulting calendar year paid stop loss claims for that enrollment based upon modeling how expected stop loss calendar year paid claims vary by issue month. A process has been established to track monthly enrollment in the Healthy NY program. Monitoring of actual enrollment by month will include adjusting maximum enrollment if necessary.

**h. Annual Study of the Healthy NY Program.**

Under Section 212 of the Insurance Law, the Department is responsible for annually ordering a study of the Healthy NY program which includes an examination of employer participation, an income profile of covered employees and qualified individuals, claims experience, and the impact of the program on the uninsured. The report is due annually beginning January 2002.

**i. Coordination with other Public Programs.**

Healthy NY is designed to complement and build upon both the existing Child Health Plus (CHP) program and the Family Health Plus program that was also authorized as part of HCRA of 2000. Extensive coordination with the Department of Health is necessary to ensure that the eligibility standards utilized by these programs mesh to the extent feasible. The Department is working to try to ensure that consumers received information that facilitates their enrollment in the program that is most appropriate. Additionally, HCRA 2000 phased out several other public programs including the NYSHIP program for small business, VIP and several other regional pilot programs in favor of Healthy NY. The Department needs to work to ensure that there is a seamless transition to Healthy NY.

**j. Consumer Issues**

The Department has been responding to a significant volume of consumer questions and complaints regarding the nature and operation of the Healthy NY program. The Department has also worked to address consumer complaints with HMOs in order to ensure appropriate and correct resolution. The Department has established a toll free hotline to provide consumers with information about the Healthy NY program. The Department has been and will continue to respond to ever increasing speaking requests from groups with a desire to learn more about the program. The Healthy NY program has drawn the interest of small business groups, chambers of commerce, not-for-profit activists, educators, analysts, various state and federal legislators and other governmental agencies.

**k. Market Conduct**

The Department has been handling market conduct issues relating to HMO participation in the Healthy NY program.

**l. Marketing and Outreach**

The Healthy NY statute allows for the expenditure of up to 10% of the program's funds on public education, outreach and facilitated enrollment strategies. Such marketing and outreach efforts will be crucial to the success of the program. The Department has established a toll free hotline to provide consumers with information about the Healthy NY program. The Department has also developed and distributed informational materials regarding the program and has made extensive information available on the Department's Web site. Now that the program is operational, focus will be shifted towards expanding marketing and outreach efforts through a wide variety of mediums.

**13. Voucher Insurance Program**

During 2000, the Voucher Insurance Program provided subsidized health insurance coverage to 1,200 uninsured individuals in Westchester and Rensselaer counties. The Voucher Insurance Program is a demonstration program designed to lessen inappropriate use of emergency room services, reduce the need for inpatient care and improve the overall health of persons covered under the Program by providing them coverage for primary and preventive health care services.

**14. Child Health Plus**

During 2000, the Department continued its role of reviewing and approving subscriber contracts and premium rates for the Child Health Plus program, including a permissible premium increase for several participating health plans who elected to perform facilitated enrollment for the program. Department staff also participated in meetings sponsored by the Department of Health with insurers and other interested parties to discuss issues regarding the ongoing operation of the program.

## **15. Medicare+ Choice Terminations**

The HMO exodus from the Medicare+ Choice marketplace continued during 2000. Seven HMOs notified the federal Health Care Financing Administration (HCFA) of their intent to leave all or part of their service areas. The Department reacted immediately to assist those New Yorkers losing coverage by working with HCFA to ensure that useful information detailing the protections provided by New York Law was provided to persons affected by the withdrawal. Information was posted to the Department Web site for interested parties.

## **16. Utilization Review Reports**

Article 49 of the Insurance Law requires health insurers and utilization review agents under contract with health insurers to biennially report to the Superintendent on utilization review activities. During 2000, 22 reports of insurers and utilization review agents were reviewed for compliance with Article 49 and placed on file with the Department.

## **17. Electronic Workflow/Imaging System**

The Health Bureau is in the final stages of development and testing of an integrated electronic workflow/imaging system using the VisiFlow software package. Initially, accident and health insurance form and rate submissions sent to the Bureau in paper format will be scanned. The electronic images will then be routed for review. This system will simplify Bureau record keeping and will consolidate all information relating to a particular filing in one electronic file.

## **18. Continuing Care Retirement Communities**

The Insurance Department has a permanent seat on the Continuing Care Retirement Community Council. This council has the primary licensing and oversight authority for CCRCs. The Insurance Department has specific responsibility for the review of the contract and disclosure documents given to residents and prospective residents, as well as an initial determination of the financial feasibility of a proposed project and ongoing oversight of the fiscal solvency of communities. Our continuing oversight encompasses review of the rating structure of a community, adequacy of reserves and periodic on site examinations of the financial condition of a community.

There are now nine CCRCs in New York with a Certificate of Authority issued by the CCRC Council. Four of these communities are fully operational. The Andrus on Hudson was granted a Certificate of Authority in October of 2000 to construct and operate a community. Peconic Landing received approval for a revised Certificate of Authority reflecting changes in the construction timetable and proposed management of the community. Three CCRCs received Insurance Department clearance to enter into IDA bond financing arrangements related to the construction of the community, as required by Article 46 of the Public Health Law. Reviews of filed annual reports and fee changes led one CCRC to initiate rating structure changes and another CCRC to file new management agreements.

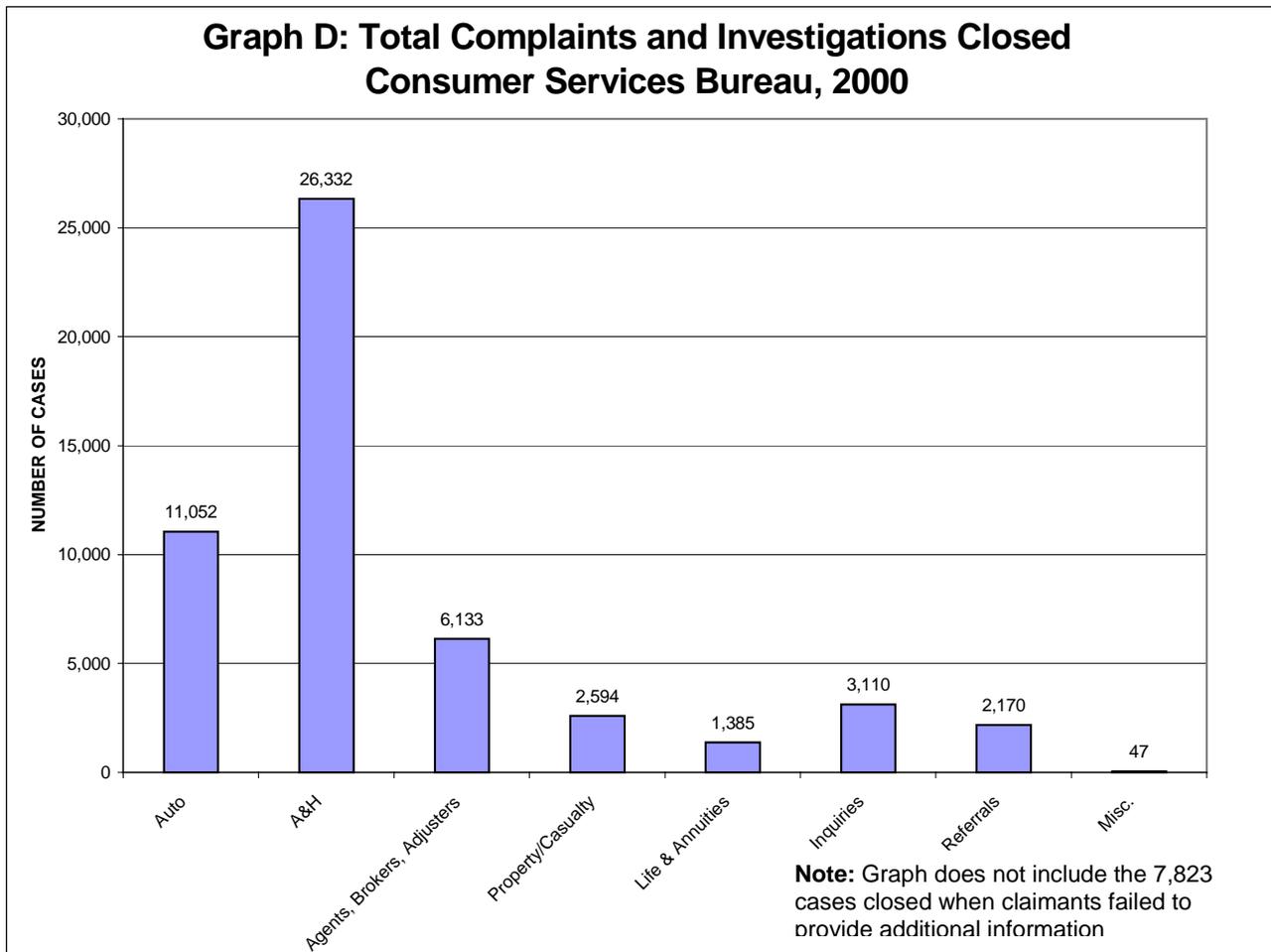
## **19. Long Term Care Insurance for State and Retired State Employees**

Chapter 585 of the Laws of 1998 amended the Civil Service Law by adding a new Article XI-A entitled "Long Term Care Insurance For State And Retired State Employees". This program utilizes an employee pay all group insurance policy issued to the state. Coverage under the policy is to be purchased by current and retired state employees. Representatives of the Health Bureau participated with the Department of Civil Service in the procedure which selected the benefit package that would be put up for bid. The Bureau was also involved in evaluating and scoring the bids for the policy submitted in response to the Request for Proposals that was issued by the Department of Civil Service. The evaluation of bids involved both the contract language submitted by the various insurers that submitted bids and the premium rates proposed for the coverage.

## CONSUMER SERVICES BUREAU

### 1. Consumer Complaints

The Consumer Services Bureau is responsible for responding to consumer complaints and inquiries and investigating the actions of licensed producers. The Bureau *closed* a total of 60,646 cases in 2000. Of these, 41,410 involved loss settlements or policy provisions, of which 27% were automobile complaints, 64% were accident and health complaints, 6% were property and liability complaints and 3% were life and annuity complaints. An additional 7,823 cases were closed when the complainants failed to furnish additional information deemed necessary in order to proceed with the case. Another 6,133 cases involved complaints against agents, brokers and adjusters. Written inquiries accounted for 3,110 and referrals accounted for an additional 2,170 cases. In total, the Bureau *received* 63,697 cases during 2000.



The Bureau responded to approximately 450,000 telephone calls on both the Albany and New York City information lines. The Bureau's telephone system is an attendant system whereby the caller listens to a menu of topics and selects one by pressing the appropriate number on the dial. The caller is also given the option of speaking to an agency services representative. The Bureau also maintains a toll-free line that will access a multi-lingual telephone service. This interpretive service, provided by AT&T Language Line Services, can translate 140 languages.

In addition, the Bureau through a dedicated toll-free line, responded to approximately 5,400 calls related to the New York State Partnership for Long Term Care. The Governor and state legislators

authorized the Partnership, established under a grant by the Robert Wood Johnson Foundation, in 1989. Private insurers began offering Partnership contracts in 1993, and since then many long term care insurers have responded to the demand for long term care policies qualifying for favorable federal and state tax treatment by offering Partnership policies.

The Partnership allows individuals to qualify for Medicaid after their long term care policy benefits are exhausted without divesting themselves of their assets. The Program thus encourages self-sufficiency by guaranteeing asset protection for policyholders and the saving of the state's Medicaid funds. Additionally, the Consumer Services Bureau mailed Partnership literature to thousands of consumers and worked with both the Department of Health and the State Office of the Aging on consumer education.

## **2. Prompt Payment Statute**

Section 3224-a of the New York Insurance Law, known as the "Prompt Payment Bill," became effective January 22, 1998. Under the statute, insurers and HMOs are required to pay undisputed health insurance claims within 45 days of receipt.

The Consumer Services Bureau has committed significant resources to the investigation of complaints involving claims subject to the prompt payment statute. In addition, the Bureau has sought to ensure the prompt payment to doctors, hospitals and insureds, and the compliance by health insurers and HMOs with all other provisions of this statute.

During 2000, the Department fined 20 insurers and HMOs a total of \$575,000 for violations of the prompt payment statute. The Consumer Services Bureau continues to take enforcement action against health insurers and HMOs who violate the prompt payment statute by levying periodic fines and increasing the amount of fines for repeat offenders.

## **3. External Review**

Effective July 1, 1999, Article 49 of the New York Insurance Law entitles New Yorkers to an independent external review of a health care plan's denial of coverage if the denial is due to lack of medical necessity or because the services are considered experimental and/or investigational. The Insurance Department performs the tasks of accepting applications for external appeals, determining eligibility of applicants, and assigning the applications to an external appeal agent after reviewing for conflict of interest, among other things. If an HMO is involved, the Insurance Department notifies the Department of Health as well.

During 2000, the Department received 1,708 applications for external appeals, 927 of which were assigned to external appeal agents. Of the reviews concluded in 2000, approximately 49% of insurers' and HMOs' final adverse determinations were overturned by the external appeal agents, and 51% were upheld.

In addition, the Consumer Services Bureau staffs a toll-free telephone line dedicated to respond to inquiries pertaining to the external review process. During 2000, the Bureau responded to over 4,400 calls for this line.

## **4. Disaster Preparedness/Emergency Management**

The year 2000 was a relatively quiet year for natural disasters in New York State. The Bureau was not required to staff the State Emergency Management Office's (SEMO) emergency operations center or disaster recovery centers during 2000. However, staff did provide information and expert advice to SEMO concerning smaller natural disasters. Bureau staff also received training from SEMO

staff concerning their internal messaging systems and also participated in disaster exercises at the emergency operations center.

During September 2000, the Bureau staff participated in the Federal Emergency Management Agency (FEMA) program regarding flood plan management and the National Flood Insurance Plan. The Bureau, with assistance from the Professional Insurance Association, helped to disseminate the program's information to all insurance agents licensed in New York State. The information was also posted to the Department Web site with a link to FEMA's Web site. The program provided information to consumers, as well as to the agents, concerning the National Flood Insurance Plan.

## **5. Other Bureau Activities**

### **a. Imaging**

The Bureau continues to expand on the Consumers' Information and Imaging Management System (CIIMS) project. Over 150,000 cases have been processed and investigated using CIIMS technology since going into production in November of 1998. Over 1.5 million documents have been scanned and processed using CIIMS.

- On May 1, 2000, the Department issued Circular Letter No. 14 (2000) which announced to all licensees new functionality of the Consumer Services Bureau's CIIMS project. The new functionality enables the Bureau to fax all complaints and inquiries to insurers and HMOs without any need for manual intervention. The Circular Letter also requested all insurers and HMOs to fax their responses to the Bureau's complaints to prescribed tele-fax numbers. This new functionality has reduced by 200,000 the number of documents scanned into CIIMS each year.
- In 2000 CIIMS was migrated into the Office of General Counsel. All files and documents referred to General Counsel are sent electronically.

### **b. State Fair, Conferences & Festivals**

Bureau examiners staffed the Department's information booth at the State Fair in Syracuse from August 24 through September 4, 2000. Examiners also staffed an information booth at the Erie County Fair from August 9 through August 20, 2000. At these booths, the examiners answered consumer questions, took complaints and distributed the Department's various consumer guides and booklets. Over 42,000 publications were distributed to the public at these two fairs.

The Bureau also participated in and staffed information booths at the Black and Puerto Rican Legislators Annual Conference, Martin Luther King, Jr., Holiday Memorial Observance, the African-American Cultural Festival, the Puerto Rican/Hispanic Legislators Annual Conference (Somos El Futuro), the Department of Health's Health Fairs, Fire Prevention Week and the Department of Parks and Recreation Employee Awareness Day Fair.

The Bureau continues to be a member of the New York State Consumer Protection Board's Consumer Services Committee. The Committee includes representatives of federal, state and local consumer protection agencies and non-profit organizations. The committee meets to share program initiatives with peers in an effort to keep abreast of consumer concerns.

### **c. Investigation Unit**

The Bureau's Investigation Unit processes complaints against licensed agents, brokers and adjusters. During 2000, the Unit developed a procedures manual for new examiner trainees and the

Agency Service Representatives. The Unit also assisted in the drafting of various circular letters that dealt with the sale of promissory notes and compliance with the Violent Crime Control Law Enforcement Act of 1994.

The Bureau was instrumental in revoking the license of an individual who had sold promissory notes to his clients without having a license to sell securities in New York State. His clients suffered losses of approximately \$433,000, and he was subject of a report shown on "Dateline," a national television news program. The individual signed a stipulation agreeing to the revocation of his license.

#### **d. DMV Insurance Information Enforcement System (IIES)**

In November of 2000, the Bureau joined forces with the Department of Motor Vehicles in an effort to resolve consumer complaints regarding the compliance of automobile insurers with DMV's IIES Program. Bureau examiners worked directly with DMV staff and insurance company liaisons to resolve matters which, in some cases, resulted in consumers having their automobile registrations and driving licenses suspended by DMV.

#### **e. Miscellaneous**

During 2000, a program designed to make affordable health benefits accessible to New York State's small business owners and working uninsured individuals was adopted. Although this program, named Healthy NY became effective on January 1, 2001, the Bureau began conducting informational sessions throughout the State during 2000. Additionally, the Bureau instituted a toll-free hot line to answer questions about this new program.

The Bureau continues to conduct informational sessions in an effort to assist senior citizens and groups for whom Medicare Supplement (Medigap) and long term care insurance were the issues of primary concern. Bureau staff participated in educational and training seminars on these issues for social workers and senior citizens and also provided technical training, including updating the training manuals, for the staff of the New York State Office of the Aging's HIICAP program. Additionally, the Health Care Financing Administration and the Suffolk County Office of the Aging requested the Bureau to extend educational training to individuals who had their coverage terminated by Medicare HMOs withdrawing from New York State. Availability of other options and portability of coverage in New York State assisted many New Yorkers find alternate coverage.

Bureau representatives also continued to participate in educational sessions with New York residents and health care providers on the recent External Review Law allowing insureds to file external appeals when their health plan issues to them an adverse determination. These representatives and others from the Department of Health continued to make joint presentations statewide on how the external review process works.

In November of 2000, the Bureau conducted a current issues seminar for Department staff. Topics discussed included "The Effect of the Gramm-Leach-Bliley Act on the Consumer Services Bureau," a panel discussion on automobile repair issues, "Ethics in State Government" and no-fault insurance fraud issues. The automobile repair panel discussion included representatives of the insurance industry, auto collision repair shops and the Department of Motor Vehicles.

**Table 49  
CONSUMER SERVICES BUREAU CASES  
INVOLVING LOSS SETTLEMENTS OR POLICY PROVISIONS  
Closed in 2000**

<b>Line of Business</b>	<b>Total Processed</b>	<b>Upheld</b>	<b>Adjusted in Consumers Favor</b>	<b>Not Upheld</b>	<b>Prompt Pay Violation</b>	<b>Other Action Taken</b>
<b>Total</b>	41,410	4,722	3,171	18,588	3,908	1,1021
<b>Life &amp; Annuities, Total</b>	1,385	280	111	569	N/A	425
Individual Life	1,130	235	88	440	N/A	367
Individual Annuity	107	19	11	48	N/A	29
Group Life & Annuity	130	22	12	71	N/A	25
Viatical Settlements	2	0	0	0	N/A	2
Credit Life	16	4	0	10	N/A	2
<b>Accident &amp; Health, Total</b>	26,332	1,435	1,864	12,651	3,908	6,474
Individual Accident & Health	269	29	35	137	0	68
Group Accident & Health	3,978	216	371	1,749	416	1,226
Article IX-C Corps	4,516	203	345	2,737	577	654
HMO	13,016	923	961	7,248	2,722	1,162
Medicare	1,059	7	25	56	0	971
Medigap	144	10	27	90	2	15
Long Term Care	52	8	17	23	0	4
Self-Insured Health Plan	2,474	4	26	193	1	2,250
Travel, Health	47	7	11	19	0	10
Health Alliance	1	0	0	1	0	0
Medicaid	206	9	16	83	54	44
Municipal Co-ops	350	4	2	195	136	13
Credit Disability/DBL Income	220	15	28	120	0	57
<b>Auto, Total</b>	11,052	2,491	955	4,325	N/A	3,281
Auto, Liability (B.I.)	960	192	109	490	N/A	169
Auto, Liability (P.D.)	2,330	255	293	934	N/A	848
Auto, Physical Damage	1,390	170	138	733	N/A	349
No-Fault	6,372	1,874	415	2,168	N/A	1,915
No Frills Stated Value	0	0	0	0	N/A	0
<b>Other Property &amp; Liability, Total</b>	2,594	507	238	1,020	N/A	829
Liability Other Than Auto	154	17	12	54	N/A	71
Professional Malpractice	19	2	1	9	N/A	7
Fire & Extended Coverage	59	4	4	23	N/A	28
Homeowners'	1,004	139	84	428	N/A	353
Inland/Ocean Marine	31	6	1	10	N/A	14
Workers' compensation	950	291	104	336	N/A	219
Commercial Multiple Peril	281	36	25	123	N/A	97
Burglary & Theft/Fidelity Surety	37	4	3	14	N/A	16
Flood	6	2	0	2	N/A	2
Title	37	2	1	18	N/A	16
GAP	1	0	1	0	N/A	0
Service Contracts	15	4	2	3	N/A	6

**Table 50**  
**CONSUMER SERVICES BUREAU CASES NOT INVOLVING**  
**LOSS SETTLEMENTS OR POLICY PROVISIONS**  
**Closed in 2000**

<b>Subject of Cases or Investigations</b>	<b>Total Processed</b>	<b>Fines Revocations &amp; Other Actions</b>	<b>Upheld</b>	<b>Not Upheld</b>
<b>Total</b>	6,133	5,337	109	687
Misleading Advertising	23	13	4	6
Application for License	1,843	1,840	0	3
Acting Without License	2	1	0	1
Aiding Unauthorized Company	25	14	0	11
Misappropriation of Premium	152	95	1	56
Issuing Bad Checks	245	204	3	38
Rebating	3	2	0	1
Misrepresentation of Coverage	222	126	15	81
Excess Comp Without Contract	53	41	1	11
Twisting	173	84	45	44
Public Adjuster, Prohib Practice	3	1	0	2
Violation of NYAIP/NYPIUA Rules	200	150	4	46
Commissions Dispute	72	55	3	14
Return Premium-Producer	88	48	4	36
Other Violations of Insurance Law	137	77	7	53
Violations of Other Laws	15	8	2	5
Fraudulent NYAIP Applications	54	24	0	30
Incorporators and/or Directors	2,005	2,005	0	0
Illegal Insurance Enterprise	1	0	0	1
Ending of Agency/Broker Account	20	9	2	9
Miscellaneous	365	180	7	178
Delay in Issuing Policy	9	3	0	6
Voluntary Surrender of License	3	3	0	0
Misleading Sales, Life	43	19	3	21
Failure to Return License	31	31	0	0
Return Commissions	6	5	0	1
Other	239	218	5	16
Terminated by Insurance Company	30	24	2	4
Inquiry	36	36	0	0
Federal Omnibus Crime Act	1	1	0	0
Service Contracts	5	2	1	2
Misleading Sales, LTC	25	16	0	9
Fraudulent Loans	1	0	0	1
Forged ID Cards	3	2	0	1

## E. Insurance Frauds Bureau

### 1. General Overview

When the year 2000 began, the Frauds Bureau had a vision of itself as a member of a cohesive fraud-fighting team with cooperation, communication and commitment as its cornerstone. The Bureau foresaw the creation of a group of professional investigators from all segments of New York State – the insurance industry; federal, state and local law enforcement agencies; other New York State agencies; police and fire academies across the State – working together to detect and prevent insurance fraud. Over the past year, the Bureau has been a catalyst in that endeavor and as a result, that vision has begun to take shape. The Bureau took a two-pronged approach.

- **Outreach Program** – At the direction of the Executive Bureau, the Bureau instituted an outreach program throughout the State. Bureau personnel met with the staff of the District attorney offices in each of the State's 62 counties in an effort to develop a meaningful dialogue. The Bureau conducts regular day-long conferences for the insurance industry and law enforcement agencies to provide a forum for the free flow of information and exchange of ideas. The May 2000 conference focused on the increasingly prevalent problem of no-fault insurance fraud. The second conference, held in November, highlighted life insurance fraud, broker fraud and employee fraud.

**\*Joint Investigations** – The result of Frauds Bureau efforts have been noteworthy. Federal and state law enforcement agencies have begun to seek Bureau assistance in the development and investigation of their cases. In addition, the Bureau has participated in multi-agency investigations in the past year to a greater degree than ever before. The Bureau has teamed up with the Workers' Compensation Inspector General's Office and the State Insurance Fund to investigate workers' compensation fraud cases, and with DMV and the NYPD Auto Crime Division on auto fraud investigations. The Bureau has successfully investigated several life insurance fraud cases in conjunction with the U.S. Postal Inspection Service. In a number of other fraud cases, the Bureau has provided assistance to local Sheriff's offices, town police departments and the New York State Police. The Bureau has also worked hand in hand with various federal agencies such as the FBI, the U.S. Attorney's Office, the U.S. Customs Service and the Port Authority of New York & New Jersey. And over the course of the year, cooperation and close contact with District Attorney's offices led to 318 convictions in Frauds Bureau cases.

**\*Cooperative Enforcement Efforts** – The Bureau participates in a number of task forces and working groups designed to foster a spirit of cooperation. Participation in these groups provide the Bureau with the opportunity to share manpower and resources with agencies throughout New York State with similar goals. For example, Frauds Bureau investigators are members of a newly established group – the Fraud Insurance Strike Team, or FIST – sponsored by the Onondaga County District Attorney's Office. This Strike Team also includes the State Insurance Fund and the Workers' Compensation Inspector General's Office. There are a number of other groups in which the Frauds Bureau participates with federal, state and local law enforcement agencies, such as:

- ◆ The Western District of New York Health Care Task Force;
  - ◆ The Capital District Health Care Fraud Working Group;
  - ◆ The Northern District of New York Health Care Investigators' Group; and
  - ◆ The Oneida County Arson Task Force/Strike Force.
- **Data Sharing** – The second part of the Fraud's Bureau strategy is a program aimed at taking advantage of the tools technology offers to detect fraud. Toward that end, the Bureau has initiated a coordinated system of data sharing. The Bureau's **Electronic Fraud Reporting System** was opened to the entire industry in March. The system allows insurers to submit data online, making

fraud reporting more efficient and effective. But, perhaps more importantly, the system provides valuable cross-references. Once a report has been transmitted, the Bureau's database provides the insurer with information on all other reports that share information with the report just transmitted, e.g., the same name and/or address of the suspect, the vehicle identification number (VIN) in cases of auto insurance fraud, or other matching data. Insurers can also access the details contained in these cross-reference reports and are provided with the name and telephone number of a contact person at companies on the cross-reference list. The number of reports of suspected insurance fraud received by the Frauds Bureau reached 22,247 in 2000, up from 19,196 in 1999.

**\*No-Fault Fraud** – The Frauds Bureau has seen reports of no-fault insurance fraud increase from 489 in 1992 to 12,372 in 2000, now accounting for 56% of all reports of suspected fraud received by the Bureau. The Bureau is mounting an attack on no-fault fraud on a number of fronts:

- ◆ **NYPD Accident Report Database** – In an innovative program begun in 2000, the Bureau acquired direct access to the New York City Police Department's accident-report database. When an insurer reports an incident of suspected auto insurance fraud that occurred in the five boroughs of New York City, Bureau investigators can access the NYPD system and view online pertinent information related to the accident. Comparison of the data will enable investigators to identify any discrepancies, e.g., additional "victims" listed on the report submitted to the insurer. The Bureau is currently meeting with the Department of Motor Vehicles and the New York City Police Department to examine ways for insurers to gain more timely access to original accident report information.
- ◆ **Mine and exchange insurer data to more quickly identify medical mills** posing as legitimate medical providers. The Frauds Bureau has been supporting insurer efforts to collect such data through on-site review of medical facilities. A comprehensive industry-wide database would be a valuable asset in the investigation of cases where facilities begin operations, make a few million dollars, then move to a new location under a new name.
- ◆ **The Bureau supports a bill making it a crime for third parties, known as runners,** to recruit patients and clients for health care providers and attorneys involved in fraudulent medical facilities. Such providers then submit fraudulent insurance claims and the lawyers handle the lawsuits that result from staged accidents. Frauds Bureau investigations often lead to cappers and runners but currently there is no law under which charges can be brought against them. The Frauds Bureau supports legislation that would provide Bureau investigators, as well as prosecutors and other law enforcement agencies, with a means of holding these individuals accountable for these activities.

**\*Workers' Compensation Fraud** – Governor Pataki's landmark workers' compensation reform legislation in 1996 created the Workers' Compensation Inspector General's Office, as well as a Workers' Compensation Fraud Unit within the Frauds Bureau. The Frauds Bureau has made workers' compensation fraud a priority, resulting in a number of successful sweeps throughout the State in 2000. In all, 109 New York residents were arrested for scamming the workers' compensation system during the past year. Recently the Frauds Bureau teamed up with the State Insurance Fund and the Workers' Compensation Inspector General in using the latest innovations in high technology to combat fraud through the Workers' Compensation Board's new **FRAUD-I.T. program**. The program compares names stored in the Board's new statewide computer network with those found in the **New York State Department of Tax and Finance's**

**New Hires Registry** to determine if anyone collecting benefits for a total disability is also reported as working during the same time period.

Enhancement of Bureau outreach program and expansion of a systematic approach to data sharing will be among the Bureau's top priorities in the coming year. The Bureau is committed to continuing its role as a team builder so that all members of the team are working toward the common goal of reducing insurance fraud and lowering insurance premiums for all New Yorkers.

## **2. 2000 Highlights**

The year's accomplishments include:

- The Frauds Bureau, with a total of 503 arrests, set a new record in 2000, topping last year's total of 390 by almost 30%. In addition, the number of criminal convictions in Bureau cases increased from 194 to 318 over the year.
- At the direction of the Superintendent, the Bureau, for the first time ever, met with prosecutors from each of New York State's 62 counties, with promising results. Prosecutors now regularly seek Bureau help in developing cases and convictions are at an all-time high.
- The Bureau continued its outreach program during 2000, providing training and education seminars to more than 2,900 insurance company staff and members of law enforcement agencies.
- With the support and encouragement of the Bureau, the industry launched four major public awareness advertising campaigns to educate the public to the prevalence and costs of insurance fraud.
- The Bureau sponsored two all-day conferences during the year – one in May, the second in November. The conferences have become increasingly popular with members of the industry and law enforcement as a forum for education, networking and honing investigative skills.
- The Bureau expanded its Frauds Resource Center on the Department's Web site ([www.ins.state.ny.us](http://www.ins.state.ny.us)), adding a section containing monthly arrest summaries. In addition, the Bureau's Annual Reports are now available on the Web site.
- In May, the Bureau hosted a meeting of the Mid-Atlantic States Insurance Fraud Association. The meetings provide an opportunity for interaction, exchange of information and coordination of investigations among fraud directors and attorneys general in the middle-Atlantic region.
- Legislation signed by Governor Pataki in October modified the requirements for employment as an investigator in an insurance company Special Investigations Unit. The Bureau has initiated promulgation of the Third Amendment to Regulation 95 in order to bring the Regulation into conformity with the new law.
- The Bureau revised its consumer brochure, "Welcome to the New York State Insurance Frauds Bureau," to provide consumers with updated arrest and conviction statistics and information about the latest fraud scams.

## **3. The Staff**

All Frauds Bureau investigative staff participate in the Bureau's in-service training program. The program complies with the standards and curriculum established for professional police officers by the

Bureau of Municipal Police of the New York State Department of Criminal Justice Services. Bureau investigators conform to and often exceed these high standards.

Frauds Bureau investigators bring a wealth of law enforcement experience to the Bureau. Once on board, they must learn to use their investigative skills in the highly specialized field of insurance fraud. Towards that end, Bureau investigators must become familiar with the Insurance Law, the Penal Law, the Criminal Procedure Law and other relevant laws and regulations. In addition, they must keep informed about all changes in these laws that may affect the proper performance of their duties. Training also covers computer technology, writing skills and supervisory techniques.

Frauds Bureau investigators are designated "peace officers," and as such, they can carry firearms, assist in the execution of search warrants and make arrests. Annual certification in firearms proficiency is required by the Department of Criminal Justice Services. However, all Frauds Bureau investigators are required to recertify semi-annually. This requirement is an indication of the importance to which the Bureau assigns the responsibility of carrying and using firearms in the course of public service. In addition, investigators must observe the guidelines for the use of firearms established by the New York City Police Department.

Frauds Bureau staff also participates in many training and continuing education courses sponsored by outside vendors such as John Jay College, the National Association of Insurance Commissioners and the American Management Association. These courses cover subjects such as arson detection, auto theft investigation, and tools and techniques for working with other state fraud bureaus. The Frauds Bureau's training program, provided both in-house and through outside sponsors, is both comprehensive and well rounded and ensures that Bureau investigators remain at the top of their game.

#### **4. Investigations**

Of the 22,247 fraud reports received by the Bureau in 2000, 22,237 were received from licensees required to submit such reports to the Department and 10 were from other sources such as consumers and anonymous tips. A total of 1,004 new investigations were opened during the year, while numerous investigations continued in cases pending from prior years.

The new investigations led to the referral of 239 cases to prosecutorial agencies for criminal prosecution and 84 for civil settlement or referral to the Department's Office of General Council for civil proceedings.

#### **5. Arrests and Prosecutions**

The Frauds Bureau participated in investigations leading to the arrests of 503 individuals for insurance fraud and related crimes during 2000, surpassing last year's performance of 390 by nearly 30%. The number of arrests chalked up in 2000 establishes a new record for the Bureau and represents an increase of 337% since the beginning of the Pataki Administration. Criminal convictions obtained by prosecutors in Frauds Bureau cases are also at an all-time high, reaching 318 in 2000, far outpacing last year's total of 194. In addition, 330 individuals were sentenced in connection with Frauds Bureau cases.

Frauds Bureau activities resulted in stiff fines levied against 72 individuals in 2000. These individuals were sentenced to more the \$1 million in court-ordered restitution. In 42 cases, individuals made voluntary restitution to insurers totaling an additional \$ 658,771. In another 41 instances, insurers were able to achieve savings of more that \$2.8 million in connection with fraudulent claims under investigation by the Bureau.

The solid support of the Governor and the Legislature has enabled the Bureau to forge ties and open lines of communication in all segments of the fraud-fighting community. These efforts have contributed in large measure to the Bureau's accomplishments during the past year.

## **6. Major Cases**

The Frauds Bureau was involved in several major investigations during 2000. In addition, a number of fraud sweeps conducted both upstate and downstate were an unqualified success. Here are brief summaries of some of the cases that contributed to the significant year-to-year increase in the number of arrests.

### **Sting Operation Nets Gambino Crime Figures**

- A joint investigation by the Frauds Bureau, the New York City Police Department Auto Crime Division and the Queens District Attorney's Office led to the arrest and indictment on 1/25/00 of Carmine Agnello – a member of the Gambino crime family – three of his associates, and the company they owned, on charges of enterprise corruption under New York State's Organized Crime Control Act. The indictment charged that Agnello – son-in-law of John Gotti – and his cohorts used extortion, arson and threats to control the lucrative scrap metal industry in Willets Point, Queens. The repair shops and scrap yards located throughout this area deal in stolen cars on their way to export, as well as those destined to be stripped for parts and the shells shredded for scrap. Forty-eight other individuals were also arrested in this case on charges of various auto-related crimes such as insurance fraud, criminal possession of stolen property and illegal possession of vehicle identification numbers. During the year-long operation, undercover investigators set up a bogus scrap metal business that was used to gather the evidence that led to the arrests. These arrests struck a major blow to the domination of this industry by organized crime.
- In an offshoot of the Carmine Agnello case, the Frauds Bureau assisted in the arrests on 5/16/00 of 22 people, including Charles Marino, Mark Weiss and Craig Persico, three main suspects in the operation of an auto crime ring in Queens. Marino is a Gambino crime family associate and confidante of Carmine Agnello. In this case, the Frauds Bureau was contacted more than a year earlier by the New York City Police Department Auto Crime Division to assist in the undercover investigation. Detectives from the Auto Crime Division operated a phony chop shop to catch car owners who sold their cars and then fraudulently reported them stolen. The arrests put an end to this crime ring and resulted in the recovery of \$1 million in vehicles and parts.

### **Onondaga County Sweep Nets 20 Suspects**

A joint investigation conducted by the Frauds Bureau, the State Insurance Fund, the Workers' Compensation Inspector General's Office and the Onondaga County District Attorney's Office culminated in the arrest of 20 individuals on 9/19-9/20/00. The majority of the arrests involved allegations of workers' compensation fraud. Among those arrested were the following:

- Two owners of a small business in Syracuse were charged with conspiring to conceal from an inspector from the Workers' Compensation Board that one of their employees actually worked for them. The employee, who collected \$12,380 in workers' compensation benefits over the period of his employment, deceived his insurer about his ability to work.
- In a similar case, a woman while employed as a bartender collected \$1,525 in lost wage benefits to which she was not entitled. The owner of the bar, also arrested, is charged with falsely informing a Workers' Compensation Board inspector that the bartender was not in his employ.
- One defendant was charged with impersonating his brother, a workers' compensation claimant, in order to obtain prescription drug benefits from the State Insurance Fund.

- A Syracuse woman was charged with insurance fraud and grand larceny for damages to her car following an accident she claimed occurred on 9/25/99, one day after she had obtained insurance coverage. State Police records indicate that the accident occurred on 9/23/00, the day before the coverage took effect.
- In addition, 13 other suspects arrested in the sweep allegedly collected more than \$90,000 in workers' compensation benefits, while claiming to be unable to work. However, they were all employed in various jobs ranging from construction worker to taxi driver to a baker of apple pies that were sold at the Lafayette Apple Festival.

### **Major Crackdown on No-Fault Fraud in New York City Area**

- In what is being called the biggest-ever crackdown on no-fault auto insurance fraud in the New York City Area, 53 defendants were charged on 11/16/00 for their participation in a scheme that purposely staged at least 27 auto accidents in Brooklyn, Queens, Manhattan, and Hempstead, Long Island since 1996. According to the criminal complaint, owners and managers of medical clinics paid "runners" to recruit drivers to cause accidents and others who agreed to be passengers. In 21 of the 27 staged accidents, these drivers allegedly targeted vulnerable drivers such as women alone, women with children and the elderly as their innocent victims. The other six accidents involved cars owned or insured by members of the ring who hit each other. The recruiters would then send the drivers who had initiated the accidents and their passengers to the medical clinics owned and managed by the individuals who had hired the recruiters in the first place. The passengers falsely claimed multiple injuries and sought payment for services that either were not necessary or were never provided. Of the 53 indicted, 29 have been arrested, including one ring member who acted as a passenger in an accident and sued himself under an alias as the owner of the auto used to cause the accident. This investigation is ongoing and more arrests are anticipated. The indictment and subsequent arrests were the result of a multi-agency investigation conducted by the Frauds Bureau, the U.S. Postal Inspection Service, the U.S. Attorney's Office and the FBI.

## **7. Administration**

The Frauds Bureau was established by an act of the Legislature in 1981 as a law enforcement agency within the New York State Insurance Department. The Bureau's primary mission is the detection, investigation and referral for prosecution of individuals and groups that commit insurance fraud. The Bureau is headquartered in New York City, with offices in Albany Buffalo, Mineola, Oneonta, Rochester and Syracuse.

Bureau staff consists of 29 investigators organized in eight specialized units – Arson, Automobile, No-Fault/Organized Fraud, Medical, Fraudulent Cards, Workers' Compensation, General and Upstate – each of which is headed by a Supervising Investigator. General oversight of the investigative staff is the responsibility of a Chief Investigator with the assistance of one Principal Investigator.

The Bureau also has a staff of two insurance examiners who work under the supervision of a Principal Examiner, and an Assistant Director of Research who reports to the Director and the Deputy Director. In addition, four support staff members report to the Secretary to the Director.

## **8. Civil Enforcement**

Under the provisions of Section 403 of the Insurance Law enacted by the Legislature in 1992, the Insurance Department is authorized to impose civil penalties of up to \$5,000 plus the amount of the claim on individuals who commit fraudulent insurance acts. In addition, Section 2133 of the Insurance Law permits a fine of up to \$1,000 for possession of a fraudulent automobile insurance identification card and up to \$5,000 for each additional card possessed. These civil penalties give the Bureau the

authority to impose sanctions in cases where the monetary value is not sufficient to justify criminal prosecution, or in which the extremely high burden of proof required in criminal cases cannot be met.

In 2000, civil fines imposed amounted to \$499,019.85 in 77 cases and \$305,718.06 in fines was collected. This compares with 1999, when a total of \$304,011 was imposed in 78 cases, with \$230,097 collected.

**Table 51  
CIVIL ENFORCEMENT PROGRAM  
1996-2000**

	1996	1997	1998	1999	2000
Fines Proposed	\$839,559.78	\$728,275.00	\$365,070.74	\$610,041.45	\$499,019.85
Reduction After Proposal	0	0	0	0	0
Gross Fines Proposed	\$839,559.78	\$728,275.00	\$365,070.74	\$610,041.45	\$499,019.85
Pending Criminal	0	0	0	0	0
Net Fines Proposed	\$839,559.78	\$728,275.00	\$365,070.74	\$610,041.45	\$499,019.85
Settlements With IFB	\$265,009.41	\$109,607.07	\$93,904.12	\$230,096.54	\$305,718.06
Hearing Determinations	\$728,390.23	\$454,972.50	\$219,494.11	\$73,914.00	\$9,000
Total Fines Imposed	\$993,399.64	\$564,579.57	\$313,398.23	\$304,010.54	\$314,718.06
Proposals Sent By IFB	553	157	118	127	77
Settlements With IFB	375	109	44	64	48
Cases Forwarded to OGC	186	181	53	70	36
Hearings Held	98	176	1	2	1
Determinations	96	108	27	35	24
Cases Sent To AG for Collection	49	69	2	0	0

## 9. Fraud Prevention Plan Implementation

The Second Amendment to Regulation 95 requires all insurers that meet certain criteria to submit to the Department a Fraud Prevention Plan that includes establishing a Special Investigations Unit. All required Plans have been submitted and approved. In the coming months, the Bureau will begin the task of on-site review. Working with staff from the Special Investigations Units, the Bureau will oversee assessment of the Plans and provide guidance in implementing the provisions of the Amendment. The Bureau will work closely with insurers to anticipate trouble areas and to ensure that problems are addressed promptly.

Chapter 509 of the Laws of 2000, signed by Governor Pataki on October 4, 2000, modifies the requirements for employment as an investigator in an insurance company Special Investigations Unit. The Insurance Department has initiated the promulgation of the Third Amendment to Regulation 95 in order to bring the Regulation into conformity with the provisions of Chapter 509 of the Laws of 2000. In addition, the Department issued Circular Letter No. 32 on December 11, 2000 to inform all affected insurers of these changes in employment qualifications for Special Investigations Units. In addition, the Circular Letter advises insurers that Chapter 509 became effective October 4, 2000. Therefore, notwithstanding the fact that the Third Amendment to Regulation 95 has not yet been promulgated, all

individuals acting as investigators in insurer Special Investigations Units on or after that date will be evaluated based on the new criteria.

The Bureau's goal is to work with the industry as a whole in a systematic effort to promptly identify and thoroughly investigate fraud, and to see investigations through to successful prosecution.

## **10. Public Awareness Programs**

January 2000 marked the beginning of four major public awareness programs aimed at educating New York residents about the prevalence of insurance fraud and its costs to all of us. The National Health Care Anti-Fraud Association and the New York Alliance Against Insurance Fraud, a group of property insurers, have concentrated on radio and newspaper ads to get their message out. In addition, State Farm's program placed ads in newspapers and used outdoor bulletins, while Allstate focused on television advertising. These four major programs together have been carrying the message to all areas of the State. Especially noteworthy is the fact that these programs are insurer-based and require no taxpayer dollars to operate.

## **11. Circular Letters**

The Department issued Circular Letter No. 10 on March 10, 2000 notifying all licensed insurers that the Department has established an electronic system for reporting incidents of suspected insurance fraud. The purpose of the Circular Letter is to inform the insurance industry how the system operates and encourage insurers to take advantage of this innovative method of fraud reporting. In addition to the advantage of transmitting fraud information in real time, the system has a valuable cross-reference feature that allows access to all other reports in the Frauds Bureau database that can share information with the report just transmitted (e.g., the same name and/or address or other matching data).

On December 11, 2000, the Insurance Department issued Circular Letter No. 32 informing all insurers of the changes in qualifications for employment in insurance company Special Investigations Units, as set forth in Chapter 509 of the Laws of 2000. The Department has initiated the promulgation of the Third Amendment to Regulation 95 to bring the Regulation into conformity with the provisions of Chapter 509. However, the Circular Letter advises insurers that the Law became effective on October 4, 2000. Therefore, all individuals acting as investigators in insurer Special Investigations Units on or after that date will be evaluated based on the new criteria.

## **12. Director's Award**

In recognition of his outstanding work in the field of insurance fraud investigation, the Frauds Bureau chose Stephen Englert, Manager of Allstate's Special Investigations Unit, as the recipient of the Director's Award for 2000. The Award is presented annually to an individual or group that consistently stands out in the fight against insurance fraud and Mr. Englert is eminently qualified. He worked closely with the Frauds Bureau on a number of important cases during 2000 and his dedication to duty and investigative expertise proved invaluable in these investigations.

## **13. Directions for 2001**

### **a. No-Fault Insurance Fraud**

No-fault insurance fraud is the most prevalent type of fraud reported to the Frauds Bureau, consisting of 56% of all reports in 2000. Working through the Bureau's No-Fault Unit, established in 1999, the Bureau is making an all-out effort to combat this type of fraud and the medical mills that are an intricate part of these schemes. Sophisticated conspiracies of unethical medical providers and lawyers cost the insurance system millions of dollars a year in fraudulent claims and spurious lawsuits.

The Bureau is taking a number of steps in an effort to make a conspicuous dent in no-fault fraud. In an effort to prevent altered accident reports, the Bureau has begun discussions with the New York City Police Department and the Department of Motor Vehicles to examine ways to permit timely access to authentic accident report information to insurers. The Bureau has initiated a program to specifically train police officers around the State in ways to recognize staged accidents. In addition, the Bureau are working with insurers to support their efforts in auditing medical facilities in order to identify those that are bogus.

#### **b. Insurer Oversight**

The Bureau will continue to work with the industry to increase fraud detection on all levels. All insurers that are required to establish a Special Investigations Unit are in compliance. The Bureau will maintain regular communication with the staff of the SIUs to monitor implementation of their fraud prevention plans. This should lead to greater productivity in identifying and reporting insurance fraud.

#### **c. Frauds Bureau Standards**

In 2001, the Bureau will seek to maintain the high standards the Bureau has set for itself. Bureau investigators will continue to participate in investigative, technical and administrative training. Moreover, the addition of a Training Officer to the Bureau staff will move the Bureau's training program forward and ensure that Bureau investigators maintain the highest level of professionalism.

### **14. Proposed Legislation**

The Frauds Bureau requests and/or supports the following legislative changes:

- Modifying the reporting date for the Annual Frauds Report (pursuant to Section 405 of the Insurance Law) from January 15 to March 15 of each year;
- Modifying the reporting date for insurer Special Investigations Units annual report (pursuant to Section 409 of the Insurance Law) from January 15 to February 15 of each year;
- Mandating the on-site audit of insurer Fraud Prevention Plans to ensure compliance with Regulation 95;
- Establishing minimum standards for the public awareness programs that insurers are required to develop under the provisions of Regulation 95;
- Making it a crime for third parties, known as runners, to recruit patients and clients for health care providers and attorneys in insurance fraud schemes;
- Establishing a TIPS program;
- Requiring a periodic certification of continued eligibility by recipients of workers' compensation or disability benefits;
- Creating a class E felony for unlicensed activity by certain previously licensed individuals and entities that are no longer licensed at the time of the violation;
- Subjecting unlicensed activity to civil penalties after notice and hearing before the Insurance Department;

- Providing for automatic revocation of licenses under Article 21 of the Insurance Law for conviction of the licensee for felony larceny or felony insurance fraud;
- Requiring that life insurance policy applications include a permanent record of identification of the insured;
- Extending immunity to persons who provide assistance to the Insurance Frauds Bureau in connection with its investigations or in connection with investigations conducted jointly by the Bureau and other law enforcement agencies;
- Facilitating the collection of fraud data by providing that the Insurance Frauds Bureau shall act as the collection resource for such data;
- Increasing civil penalties for knowing possession, transfer or use of fraudulent insurance documents;
- Defining a new series of crimes relating to insurance fraud that involve false entries upon the books of account of insurers or in reports or documents submitted to regulatory officials or embezzlement from insurers, and also of new crimes involving threats or force or the use of threatening letters or communications to corruptly influence, obstruct or impede the proper administration of the Insurance Law;
- Prohibiting the participation of individuals in the insurance business who have been convicted of felonies involving dishonesty, breach of trust or other violations of Article 176 of the Penal Law unless such persons first obtain the written consent of the Superintendent of Insurance for such activities;
- Including the Superintendent of Insurance as a member *ex officio* of the Motor Vehicle Theft and Insurance Fraud Prevention Board and permit state agencies to be eligible for grants from the fund administered by such Board;
- Amending Section 2111 of the Insurance Law to prohibit a revoked licensee from becoming employed in any capacity by an entity subject to the provisions of Article 21 without the prior written approval of the Superintendent;
- Increasing penalties in the Vehicle and Traffic Law to reduce the number of uninsured or unlicensed motorists driving in New York State;
- Requiring no-fault and workers' compensation insurers to provide explanations of benefits in response to claims filed for health care services under those programs; and
- Upgrading the status of Insurance Frauds Bureau investigators from peace officers to police officers, enabling them to act independently in the execution of such tasks as search and arrest warrants, court orders relating to electronic surveillance and summary arrests.

Section 405(d) of the New York Insurance Law requires the Superintendent to submit to the Governor and the Legislature by January 15 each year a comprehensive summary and assessment of the operations of the Frauds Bureau. The 2000 *Insurance Frauds Bureau Annual Report* is available on the Department's Web site at [www.ins.state.ny.us](http://www.ins.state.ny.us). Hard copies may be obtained through the Department's Publications Unit at 1-800-342-3736.

## F. LIQUIDATION BUREAU

In addition to administering 53 estates in the fiduciary capacity of the Superintendent of Insurance on behalf of insurance companies in rehabilitation, conservation or liquidation pursuant to Article 74 of the Insurance Law, the Liquidation Bureau successfully rehabilitated an estate, authored and published a manual, pioneered for protocols, promulgated payment procedures, entered into negotiations to sell an aged estate, enhanced technology, and planned improvements to the Bureau's offices at 123 William Street, New York, New York.

### 1. Rehabilitation

**The Rochdale Insurance Company** of New York was successfully rehabilitated by the Liquidation Bureau. This is the first estate to emerge from rehabilitation in the State of New York in more than a decade. The Rehabilitation was completed on July 21<sup>st</sup> with the transfer of Rochdale to Amtrust Insurance Company, who provided the required statutory surplus contribution.

### 2. Guideline Published

A collaborative venture by all divisions of the Liquidation Bureau produced a copyrighted manual for domestic receiverships, *NYLB Guidelines for On-Site Management of Domestic Insurers Placed into Rehabilitation or Liquidation*. This definitive publication was an invaluable aid in administering this year's new estates. The manual is detailed enough to be a guide for the operation of all future estates regardless of size and complexity.

### 3. Bar Dates

On behalf of the Superintendent of Insurance as statutory receiver, the Liquidation Bureau solicited court approval for the imposition of bar dates in order to assist the Liquidator in closing older proceedings. Without a bar date, claims associated with "older" estates (those open beyond 10 years) can continue to develop for many years. It is possible that unreported claims can come to light which would delay closing a proceeding for a prolonged period into the future.

A cut-off date is necessary to quantify the subject estates' liabilities, particularly long tail liabilities, and to calculate pro rata distributions from estate assets, as applicable. The bar date, in effect, expedites the closing of estates; and as a novel and efficient legal tool, it is now imitated by other states.

### 4. Promulgated Payment Procedures – Workers' Compensation Unit

A Workers' Compensation Run-Off Unit was established by the Liquidation Bureau to administer claims covered by the Workers' Compensation Security Fund ("the Security Fund"). This Run-Off Unit was created out of necessity to expedite the closing of estates on a timely basis and to mitigate administrative expenses for those estates with only workers' compensation claims remaining. If estate proceedings were required to remain open until the Security Fund paid the subject estates' final claims, the proceedings could remain open for 40 years or more because of the long-tail nature of these claims.

Since Security Fund payments require no approval by the court, the Security Fund can continue to pay claims after the termination of an insurer's liquidation or ancillary receivership proceeding.

## **5. Sale of Midland Insurance Company**

On behalf of the Superintendent of Insurance as Liquidator of the Midland Insurance Company, the Liquidation Bureau entered into negotiations with Berkshire Hathaway Group of Insurance Companies to transfer all of Midland's assets to the National Indemnity Company, an affiliate of Berkshire Hathaway, in exchange for a guaranteed dividend of 32 cents for every dollar of claims allowed in the proceeding. The plan contemplates a maximum payment of \$640 million in dividends.

In January 2001, the Aggregate Reinsurance Agreement and the Service Agreement were executed by the parties. The agreements will not take effect until the Report and the Dividend Guarantee Reinsurance Proposal are approved by the Liquidation Court.

The return date is June 11, 2001 when a hearing on the motion and petition will be held.

## **6. Enhanced Technology**

Included in the enhanced technology implemented at the Liquidation Bureau was the installation of a new telephone system. The result of this improvement is an upgraded system from analog to digital calling.

This new technology enables the Liquidation Bureau to connect to the Ethernet infra-structure and provides interactive voice mail and inbound/outbound fax capabilities. In the near future, employees will have the ability to place long distance calls over the Internet. An anti-hacking system to prevent unauthorized use is a security feature of the system.

## **7. Extended Lease**

The negotiation for and signing of a long-term lease extension at 123 William Street resulted in a substantial savings in rent expense during the year. These savings will continue into the future years. Since the lease extension runs to March 2011, major improvements are planned. The Landlord will reimburse the Bureau for a substantial portion of the renovations.

## **8. Proceedings**

During the year, the Bureau, with the approval of the courts, closed ten estates and commenced administration of seven new estates.

***(See Section VIII A(5), p. 176, of this Report for the 2000 Rehabilitation, Liquidation, Ancillary Receivership and Conservation Proceedings)***

## **G. INFORMATION SYSTEMS & TECHNOLOGY BUREAU**

The Information Systems & Technology Bureau (Systems) supports the Insurance Department's technical infrastructure and provides technology products and services to more than 900 employees. Systems' clients include insurers, the public, federal, state and local agencies, actuaries, clerks, examiners, frauds investigators, real estate appraisers, lawyers, researchers and statisticians.

The Bureau provides a variety of support services including troubleshooting, training, consulting, maintenance and research and development. A Help Center has been established to support Department-wide information technology initiatives including customized and commercial off-the-shelf applications, office automation, electronic mail and word processing. The Bureau develops custom client/server applications, including databases and spreadsheets, while maintaining legacy mainframe systems, and uses sophisticated enabling technologies, including workflow, bar code scanning, imaging, optical character recognition (OCR) and electronic data interchange (EDI).

The Bureau consists of several units, each of which encompasses multiple sections: the Financial Services Unit (FSU); the Applications Services Unit (ASU); the Technical Services Unit (TSU); the Operational Services Unit (OSU); and the Projects Office.

The Financial Services Unit (FSU) works with applications that are specifically designed to handle, process and analyze thousands of insurer financial statements. FSU is responsible for the automation, verification, troubleshooting, updating and maintenance of the annual statement, supplement and other electronic data capture projects, which form the Department's integrated financial database. The FSU assists clients with all NAIC and all of the Department's automated financial analysis tools used for monitoring insurer solvency, liquidity and profitability. The unit also is responsible for managing the integrated financial general ledger and accounts receivable systems, supporting approximately \$300 million in revenue accounts.

The Applications Services Unit (ASU) develops, enhances, maintains, purchases, supports and customizes all applications that do not fall under the FSU. These include systems that support the Department's administration and bureau operations and aid in fulfilling regulatory requirements. Major applications development initiatives and modifications are implemented to incorporate changes in the New York State Insurance Law, rules and regulations and to respond to industry crises. Other projects and changes are initiated as a result of updated business procedures or the need to eliminate inefficient/ineffective and/or duplicate procedures.

The Technical Services Unit (TSU) maintains advanced computing platforms in the mainframe, server, LAN, WAN, and microcomputer categories. TSU is responsible for data communications, database administration, network installation and maintenance, mainframe maintenance, and all third-party software installation and maintenance. Some of these responsibilities are being shifted to Operational Services.

The Operational Services Unit (OSU) is responsible for production and for the Computer Operations, and Help Center functions. The Help Center is the first line of support in assisting the client base, and encompasses a wide range of significant responsibilities and functions.

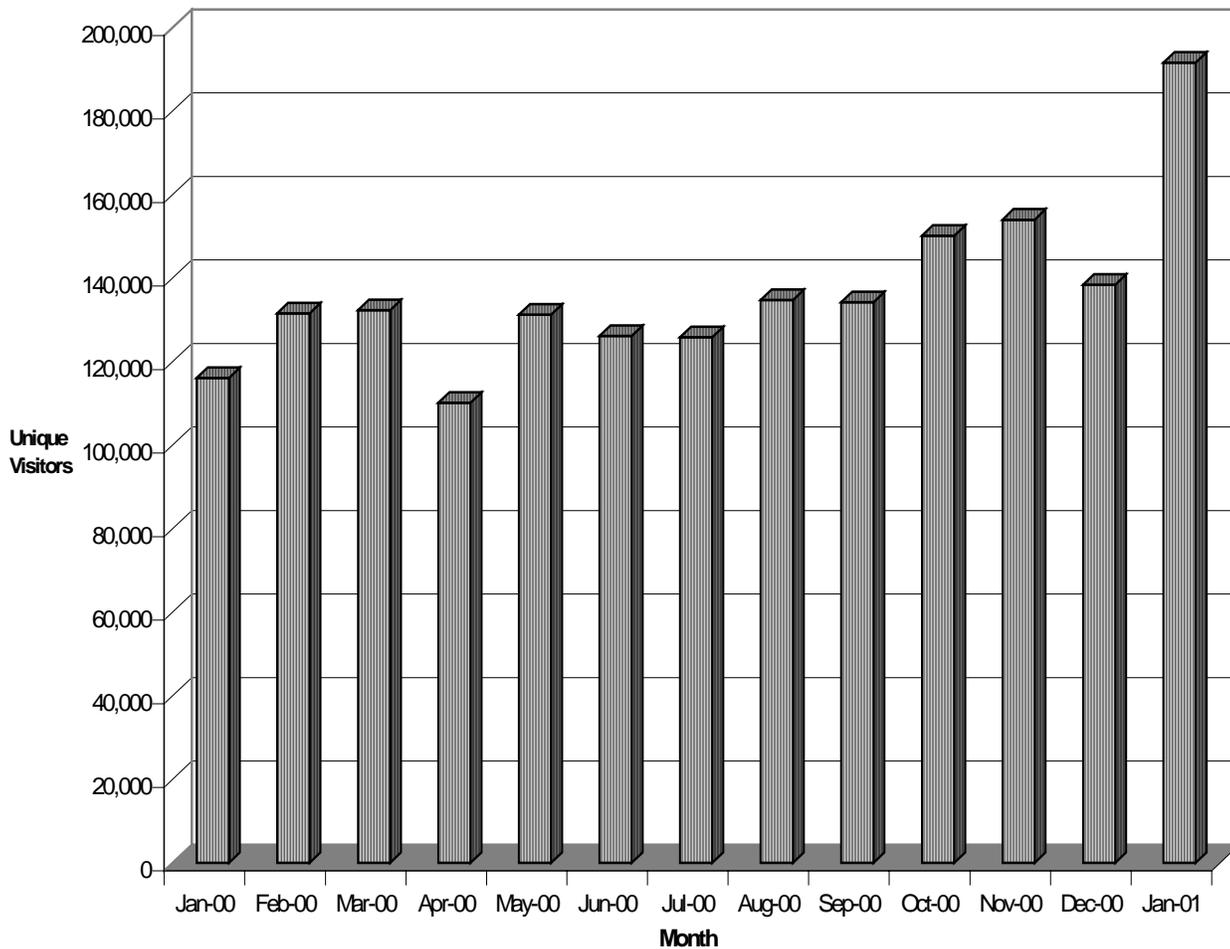
The Project Office makes use of the team approach to accomplish large, complex projects as well as those of a special or unique nature. Examples included Web site and Intranet development, field examination IT support, e-commerce, work on joint agency initiatives (Office for Technology, Consolidated Data Center, DMV Insurance Enforcement, etc.), IT Strategic Planning, Consumer Imaging and Information Management System (CIIMS) and Licensing Information Online Network (LION), and various NAIC electronic initiatives.

Systems operates several powerful servers which comprise our Local Area Network (LAN) and Wide Area Network (WAN) environment. Components of the network include file and print servers, Lotus Notes e-mail servers, Sybase servers, and imaging and document management servers. Other application servers include a fax gateway and a batch-processing server. Two Novell NetWare networks are now maintained. TSU supports a WAN connecting Albany, New York City, Buffalo, and Mineola to the LANs.

### 1. Web Site

The Department's Web site continues grow and visits to the Department's Web site have continued to increase steadily. During calendar year 2000, 1.6 million unique visitors came to the Web site, an average of 132,114 visitors per month. During the fourth quarter of 2000, the average number of monthly visitors to the Site was 147,564 - a distinct upward trend noted at the end of the year. The chart below shows monthly visits to the Department's Web site from Jan. 2000 through Jan. 2001.

**Graph E:  
New York State Insurance Department Web Site Activity - Unique Visitors  
January 2000-January 2001**



The Web site has received numerous accolades from the insurance industry, other governmental agencies and consumers. In March 2000, the New York State Insurance Department Web site was awarded an 'A' by the Consumer Federation of America (CFA) in its ranking of State Insurance Department Web sites.

The strength of our Web site is a function of its depth and diversity of content, and the speed with which it's kept current. During 2000, the following major items were integrated into the Department's Web site:

- A cutting-edge Customer Service Application ("Icontact") that allows Department "NetReps" to communicate online with visitors to our Web site's Consumer pages. It is expected that this application will reduce the number of phone calls to the Department. The New York Insurance Department was the first Insurance Department in the U.S. to offer this service to Web site visitors.
- Insurance Information and Enforcement System (IIES) data collection application, software download, and general information Section to support the joint DMV/Insurance Department project to automate, with improved security, the issuance of Automobile Insurance ID cards.
- Audio/Video clips of the MetLife Demutualization Hearing and the Department's Privacy Hearing (clips from various Department-sponsored Seminars appeared on our Intranet). New York was the first Insurance Department to provide video on a State Insurance Department Web site.
- For the Department's agent and broker constituents, a geographical listing of monitors, a list of continuing education providers, the temporary adjuster's licensing application, broker and excess line broker license renewal information and a set of producer Frequently Asked Questions.
- The complete set of Annual Statement and New York Supplement Filing Instructions and forms. This allowed all New York instructions and blanks to be available for viewing, downloading and printing, and replaced our traditional hard-copy mailing to companies.
- A Life Insurance Resource Center
- A Small Business Resource Center
- A Healthy NY Section
- 142 selected Opinions of the Office of General Counsel.
- A centralized Speed to Market Section with links to bureau Speed to Market information for Life, Health and Property - with accompanying attachments.
- 19 Life Product Outline Checklists to guide insurers when submitting Life and Annuity product filings.
- Property Bureau General Guidelines for Rate, Form, Territory, Classification and Rule Filings not submitted via SERFF and associated forms, checklists and certifications.
- Accelerated License Evaluation Review Techniques (ALERT) Insurer Admission Application Information.

- An archive of Insurance Frauds Arrest information.
- Updated HMO, Medicare Supplement, and Healthy NY insurance rates.
- Updated Automobile, Health and Homeowners' consumer guides and rankings.
- Numerous proposed, emergency and final regulatory adoptions as well as the Department's Regulatory Agenda.
- Eighty-eight news releases, forty circular letters and numerous Human Resources advertisements.

Plans for the future include: upgraded offerings from a new Internet Service Provider to include enhanced security and e-commerce services; Licensing and Continuing Education e-commerce interactivity; interactive company directory; Disaster Coalition Section being developed in conjunction with SEMO; presentation of Examination Audit reports; redesign of the Site and enhanced compliance with the Office for Technology's Accessibility and NYS Portal mandated guidelines.

## **2. Intranet**

The Department's Intranet debuted on April 1, 1999. It's initial content included various forms, templates, handbooks, training and NAIC information.

During 2000, the following major items were added to the Department's Intranet:

- Daily insurance related news clips from the Dow Jones news wire service and a weekly NAIC E-News feature.
- Audio clips and text of S.900 Analysis by Clifford Chance Rogers & Wells LLP from the S.900 Current Issues Seminar.
- A compendium of S.900 information.
- An interactive Company Directory Application to provide access to information on active companies.
- An online, easily navigated version of the Consumer Services Bureau Agency Services Representative Manual.
- A secure, password protected Examinations Schedule Section.
- A comprehensive review of the \$200 million insurance fraud allegedly conducted by Martin Frankel.
- The New York State Legislative Summaries.
- An improved General Administration Manual for staff use.
- The Insurance Frauds Bureau Manual of Procedures.
- A reformatted Department Directory of Employees.

- A section on medical malpractice news items.
- Updated SAPA documents from GORR.
- Lotus Notes 5.0 PowerPoint training presentation.

Plans for the future include: a re-designed Home Page; Examination Resource Center; Risk Based Examination and Capital Markets Section; Annual Statement Repository Section and a Search feature.

### **3. Annual Statement Filings**

The year 2000 was significant as the Department put into place processes that change the way Annual Statement filings are received. The Department is committed to the concept of electronic filing of insurer financial statements via the National Association of Insurance Commissioner's (NAIC) Web site. Until 1999, the Department received diskettes and loaded statements into its own, New York-only database, while companies provided national form filings to the NAIC. Effective this year, per Circular Letter No. 4 (2000), the Department encouraged all companies to direct national form filings to the NAIC via their Internet Filing Web site thus eliminating the need to file on diskette with New York. Using the NAIC's database, the largest of its kind in the world, as its depository, the Department simultaneously reduced the cost of regulatory compliance for industry and increased the effectiveness of the financial monitoring of insurer solvency. Our ultimate goal is to provide a process for all-electronic filing made through a single Web site.

The 1999/2000 Filing Year was the first production year of the NAIC's Financial Database Re-engineering (FDR) Project. FDR has the following objectives:

- Meet or exceed business requirements not currently being met (improved data quality, improved tracking, less human intervention, less resource intensive maintenance, improved responsiveness to change, more sophisticated analytical tools, etc.).
- Improve the flexibility, efficiency and cost effectiveness of current systems.
- Reduce the cost of regulatory compliance in the area of financial reporting.

In practice, all blanks other than Life and Property had new filing requirements for 1999/2000, which included for the first time, the electronic representation of the complete Annual Statement in the Acrobat PDF format. New York has followed the FDR requirements for its own HMDI and HMO Supplements. All PDF submissions of the complete Annual Statement or New York Supplement for Health and HMO were available either through the NAIC facility on I-Site (the NAIC's Internet-based reporting facility for both financial and market conduct information) or on our Intranet. In 2001, Life and Property blanks are coming under the FDR format for both National and New York Supplement filings.

With the release of Circular letter 4 (2001) the Department has integrated all material included in Circular Letter 4(2000) and Supplement 1 to Circular Letter 4(2000) while extending Electronic Filing via the Internet of National Form (NAIC) and New York Supplement Annual and Quarterly Statements. For this upcoming year, insurers making their national (NAIC) filings will have fulfilled their New York electronic filing requirement by filing with the NAIC. This holds true whether that filing is made over the Internet or via diskette. The Department is extending electronic filing to Fraternal Supplements. In addition the Circular Letter extends the language of electronic filing to cover the new national Health Blank, commencing with the first quarter of 2001.

Some of the specific changes that have taken place thus far include:

- Availability of all forms and instructions on our Web site, eliminating the need to use the US Mail.
- Internet or diskette filing of NAIC (national) forms directly with the NAIC, replacing diskette filing with New York.
- Providing the facility for Internet filing of New York Supplement, replacing diskette filing.
- Electronic filing of New York Health and HMO supplements.
- Availability of electronic versions of printed statements.

#### **4. External Review**

The External Review process for health insurance coverage determinations has been in production since July 1, 1999. This process involves requests received by facsimile, which are converted to images and routed by the application through our e-mail system to an internal reviewer. The file is then forwarded to an external review agent for a decision. Once a determination is made, it is conveyed back to the Department and finally, communicated back to the client and the Department of Health. Over 2500 requests have been processed through this Lotus Notes application with no downtime.

External Review permits applications to be sent to the Department at any time, including weekends and holidays, thus staff is "on call" Saturdays, Sundays and holidays. To accomplish this without requiring staff to be physically present, applications may be received and processed electronically using Rightfax software. Those "on call" have been issued laptops and printers and are able to process the applications at any time.

#### **5. Imaging**

The Consumers Imaging and Information Management System (CIIMS) has been in production for more than two years and we continue to work with the Consumer Services Bureau to improve the original design of the system to increase functionality and make the application more e-commerce efficient and productive. During the recent annual period, we implemented the 32-bit platform to improve overall stability and distributed the application to numerous staff members throughout the Department. Additionally, we performed significant work on an enhancement that will allow consumers to submit complaints electronically via the web site. This enhancement will streamline the complaint processing procedure significantly and allow the Department to provide faster feedback to the consumer and respondent. The Department expects to complete this enhancement and add the functionality for the Officers & Directors and Par Providers in 2001.

#### **6. LION**

Systems continued its efforts on the Licensing Information Online Network (LION) and accomplished a significant milestone. When the Processing and Corporate modules went into production, practically all of the functionality was moved to the client server platform. This accomplishment allowed the LION application to:

- Issue individual and corporate licenses for all classes of licenses
- Appoint and terminate agents to their respective companies
- Process both original and renewal applications
- Import closed cases from the Consumer Services applications
- Import test score information from the testing services vendor
- Share and record information to support the Insurance Information Enforcement System
- Process e-business transactions.

## **Miscellaneous**

Other accomplishments in the applications area during 2000 included the implementation of the Insurance Information Enforcement System (IIES), an application that will automate the procedure that provides the consumer with 2D bar-coded auto insurance cards. This accomplishment was a result of a cooperative effort between the Department of Motor Vehicles (DMV) and the Insurance Department. This project is expected to provide numerous benefits for the insurance consumer and provider. This procedure expedites the updating of DMV records for the acquisition of insurance coverage by the various insurance providers.

This process is expected to reduce the number of uninsured automobiles on the road and aid in the reduction of insurance premiums for the consumer. To utilize the system, a producer connects to the Department's web site and enters required information including e-mail address. The producer downloads free software from the Department's Web site that is used to generate the 2D bar-coded auto insurance card that is given to the consumer. The producer is given both a private key and a personal identification number (PIN) that are needed to unlock and use the down loaded software. An added benefit is that the auto insurance cards that are produced by this software are now accepted as fax documents.

Another major accomplishment was the introduction of functionality that utilizes the LION database to provide information about insurance producers to the National Association of Insurance Commissioners (NAIC). The insurers, regulators and consumers will utilize the database to monitor individuals that work in the insurance industry. The regulators expect the database to help them reduce fraud and lower insurance premiums for the consumer.

In support of a Department initiative to automate, streamline and improve the rate and form filing and tracking processes, during 1999, an initial review of the "as is" process in the Health Bureau with an eye towards developing the "to be" state was conducted. In the early months of 2000, existing platforms were evaluated as candidates for this project. Implementation in the Health Legal area commenced 4Q00 and is slated for completion in the first half of 2001. Assuming the success of this project, similar implementations are planned for the Life and Property Bureaus.

The Bureau continues to assist the Department by fortifying, strengthening and enhancing its electronic communications infrastructure and PC technology.

## H. CAPITAL MARKETS BUREAU

The Capital Markets Bureau was formed in late 1999. Its mission is to serve the Department on matters affecting the regulation of capital markets & risk management activities of New York-licensed insurers.

**Capital Markets/Risk Management:** The risk that capital market activities can bring to insurers is the potential for loss on investment instruments, portfolios or activities. That risk is not limited to the asset side, as mismatching of investments with the liabilities they are intended to fund can have severe effects on the ability of an insurer to function as a going concern, even if the investments themselves are performing and have value. Managing this risk is the responsibility of the insurer's board of directors and management. A key to the regulation of capital markets activities is assessing how the insurer manages capital markets risk.

**Bureau Services:** The Capital Markets Bureau provides examination and in-house support to the Life, Property and Health Bureaus. Following are the services that are provided:

**Examination Support** – includes pre-planning and on-site consulting/participation. Assistance in the pre-planning consists of a review of financial statements, equity analyst/rating agency reports and appropriate information gleaned from Bloomberg and other sources. On-site work includes assessment of an insurer's risk management systems, procedures, policies and asset/liability management. Procedures for these types of review will be further developed with the assistance of a consultant. Also, consultants will be used to supplement in-house capital markets staff on examinations.

**Transaction Review** – assistance in reviewing investments, investment strategies and mergers & acquisitions. Can also review and provide valuations of securities.

**Derivatives** – summary reports of all filed Derivative Use Plans (DUPs) are available. Will provide assistance in monitoring adherence to DUPs on an ongoing basis via examinations, review of derivative activity as reported in filed financial statements.

**Asset/Liability Management (ALM)** – work with actuaries in reviewing any asset or ALM issues that surface in the Actuarial Opinion and Memorandum.

**Training** – develop and implement training on capital markets; provided by a vendor or delivered internally.

**Financial Analytics** – compare capital market performance of an insurer against the insurance population in general or against peer groups.

**Third-Party Investment Management** – review contracts and assess portfolio composition, compliance with investment guidelines, reporting to insurer, returns on portfolios, etc.

**Securitization** – review of securitized products (assets or liabilities).

**Information Dissemination** – provide relevant information on capital markets activities that affect insurers.

**Research** – research for information as requested (e.g., historical stock prices, M&A activity, interest rate volatility).

## 2000 Highlights

**Recruitment Efforts** - during the past year the Department put a high priority on recruiting staff for the Capital Markets Bureau. In the latter part of 2000, the effort proved fruitful as four candidates with a wide array of capital markets skills joined the Department.

**Derivative Use Plans (DUPs)** – assisted the Life and Property Bureau in the review of 150+ DUPs filed by licensed insurers.

**Liquidity Analysis** - worked with the Life Bureau on the review of responses to Circular Letter No. 35 (1999) and on the follow-up effort to establish ongoing reporting of information needed to assess liquidity risk.

**Capital Markets Training** - worked with a vendor in delivering a five day Capital Markets Training course that was presented twice in 2000. Additional sessions are being scheduled.

**Risk-Based Examination Development** - worked with the Property, Life and Health Bureaus in the continuing development of risk based examinations. Participated in pre-planning examination meetings held by those Bureaus.

**Gramm-Leach-Bliley Act** - participated in three NAIC groups working with the Federal Reserve on: (1) assessing what risks insurers bring to Financial Holding Companies; (2) comparing the risk-based formulas of banks and insurers and determining arbitrage potential; and (3) reviewing the NAIC Model Holding Company Act (and other models) to ascertain what changes are needed due to GLB Act.

**Securitization** – reviewed proposals to securitize and transfer insurance risk to the capital markets. Represented the New York Department as the vice-chair on the NAIC Insurance Securitization Working Group.

**Multi-disciplinary Working Group on Enhanced Disclosure** – representatives from the Capital Markets Bureau served on this Working Group sponsored by the Basel Committee on Banking Supervision, the Committee on the Global Financial System of the G-10 central banks, the International Association of Insurance Supervisors, and the International Organization of Securities Commissions. The Working Group drafted a report containing recommendations for improving the public disclosure practices of financial institutions.

## I. MOTOR VEHICLE ACCIDENT INDEMNIFICATION CORPORATION

The Motor Vehicle Accident Indemnification Corporation (MVAIC) was originally created to provide compensation for injuries to persons who, without fault on their part, were involved in accidents caused by hit-and-run drivers, operators of stolen vehicles or uninsured motorists. This law became effective on January 1, 1959. The tort law has since been amended so that comparative negligence is now the law of the State of New York. In that respect, MVAIC's obligations to provide compensation have changed.

Qualified claimants (persons who are residents of the State of New York or of another state that has a similar program, and who do not own automobiles or are not resident relatives of a household where there is an insured vehicle) receive maximum benefits under the No-Fault Law. Legislation enacted in 1965 provided that insured cases would be processed and covered by the insurance company that had issued the Uninsured Motorists Endorsement on policies as of July 1, 1965. The insured cases have now phased out completely.

As a result of the enactment of Section 5221 of the Insurance Law effective December 1, 1977, the Corporation also became involved in the payment of no-fault, first-party benefits as of that date. It should be noted that the Corporation must provide for the payment of such first-party benefits only to qualified persons who have complied with all the applicable requirements of Article 52 of the Insurance Law. Amendment 19 to Regulation 68, effective September 1, 1985, permits MVAIC to arbitrate no-fault cases thus eliminating the necessity of commencing Declaratory Judgment Actions in unresolved coverage questions. It is estimated that this Amendment saves the Corporation approximately \$400,000 in legal fees yearly.

Effective July 22, 1989, the timetable for filing affidavits with MVAIC to report claims involving hit-and-run accidents was extended from 90 to 180 days.

In June 1995, the New York State Legislature amended Section 1 Paragraph 1 of subsection (f) of Section 3420 of the Insurance Law to increase the New York financial responsibility limits from \$10,000 per person, \$20,000 per accident to \$25,000 per person and \$50,000 per accident. These limits are equally applicable to uninsured claims submitted to MVAIC. This law took effect January 1, 1996.

### Recent Legislation and Regulations:

1. Chapter 511 Laws of 1999 – This new law increased the self-insured assessment per vehicle from \$1.50 to \$3.50. The New York State Department of Motor Vehicles will continue to handle the self-insured fees.
2. New Regulation 68 (No-fault) – Effective February 1, 2000 for accidents on/or after February 1, 2000. (**Note:** See Property/Casualty section for more details.)

During 2000, MVAIC opened 3,147 new files. A total of 2,168 cases were settled with payment in 2000 at a moving average cost per claim of \$8,125. In 1998 and 1999, the average settlement per claim was \$9,223 and \$8,591, respectively. An additional 2,303 cases were closed without payment for various reasons, including the discovery of applicable automobile insurance, the abandonment of claims and findings that MVAIC was not liable. The number of pending claims at the close of 2000 was 5,937 versus 6,527 in 1999.

The Corporation is funded through levies on insurance companies transacting automobile liability insurance in the State of New York in accordance with Section 5207 of the Insurance Law.

Other sources of funds include fees collected from self-insurers by the New York State Department of Motor Vehicles under Section 316 and Section 370-4 of the Vehicle and Traffic Law, as well as investment income and subrogation recoveries.

**Table 52**  
**SOURCES OF FUNDS**  
**Motor Vehicle Accident Indemnification Corporation**  
**1998-2000**

<b>Source</b>	<b>2000</b>	<b>1999</b>	<b>1998</b>
Net assessments	\$ 21,000,000 <sup>a</sup>	\$ 30,006,556	\$ 24,750,000 <sup>b</sup>
Self-insurers' fees	134,920	107,778	109,619
Investment/income/profit/loss	3,804,622	3,120,045	4,187,413
Subrogation recoveries	3,019,678	2,782,254	3,058,807
<b>Total</b>	<b>\$ 27,959,220</b>	<b>\$ 36,016,633</b>	<b>\$ 32,105,839</b>

<sup>a</sup> originally assessed for \$28.0 million; waived 4th quarter assessment; total 2000 assessment--\$21.0 million.

<sup>b</sup> originally assessed for \$33.0 million; waived 4th quarter assessment; total 1998 assessment--\$24,750,000.

Source: Motor Vehicle Accident Indemnification Corporation

**Table 53**  
**TRANSACTIONS**  
**Motor Vehicle Accident Indemnification Corporation**

Transaction	2000	1999	1998
<b>Number of Cases</b>			
Pending at beginning of year	6,527	9,190	9,108
Total opened cases	3,881	5,157	4,787
Reported qualified	0	0	0
Reported tort and no-fault <sup>a</sup>	3,014	4,667	4,299
Reopened <sup>a</sup>	867	490	488
Total closed cases <sup>a</sup>	4,471	5,157	4,705
Cases closed without payment	2,303	4,648	1,645
Settled cases with payment	2,168	3,172	3,060
Qualified persons	0	0	0
No-fault and tort	2,168	3,172	3,060
Pending at end of year <sup>a</sup>	5,937	6,527	9,190
<b>Payments of Settled Claims (Before Subrogation)</b>			
Payments to claimants	\$18,587,520	\$21,825,874	\$24,306,029
Qualified persons	0	0	0
No-fault and tort	18,587,520	21,825,874	24,306,029
Allocated claims expense <sup>b</sup>	3,630,350	3,963,651	3,664,843
<b>Reserves Year End (in 000s)</b>			
Total reserves <sup>c</sup>	\$48,781	\$46,206	\$45,705
On pending claims	24,983	24,494	26,325
On claims (IBNR)	18,000	16,500	16,500
Special expense reserve	5,548	4,967	2,617
On unallocated claims expense	250	245	263

<sup>a</sup> Most claims count as one case for BI or tort and one case for no-fault PIP.

<sup>b</sup> The corporation also expended \$5,990,777 in 2000; \$5,430,046 in 1999 and \$4,456,482 for year 1998 for operations and maintenance (unallocated expenses).

<sup>c</sup> Surplus was \$8,910,428 in 2000; \$10,331,593 in 1999; \$7,487,664 in 1998. In 2000, the Corporation established a reserve of \$1,265,000 in accordance with the FASB No.106 (Insurance Benefits for Retirees/Revised). In 1999, the FASB reserve was \$1,060,000.

Source: Motor Vehicle Accident Indemnification Corporation

The following table distributes, by type of case, the 3,014 claims newly reported during 2000. The uninsured New York automobile driver represents 44.99% of the total reported cases compared with 54.21% for the previous year, a decrease of 9.22 percentage points.

Table 54  
**NEWLY REPORTED CASES BY TYPE**  
**Motor Vehicle Accident Indemnification Corporation**  
**2000**

<b>Type of Case<sup>a</sup></b>	<b>Number of Claimants</b>	<b>Percent of Total</b>
Total qualified, <sup>b</sup> no-fault PIP	3,014	100.00%
Uninsured out-of state automobiles	400	13.27
Uninsured hit-and-run drivers	1,196	39.68
Uninsured New York automobiles	1,356	44.99
Stolen automobiles	15	0.50
Automobiles operated without consent of owners	2	0.07
Insured automobiles where the insurance is inapplicable to the accident	20	0.66
Unregistered automobiles	25	0.83

<sup>a</sup> This classification of case by type is made at the time claim is received. On subsequent investigation, a large portion of these cases is closed without payment, while others are reclassified because the initial determination was not supported by the facts.

<sup>b</sup> The Statute of Limitations on qualified cases has now run out; consequently, no such cases were reported during 2000. As of December 1, 1997, MVAIC has been involved in No-Fault. When both tort and PIP are involved, a separate claim count is established for each.

Source: Motor Vehicle Accident Indemnification Corporation

The following table distributes, by type of case, those cases settled with payment in 2000 and provides the amount paid. Unidentified hit-and-run drivers, while representing only 40.45% of all cases, accounted for 48.89% of the total amount paid. This is attributable to the large proportion of these cases involving pedestrians in which the incidence of severe injuries and fatalities is relatively high.

**Table 55**  
**SETTLED CASES WITH PAYMENT BY TYPE**  
**Motor Vehicle Accident Indemnification Corporation**  
**2000**  
**(dollar amounts in thousands)**

Type of Case	Number of Claimants	Percent of Total	Amount Paid*	Percent of Total
<b>Total</b>	2,168	100.00	\$18,588	100.00%
Uninsured out-of-state autos	226	10.42	1,782	9.59
Unidentified hit/run drivers	877	40.45	9,088	48.89
Uninsured New York automobiles	1,025	47.28	7,326	39.41
Stolen automobiles	14	0.65	220	1.18
Automobiles operated without consent of the owner	0	0	0	0
Insured automobiles where the insurance is inapplicable to the accident	8	0.37	26	0.14
Unregistered automobiles	18	0.83	146	0.79

\* Includes PIP partial payments. Excludes subrogation received on cases previously settled and allocated loss adjustment expenses.

**Source:** Motor Vehicle Accident Indemnification Corporation

### III. Insurance Legislation Enacted

(Legislation is presented in numeric order based on 2000 Chapter Law)

This portion of the report covers bills enacted during the 2000 Session amending the Insurance Law. Where a bill amends laws other than the Insurance Law, only provisions of interest are noted. *These brief descriptions of the laws are intended only to provide highlights of the legislation and should under no circumstances be used in place of the full text of the law or regarded as interpretation of legislative intent or of Insurance Department policy.*

**1. Chapter 13 of the Laws of 2000** amends the **Health Care Reform Act of 2000** (Chapter 1 of 1999),

- To make technical changes to ensure the appropriate flow of tobacco tax funds to the Tobacco Control and Insurance Initiatives Pool.

(A Governor's Program Bill)

**2. Chapter 23 of the Laws of 2000** amends the **Health Care Reform Act of 2000** (Chapter 1 of 1999),

- To clarify language as requested by the State Comptroller directing the portion of Tobacco Settlement Fund receipts dedicated to the New York Health Care Reform Act of 2000 into the Tobacco Control and Insurance Initiatives Pool.

(A Governor's Program Bill)

**3. Chapter 30 of the Laws of 2000** amends the Insurance Law as follows:

- Sections 1 and 2 of the bill extend Sections 5411 and 5412(g) of the Insurance Law to April 30, 2001, thereby permitting the New York Property Insurance Underwriting Association to operate for an additional year.
- Section 3 of the bill extends for one year (to April 30, 2001) certain provisions which were included in Chapter 42 of the Laws of 1996 and which had an April 30, 2000 expiration date (Section 2351 and Section 3425(n) and (o)). Section 3 also continues the Temporary Panel on Homeowners' Insurance coverage for one year (to April 30, 2001).

**4. Chapter 147 of the Laws of 2000** amends the Insurance Law as follows:

- Section 1 amends Section 5502(c)(1) of the Insurance Law to continue the purpose of the MMIA, as well as certain related provisions regarding surcharges on premiums, for one additional year to June 30, 2001. Further, Section 5502(c)(2)(C)(I) is amended to state that the Superintendent "may" approve a plan of dissolution by April 30, 2000.
- Section 1 also amends Section 5502(c)(2)(A) of the Insurance Law to replace the current deadline for MMIA dissolution ("by August thirty-first, two thousand") with language providing that the MMIA shall be deemed dissolved "at such time and under circumstances as the superintendent deems proper." In addition, the current requirement that all policies written by the MMIA shall expire or be transferred "as of June 30, 2000" is changed to "prior to such dissolution."

- Section 1 also amends Section 5502(d) to delete an August 31, 2000 deadline for MMIA to cease underwriting operations, and to replace it with more flexible language that “upon dissolution” the MMIA shall cease underwriting operations.
  - Section 2 amends Section 5509(a) of the Insurance Law to except premium payments for Excess Medical Malpractice coverage from categorization as MMIA deficit. An amendment is made to Section 5509(b) to prohibit assessment of a reserve fund charge if the net value of the Stabilization Reserve Fund is less than \$50 million due to use of the fund for Excess Medical Malpractice premium payments. This amendment will allow MMIA to fund the Excess Program for the 2000/2001 policy year through a premium payment from the premium stabilization reserve fund without assessing insureds to replenish the fund.
  - Section 3 amends Section 5517-a(a) of the Insurance Law to authorize the Superintendent to direct MMIA to refund premiums to purchase excess coverage for the 2000/2001-policy year if the Superintendent deems it necessary.
  - Section 4 amends Section 5516-f of the Insurance law to postpone from September 30 to December 30, 2000 the date on which MMIA must transfer any funds which accumulate from its final dissolution.
  - Section 5 amends Section 9111-b(a)(1) of the Insurance Law to provide that the temporary franchise tax on insurance companies established by Chapter 407 of the Laws of 1999 is imposed only if the Superintendent directs and the MMIA fails to transfer the required funds from the Stabilization Reserve Fund.
  - Section 6 amends Chapter 266 of the Laws of 1986 to reinstate references for authority of Excess Medical Malpractice Insurance coverage through the MMIA for the July 1, 2000 through June 30, 2001 policy year.
- 5. Chapter 418 of the Laws of 2000** amends the Insurance Law and the Banking Law as follows:
- Sections 1, 7 and 8 of the bill enact minor revisions to the Banking and Insurance Laws to ensure that current laws regarding the sale of insurance by banks are consistent with the safe harbors allowed under federal law.
  - Sections 2, 9 and 10 of the bill amend the Banking and Insurance Laws by specifying that a bank shall not require the payment of a separate charge in connection with the handling of required insurance solely because the insurance is being provided by an unaffiliated insurance agent or broker, and which require a bank that is licensed to sell insurance to maintain separate and distinct books relating to its insurance transactions, and to make such books and records available to the Superintendent of Insurance for inspection upon reasonable notice.
  - Section 3 of the bill amends the Banking Law to ensure that the new “safe harbor” provisions of the federal Gramm-Leach-Bliley Act also apply to any insurance powers, which are granted, to state-chartered thrifts under the “Wild Card” Law.
  - Sections 4, 5 and 6 of the bill amend the Insurance law to provide that referral fees are permitted only where there is no discussion of specific policy terms, and the fee is paid independent of whether a sale is made (thereby ensuring that commissions may only be paid to licensed persons).
  - Section 11 of the bill extends, for an additional three years, the provisions of Chapter 3 of the Laws of 1997 which authorized the Banking Board to grant powers of national banks to state banks (the “Wild Card” Law), and which enacted certain provisions governing the sale of insurance by banks.

**6. Chapter 419 of the Laws of 2000** amends the **Health Care Reform Act of 2000** (Chapter 1 of 1999) as follows:

- Sections 41 and 42 of the bill amend Sections 4321-a(e)(2) and 4322-a(e)(2) of the Insurance Law to correct typographical errors. Section 4321-a(e)(2) and Section 4322-a(e)(2) of the Insurance Law provide for the reallocation of excess funds available for distribution for claims paid by all HMOs to the direct-payment stop-loss fund. Otherwise, these excess funds will be carried forward and will not affect appropriations for the direct-payment stop-loss fund in the next year.
- Section 43 of the bill amends Section 4326(c)(1)(A) of the Insurance Law by adding a new item (iii) to clarify that exceptions to the twelve month “crowd out” provisions for the Healthy NY Program apply to both individual applicants and individual proprietor applicants. Section 4326(c)(1)(A) currently limits participation in the Healthy NY program to individual proprietors who have not had health insurance for the twelve months prior to applying to the program. However, Section 4326(c)(3)(C) provides an exception to this twelve month rule if an individual loses such coverage because of factors such as loss of employment, death of a family member, etc. The amendment clarifies that these exceptions also apply to individual proprietors.
- Section 44 of the bill amends Section 4326(c)(3)(C) of the Insurance Law by adding a new item (viii) to clarify that an exception to the twelve month “crowd out” provision for the Healthy NY program is available if an individual or individual proprietor loses coverage because of a loss of eligibility for group health coverage.
- Section 45 of the bill amends Section 4327(h) to clarify that HMOs report data regarding the operation of the small employer and qualifying individual stop loss funds in a form acceptable to the Superintendent of Insurance.
- Section 46 of the bill amends Section 4327(s) to replace an incorrect reference to “appropriation” with “funding amounts”.

**(A Governor's Program Bill)**

**7. Chapter 431 of the Laws of 2000** amends the Insurance Law as follows:

- Section 1 of the bill amends Section 110 of the Insurance Law to exempt the smaller charitable annuity societies from having to obtain a permit in order to issue annuity contracts by raising the premium threshold which triggers the permit requirement from \$80 thousand to \$500 thousand. This would exempt the smaller charitable annuity societies from the expenses of examination and annual statement filing.
- Section 2 of the bill amends Section 6623 of the Insurance Law to increase the authority of assessment property and casualty insurers to invest in certificates of deposit. This will allow assessment corporations to invest in certificates of deposit with any one institution in an amount not to exceed the amount guaranteed by the Federal Deposit Insurance Corporation.

**8. Chapter 432 of the Laws of 2000** amends the Insurance Law as follows:

- Section 1 of the bill amends Section 4230(b)(1) of the Insurance Law relating to a limitation on the duration of employment contracts with domestic life insurance companies. The amendment would extend the current 36 month duration to 60 months. In addition, the bill would add a new paragraph (3) to Section 4230(b) to provide that the above limitation shall not apply to any long-term incentive compensation plan offered to any officer or employee of the insurer which has been approved by

the board of directors, is based in whole or in part upon the financial performance of the company and is submitted for informational purposes to the Superintendent prior to its implementation.

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- 9. **Chapter 442 of the Laws of 2000** amends the Insurance Law as follows:
  - Section 1 of the bill amends Section 4207 of the Insurance Law to authorize domestic stock life insurers to distribute shareholder dividends without the prior approval of the Superintendent when such insurer does not exceed the specified threshold test. The threshold test provides that the aggregate amount of such insurer's dividends in any calendar year must not exceed the lesser of: 10% of surplus to policyholders as of the previous calendar year, or its net gain from operations for the previous calendar year, not including realized capital gains. Any insurer which fails to meet the requirements of such threshold test or any other insurer choosing not to utilize the threshold test must meet the current law requirements for the threshold test in paragraph (1) is subject to the provisions of paragraph (2) of the bill. Paragraph (2) of the bill is essentially the current law for the distribution of shareholder dividends by domestic stock life insurers which requires notice to the Superintendent 30 days prior to the distribution and gives authority to the Superintendent to disapprove the distribution during that period if he deems that the financial condition of the company does not warrant a distribution.
- 10. **Chapter 482 of the Laws of 2000** amends the Insurance Law as follows:
  - Section 1 of the bill amends Section 2324(a) of the Insurance Law to raise the current statutory cap of \$5 on the monetary value of an article of merchandise that an insurer, agent, broker, or any employee or representative thereof may give as an inducement on a promotional basis to an insured. The amount of the cap would be increased to \$15.
- 11. **Chapter 486 of the Laws of 2000** amends the Insurance Law as follows:
  - Section 1 of the bill amends Section 1101(b)(3-a) of the Insurance Law to exempt from the definition of "doing an insurance business" warranties, service contracts and maintenance agreements conditioned upon or otherwise associated with the sale or supply of heating fuel.
- 12. **Chapter 505 of the Laws of 2000** amends the Insurance Law as follows:
  - Section 1 of the bill amends Section 2104(b)(1) of the Insurance Law to create an additional insurance broker license (life broker) for "life insurance, including for this purpose annuity contracts and supplemental contracts of non-cancelable disability insurance, accident and health insurance, including for this purpose, health maintenance organization contracts and legal services insurance".
  - Section 2 of the bill amends exactly the same provision added by Section 1 of the bill, except that it deletes the reference to "legal services insurance". The amendment made to Section 2104(b)(1)(A) of the insurance law by section 2 of this bill shall not take effect unless Section 1113(a)(29) of the Insurance Law, which authorized "legal services insurance" as a permissible type of insurance, is repealed, which would happen if the Legislature fails to extend the current sunset date of April 1, 2003 as set forth in Section 18(e) of Chapter 65 of the Laws of 1998.
  - Section 3 of the bill amends Section 2104(c)(1) of the Insurance Law to provide for forty classroom hours of pre-license study and the prior experience required for the life broker.
  - Section 4 of the bill amends Section 2104(e) of the Insurance Law to provide for written examination for the life broker license.

- Section 5 of the bill amends Section 2104(g)(1) of the Insurance Law to provide for the renewal of the life broker license. Section 5 also provides for staggered renewal dates in odd-numbered years, with the Superintendent authorized to allocate the expiration dates of licenses issued, so that approximately equal number of licenses in force will expire on February 28, June 30, and October 31 of odd-numbered years.
- Section 6 of the bill amends Section 2114(a)(1) of the Insurance Law to prohibit payment of commissions for services as a life broker unless the person is licensed as such.
- Section 7 of the bill amends Section 2117 of the Insurance Law to make it clear that the life broker is excluded from the limited authority given a property/casualty broker to negotiate insurance with insurers not authorized to do business in the state.

**13. Chapter 507 of the Laws of 2000** amends the Insurance Law as follows:

- Section 1 of the bill defines “replication transaction” as a derivative transaction or combination of derivative transactions effected either separately or in conjunction with cash market investments included in the insurer’s investment portfolio in order to replicate the investment characteristic of another authorized transaction, investment or instrument and/or operate as a substitute for cash market transactions. A derivative transaction entered into by the insurer as a hedging transaction or income generation transaction authorized pursuant to this section shall not be considered a replication transaction.
- Other sections of the bill amend the Insurance Law and Chapter 651 of the Laws of 1998 (the bill also extends the effective date of such Chapter from 6/30/2002 to 6/30/2003) to permit domestic life and property/casualty, reciprocal, mortgage guaranty, co-operative property/casualty and financial guaranty insurers, to engage in replication transactions under certain circumstances. An insurer would only be permitted to engage in replication transactions if: the insurer is permitted to invest in the asset being replicated; the asset being replicated meets the other quantitative limitations in the Insurance Law; and the aggregate statement value of all assets being replicated does not exceed ten percent of the insurer’s admitted assets. The use of replication transactions would be detailed in the derivative use plan submitted to the Superintendent for approval.

**14. Chapter 509 of the Laws of 2000** amends the Insurance Law as follows:

- Section 1 of the bill provides that in order to be employed as an investigator with special investigation units of insurance companies an individual must meet one of the following criteria: (1) possess an associate’s or bachelor’s degree in criminal justice or a related field; (2) possess five years of insurance claims investigation experience or professional investigation experience with law enforcement agencies; or (3) possess seven years of professional investigation experience involving economic or insurance related matters. Special investigation units may also employ authorized medical professionals to evaluate medical related claims. Current employees of Special Investigations Units who began such employment on or before September 10, 1996, are grandfathered under the bill.

**15. Chapter 537 of the Laws of 2000** amends the Insurance Law as follows:

- Section 1 of the bill adds a new subpart (D) in Section 1113(a)(1) of the Insurance Law to permit the acceleration of the death benefit of a life insurance policy when the insured is chronically ill as defined under Section 7702(B) of the Internal Revenue Code. This differs from subpart (C) in that under new (D) the insured does not need to have a chronic illness that requires care for the remainder of his or her life.

- Section 2 of the bill amends Section 3201(c)(12)(A) to include a reference to the new subpart (D) long term care trigger for accelerating death benefits. All life insurance policies that provide for the acceleration of the death benefit under the new subpart (D) must also provide for the terminal illness trigger under subpart (A).
- Section 2 of the bill also amends Section 3201(c)(12)(B) to delete the requirement that any regulations promulgated by the Insurance Department for accelerating death benefits for long term care purposes include minimum loss ratio standards.
- Section 3 of the bill adds two new subsections (f) and (g) to Section 3230 to exclude policies that provide for the new long term care trigger from the current disclosure and payment procedure requirements applicable for all other accelerated death benefit triggers and to require instead that the policy comply with the requirements of Section 4980C of the Internal Revenue Code for qualified long term care insurance carriers.

**16. Chapter 542 of the Laws of 2000** amends the Insurance Law as follows:

- Section 14 of the bill amends paragraph 2 of subsection (b) of Section 315 of the Insurance Law to require self-insured physicians, or physicians insured for professional medical malpractice with an insurance company not licensed to do business in this State, to report on malpractice claims.
- Section 15 of the bill adds a new subsection (g) to Section 315 of the Insurance Law making the failure to make any report required by section 315 a misdemeanor. The subsection provides that the Department of Health shall oversee the enforcement of this subdivision. The amendment also sets forth a requirement for a report by the Health Department to the Governor and the Legislature by June 30<sup>th</sup> of each year, regarding the operation of the provisions regarding penalties for non-compliance. The Health Department is also required to study the necessity of assessing penalties for false reporting by physicians, hospitals, or healthcare plans for purposes of collecting and disseminating data required to be disclosed pursuant to Title 1 (Health Information) of Article 29-D of the Public Health Law (Health Information and Quality Improvement), added by section 2 of this legislation.

**17. Chapter 557 of the Laws of 2000** amends the Insurance Law as follows:

- Section 1 of the bill amends Section 3216(i)(6)(A) of the Insurance Law which sets forth the definition of "home care". This section applies to individual insurance contracts written by commercial insurers. The defined home care services are covered if a person is under the care of a physician and would have required hospitalization or confinement in a skilled nursing facility as defined in subchapter XVIII of the federal Social Security Act. Currently, the services must be provided by a certified home health agency. The bill expands the types of agencies that can provide covered home care services to include licensed home care services agencies as well as certified home health agencies.
- Section 2 of the bill amends subparagraphs (C) and (D) of Section 3221(k)(1) of the Insurance Law which set forth the definition of home care for group insurance contracts issued by commercial insurers. This bill section makes the same changes to the definition of home care as Section 1 of the bill.
- Section 3 of the bill amends subparagraphs (A), (B) and (C) of Section 4303(a)(3) of the Insurance Law which set forth the definition of home care for contracts issued by not-for-profit insurers and health maintenance organizations. This bill section makes the same changes to the definition of home care as described in Section 1 of the bill.

- Section 4 of the bill requires that the Insurance Department analyze and compare expenditures, utilization rates and utilization patterns for claims for home care services covered by individual and group accident and health insurance. The analysis is to cover a period of four years encompassing the two years immediately preceding the effective date of the act and the two years immediately following the effective date of the act. The findings of this analysis are to be reported to the Governor, the Temporary President of the Senate and the Speaker of the Assembly on or before April 1, 2003.

**18. Chapter 565 of the Laws of 2000** amends the Insurance Law as follows:

- Section 1 of the bill amends Section 4303(l) of the Insurance Law which presently requires group, group remittance and school blanket coverage written by hospital service corporations, health service corporations and health maintenance organizations to provide coverage for at least sixty outpatient visits in any calendar year for the diagnosis and treatment of chemical dependence of which up to twenty visits may be for family members. The bill amends this subsection by adding language prohibiting the corporation or health maintenance organization from denying coverage to a family member who identifies themselves as a family member of a person suffering from the disease of alcoholism, substance abuse or chemical dependency and who seeks treatment as a family member who is otherwise covered by the applicable policy. The bill further provides that the coverage provided by this subsection shall include treatment as a family member pursuant to such family members' own policy.
- Section 2 of the bill amends Section 3221(l)(7) of the Insurance Law to require that commercial insurers delivering a group or school blanket policy be subject to the same requirements as described in Section 1 of the bill.

**19. Chapter 572 of the Laws of 2000** amends the Insurance Law and Public Health Law as follows:

- Sections 1 and 2 of the bill make conforming changes to Section 4406-e of the Public Health Law and Section 4805 of the Insurance Law which require a health care plan to cover services at an acute care facility for enrollees diagnosed with advanced cancer with no hope of reversal of the primary disease and fewer than sixty days to live. This bill limits the application of these sections to acute care services at only those acute care facilities licensed pursuant to Article 28 of the Public Health Law. It also limits the application of these sections to health care plans that already include coverage for acute care services in their enrollee contracts. The bill also clarifies that the provisions of Section 4406-e relating to the external appeal process supercede the related provisions of Public Health Law Article 49, which otherwise governs external appeals, and requires the health care plan to initiate an external appeal if there is a disagreement over coverage. If the plan does cover the services in question, it shall be at the rates negotiated under the applicable contract. If there is no contract, or if the applicable contract does not specify rates, the rates shall be based on the acute care rate under the Medicare program. The acute care facility may not balance bill the patient.

**20. Chapter 575 of the Laws of 2000** amends the Insurance Law as follows:

- Section 1 of the bill amends Section 3237 of the Insurance Law to provide that every individual health insurance policy and every group or blanket accident and health insurance policy that provides coverage for dependent children who are full-time students to a higher age than other dependent children shall continue the coverage of a covered dependent student who takes a leave of absence from school due to illness for a period of twelve months from the last day of attendance in school, provided, however, that coverage is not required of a dependent student beyond the age at which coverage would otherwise terminate. In order to qualify, the student's attending physician must be licensed to practice in New York, must certify the necessity of a leave of absence from school, and written documentation of the illness must be submitted to the insurer. The rate charged

for the extended coverage shall be the same as that charged while the dependent is enrolled as a full-time student.

- Section 2 of the bill adds a new Section 4306-a to the Insurance law to require that every contract issued by a medical expense indemnity corporation, hospital service corporation or health service corporation, also provide the coverage described above.

**21. Chapter 578 of the Laws of 2000** amends the Insurance Law as follows:

- Section 1 of the bill amends Section 7903(c)(1) of the Insurance Law to authorize the procurement of service contract reimbursement policies by an excess line licensee pursuant to Section 2118 of the Insurance Law.
- Section 2 of the bill would amend Section 2105(a) of the Insurance Law to permit unlicensed insurers to provide the insurance coverage required by Insurance Law Section 7903 as one of the means whereby the provider of service contracts could “assure the faithful performance” of their obligations under the contracts (the other means is establishment of a trust held by the Superintendent, or having a net worth of at least \$100 million).

**22. Chapter 591 of the Laws of 2000** amends the Insurance Law as follows:

- Section 9 of the bill amends Section 3231 of the Insurance Law to define physical therapy services as having the same meaning as are set forth in Section 238 of the Public Health Law. The section also prohibits any health care provider or practitioner from demanding or requesting any payment for physical therapy services in which the practitioner has an ownership interest and provides that no insurer shall be required to pay any claim for such services. The section also requires that every policy of accident or health insurance issued by commercial insurers or Article 43 corporations that provides coverage for physical therapy services include a provision excluding payment of any claim, bill or other demand or request for payment for such services furnished pursuant to a referral for services in which the practitioner has an ownership interest.
- Section 9 of the bill also requires that every insurer subject to the provisions of this section shall report to the Commissioner of Health any pattern of submission of claims, bills or other demands or requests for payment submitted where the practitioner has an ownership interest in any referrals for services within 30 days after such insurer has knowledge of such pattern. Insurers are not required to audit or investigate any claim, bill or other demand or request for payment for physical therapy services furnished pursuant to a referral.

**23. Chapter 593 of the Laws of 2000** amends the Insurance Law as follows:

- Section 1 of the bill amends Section 3221(l)(3)(B)(i) of the Insurance Law. This section is applicable to group insurance policies issued by commercial insurers. It presently defines ambulatory care in hospital out-patient facilities to include services for diagnostic x-rays, laboratory and pathological examinations, physical therapy and radiation therapy, and services and medications used for non-experimental cancer chemotherapy and cancer hormone therapy. Coverage for such services and medications is limited to those that are related to and necessary for the treatment or diagnosis of the patient's illness or injury, are ordered by a physician and, in the case of physical therapy services, are related to the same illness for which the patient had been hospitalized or in connection with surgical care. There is a further limitation on coverage of physical therapy services which provides that such services must commence within six months of discharge from the hospital or the date that surgical care was rendered, and in no event need coverage be provided after three hundred sixty-five days from the date of discharge from a hospital or the date surgical care was rendered. The bill amends this section by adding occupational therapy to the list

of services that fall within the definition of ambulatory care in hospital outpatient facilities. There is no provision for the types of limitations on this benefit that are currently applicable to physical therapy benefits.

- Section 2 of the bill amends Section 4235(f)(1) of the Insurance Law. This section is applicable to group insurance policies issued by commercial insurers. It presently provides that such policies may include provisions for the payment of benefits for expenses incurred on account of hospital, medical or surgical care or physical therapy by licensed physical therapists for the employee or other group member, his spouse, his children, or other persons chiefly dependent upon him for support and maintenance. The bill amends this section by adding occupational therapy to the list of services that may be included in group policies for expenses incurred for group members, their family or other dependents.
- Section 3 of the bill amends Section 4235(f)(4)(A) of the Insurance Law which currently contains the freedom of choice provision for physical therapy services. This mandates that any physical therapy service covered under a group insurance contract issued by a commercial insurer must be reimbursed whether performed by a physician or by a licensed physical therapist pursuant to prescription or referral by a physician. The bill amends the section by changing the reference to "physical therapy service" to "physical and occupational therapy service" and by changing the reference to "licensed physical therapist" to "licensed physical and occupational therapist."
- Section 4 of the bill amends Section 4301(b)(1)(G) of the Insurance Law, which sets forth the definition of "Medical expense indemnity". The section contains a list of reimbursable expenses that fall within this definition. The bill adds references to "occupational therapy" and "occupational therapists" to subparagraph (G), which previously referenced only physical therapy and physical therapists.
- Section 5 of the bill amends Section 4301(b)(3) of the Insurance Law, which requires that a medical expense indemnity corporation be open to participation of stated types of medical practitioners. The bill expands the current reference to "physical therapists" to include "physical and occupational therapists" and expands the reference to "physical therapy practice" to include "physical and occupational therapy practice."
- Section 6 of the bill amends Section 4303(e)(2) of the Insurance Law. This section is applicable to individual and group contracts issued by not-for-profit insurers and health maintenance organizations. It sets forth the definition of ambulatory care in hospital out-patient facilities and makes the same changes to this definition for not-for-profit insurers and health maintenance organizations as Section 1 of the bill made for group policies issued by commercial insurers.
- Section 7 of the bill adds a new Section 3216(i)(23) to the Insurance Law which provides that a covered physical and occupational therapy service must be eligible for reimbursement whether the service is performed by a physician or through a duly licensed physical or occupational therapist, provided the service performed is within the lawful scope of practice of the therapist rendering the service. The section further provides that it is not intended to impair any terms of the policy including utilization review or the requirement that services be performed pursuant to a medical order or a similar or related service of a physician.

**24. Chapter 598 of the Laws of 2000** amends the Insurance Law, the Not-For-Profit Corporation Law, the Tax Law, the Volunteer Firefighters Benefit Law and the Workers' compensation Law as follows:

- Section 5 adds a new Article 67 to the Insurance Law (entitled “Non-profit Property/Casualty Insurance Companies”) which provides for the organization, licensing and regulation of such companies.
  - Section 6701 states that the purpose of Article 67 is to provide for the organization and licensing of a non-profit property/casualty insurance company that insures non-profit organizations and that will qualify, and continue to qualify, as a “qualified charitable risk pool” under Section 501(n) of the Internal Revenue Code.
  - Section 6702 provides definitions of terms used in Article 67.
  - Section 6703(a) provides that a corporation may be organized as a type B corporation under Section 201(b) of the Not-For-Profit Corporation Law or as a non-profit reciprocal insurer under Article 61. It may write numerous specified kinds of property/casualty insurance except insurance against medical or hospital malpractice by licensed physicians or hospitals. It may not write any kind of insurance that is subject to Section 3425.
  - Section 6703(b) provides that the insurer shall be organized and operated exclusively for a purpose for which a corporation may be formed under the Not-For-Profit Law and the Insurance Law, not for pecuniary profit or financial gain. The bill also provides that no part of its assets, income or profit is distributable to or inures to the benefit of its members, directors or officers except to the extent permitted under the Not-For-Profit Corporation Law and the Insurance Law, in a manner acceptable to the Superintendent. The insurer may insure no organizations or corporations other than non-profit organizations.
  - Section 6704 provides for the licensing of non-profit property/casualty insurance companies. Section 6705 provides that in applying Article 67, the Superintendent shall consider the provisions of Section 501(c)(3) and Section 501(n) of the Internal Revenue Code. Section 6705 also sets forth numerous defining features of this type of insurer. One applicable requirement is that the insurer shall, subject to regulatory standards, offer to provide coverage for any eligible non-profit organization that applies for coverage, with certain enumerated exceptions.
  - Section 6706 sets forth provisions regarding the applicability of other provisions of the Insurance Law. The section also provides that the insurer will be subject to Article 74 of the Insurance Law.
  - Section 6707 provides an exemption from any fees, taxes, special *ad valorem* levies or assessments. However, the insurer is subject to assessments for the operation of the Insurance Department, Workers’ Compensation Fund administration, disability benefits law administration and all workers’ compensation special fund assessments.
  - Section 6707(b) provides an exemption from participation in the motor vehicle assigned risk plans, the New York Property Insurance Underwriting Association, and the Medical Malpractice Insurance Association.
  - Section 6707(c) provides that the insurer and the contracts it issues will be subject to Article 76 of the Insurance Law and Article 6-A of the Workers’ Compensation Law.
  - Section 6708 provides that the Superintendent shall promulgate such rules and regulations as may be necessary for the implementation of Article 67. The section also states that such regulation “may be necessary in light of the non-profit property/casualty insurance company being owned by non-profit organizations that it insures, including the proprietary nature of the information relating to the insurer’s operations.”

- Section 6 amends Section 404 of the Not-For-Profit Corporation Law to provide that the Superintendent must approve a certificate of incorporation for the insurer before being filed by the Department of State.
- Section 7 amends Section 1512(a) of the Tax Law to provide that the insurer is excepted from Article 33 of the Tax Law (premium/franchise tax).
- Section 8 amends Section 3(13) of the Volunteer Ambulance Workers' Benefit Law to include the insurer as a permissible "insurance carrier" under that law.
- Section 9 amends Section 3(13) of the Volunteer Firefighters' Benefit law to include the insurer as a permissible "insurance carrier" under that law.
- Section 10 amends Section 2(12) of the Workers' Compensation Law to include such insurer as a permissible "insurance carrier" under that law.
- Section 11 amends Section 106 of the Workers' Compensation Law to add a definition of a non-profit property/casualty insurance company for purposes of provisions regarding the Workers' Compensation Security Fund.
- Section 12 amends Section 108(2) of the Workers' Compensation Law to make a reference to such insurers in provisions regarding the amount that must be paid to the Workers' Compensation Security Fund.
- Section 13 amends Section 201(11) of the Workers' Compensation Law to add such insurer as a permissible insurer under the Disability Benefits Law.

**25. Chapter 601 of the Laws of 2000** amends the Insurance Law as follows:

- Sections 1, 2 and 3 of the bill amend Sections 3216, 3221 and 4303, respectively, of the Insurance Law to require that every policy delivered or issued for delivery in this state which provides medical coverage that includes coverage for physician services in a physician's office and every policy which provides major medical or similar comprehensive-type coverage shall provide, upon the prescription of a health care provider legally authorized to prescribe under Title Eight of the Education Law, coverage for diagnostic screening for prostatic cancer. Coverage shall be required for standard diagnostic testing including, but not limited to, a digital rectal examination and a prostate-specific antigen test at any age for men having a prior history of prostate cancer and an annual standard diagnostic examination including, but not limited to, a digital rectal examination and a prostate-specific antigen test for men age fifty and over who are asymptomatic and for men age forty and over with a family history of prostate cancer or other prostate cancer risk factors. This coverage for diagnostic screening for prostatic cancer may be subject to annual deductibles and coinsurance as may be deemed appropriate by the Superintendent and as are consistent with those established for other benefits within a given policy.

## IV. Regulations Promulgated or Repealed

The following is a summary of Insurance Department Regulations promulgated or repealed in 2000. These brief descriptions of the Regulations are intended only to provide general information and, therefore, should under no circumstances be used in place of the full text of the Regulations or regarded as interpretation of Insurance Department intent or policy.

*The 4<sup>th</sup> Amendment to Regulation 25 (11 NYCRR 26): Independent Adjusters-Legal Services, the 9<sup>th</sup> Amendment to Regulation 107 (11 NYCRR 71): Legal Defense Costs in Liability Policies, the 5<sup>th</sup> Amendment to Regulation 121 (11 NYCRR 73): Legal Services Insurance/Claims Made Policies, the 3<sup>rd</sup> Amendment to Regulation 129 (11 NYCRR 161): Flexible-Rating System/Legal Services Insurance, the 1<sup>st</sup> Amendment to Regulation 132 (11 NYCRR 260): Legal Services Plans, a new Regulation 161 (11 NYCRR 261): Prepaid Legal Services, and a new Regulation 162 (11 NYCRR 262): Legal Services Insurance (All promulgated 12/22/99 as emergency measures, effective 12/22/99; All promulgated 2/23/00 as emergency measures, effective 2/23/00; All Adopted on a permanent basis effective 3/22/00).*

Prior to enactment of Chapter 65 of the Laws of 1998, Section 1116 of the insurance law authorized insurers to offer experimental plans of prepaid legal services insurance, and, except in connection with such plans, the Insurance Law did not authorize insurers to provide legal services insurance. Chapter 65 added a new paragraph 29 to Insurance Law Section 1111(a), effective April 1, 1999; setting forth a new kind of insurance entitled "legal services insurance." Legal services insurance means insurance providing legal services or reimbursement of the cost of legal services. Chapter 65 also amended section 1116 of the Insurance Law (retitled "Prepaid legal services plans and legal services insurance").

These new regulations and amendments to existing regulations implement the legislative purpose to make affordable legal services insurance and prepaid legal services plans available in New York, subject to appropriate safeguards and limitations.

*First Amendment to Regulation 47 (11 NYCRR 50): Separate Account Annuities (Adopted on a permanent basis effective 4/5/00).*

New York Insurance Law §4240 authorizes insurers to provide life insurance and annuity benefits which vary according to the investment experience of an insurer's separate account. This amendment allows insurers to utilize additional methods in calculating variable annuity payments where such methods are determined by the Superintendent to be fair, equitable, reasonable and not less favorable to participants or annuitants than the methods previously employed. The amendment is consistent with the legislative objective of permitting insurers to provide variable annuity income payments to consumers that equitably reflect the investment performance of the separate account.

*Eighth Amendment to Regulation 96 (11 NYCRR 62-4): Anti-Arson Application (Adopted on a permanent basis effective 9/27/00).*

Insurance Law Section 3403 specifies the circumstances under which an anti-arson application must be completed by an applicant for a new or renewal policy or binder covering the perils of fire or explosion. Regulation 96 created the anti-arson application form that elicited the disclosure of certain types of information. The regulation also provides for cancellation of coverage if the application is not received within the statutorily mandated time frame.

Since 1981, when the statute was originally enacted, insurers have increased their ability to obtain the required information from other sources. Accordingly, a new subsection (h) to Insurance Law Section 3403 was enacted by Chapter 456 of the Laws of 1999 allowing the Superintendent to suspend

or waive the requirement that the insurer use the anti-arson application upon renewal of policies if it is demonstrated that substantially equivalent information can be obtained by the insurer by other means. The amendment establishes the procedure whereby an insurer may request such suspension or waiver.

*Twenty-Sixth Amendment to Regulation 101 (11 NYCRR 70): Medical Malpractice Insurance: Required Notices and Rate Modifications (Promulgated 6/21/00 as an emergency measure; Effective 6/21/00; Adopted on a permanent basis effective 7/12/00).*

This Amendment establishes physicians and surgeons medical malpractice insurance rates and appropriate surcharges for the policy year July 1, 1999 through June 30, 2000 and establishes rules to collect and allocate surcharges to recover deficits based on past experience.

*Third Amendment to Regulation 114 (11 NYCRR 126): Trust Agreements (Adopted on a permanent basis effective 8/2/00).*

The Third Amendment to Regulation 114 specifically permits a trust company to be the trustee under a trust agreement. Previously, the regulation required that the trustee be a bank which is either a member of the Federal Reserve or is New York State chartered.

*Sixth Amendment to Regulation 145 (11 NYCRR 360): Open Enrollment and Community Rating of Individual and Small Group Health Insurance (Adopted on a permanent basis effective 1/3/01).*

Chapter 501 of the Laws of 1992 was enacted to increase access to affordable health insurance coverage through mandatory community rating and open enrollment. This regulation was first promulgated in 1993 to ensure that the objectives of the legislation were realized. This amendment is intended to correct two situations where the legislative objectives have not been fully implemented. It prohibits premium discounts and per case charges, both mechanisms that tended to result in coverage for smaller groups becoming more expensive and less accessible relative to larger groups.

The amendment also prohibits insurers establishment of commission payment schedules that would make agents and brokers reluctant to spend time and resources selling and procuring coverage to smaller groups.

*Third Amendment to Regulation 146 (11 NYCRR 361): Pooling Mechanism for Individual and Small Group Health Insurance (Promulgated 2/15/00 as an emergency measure; Effective 2/15/00; Promulgated 5/11/00 as an emergency measure; Effective 5/11/00; Promulgated 8/3/00 as an emergency measure; Effective 8/3/00; Adopted on a permanent basis effective 12/13/00).*

Chapter 501 of the Laws of 1992 established requirements for open enrollment, community rating and portability of individual and small group health insurance coverage, and provides for a pooling mechanism for individual and small group health insurance to ensure the stabilization of health insurance markets and premium rates. Chapter 504 of the Laws of 1995 specifically required the phase out of demographic based pooling mechanisms and the expansion of pooling processes designed to share the risk of or equalize high cost claims or the claims of high cost persons.

This amendment accomplishes the legislative objective of Chapter 504, while also retaining and enhancing consumer protections contained in the regulation previously and assuring that coverage is made available to all segments of the population at reasonable rates.

*The New Regulation 166 (11 NYCRR 410): External Appeals of Adverse Determinations of Health Care Plans (Promulgated 12/29/99 as an emergency measure; Effective 12/29/99; Promulgated 3/1/00 as an emergency measure; Effective 3/1/00; Promulgated 4/26/00 as an emergency measure; Effective 4/26/00; Promulgated 6/21/00 as an emergency measure; Effective 6/21/00; Promulgated 8/23/00 as*

*an emergency measure; Effective 8/23/00; Promulgated 10/18/00 as an emergency measure; Effective 10/18/00; Promulgated 12/20/00 as an emergency measure; Effective 12/20/00; Promulgated 1/30/01 as an emergency measure; Effective 1/30/01; Adopted on a permanent basis effective 2/14/01).*

Chapter 586 of the Laws of 1998 provides enrollees of managed care plans and insureds the right to an objective, independent external appeal of a final adverse determination made by their health care plan. The law was intended to provide consumers with the right to obtain a review of their health plans' decisions through an objective body of medical experts, at the health plan's expense.

The legislation makes the external appeal process accessible to enrollees and insureds by ensuring that they have information concerning their rights to and eligibility for an external appeal. To this end, the Insurance Department (SID) and the Health Department (DOH) are required to develop a standard description of the external appeal program. The legislation also reflects a clear intent to ensure the objectivity, integrity and effectiveness of the external appeal process. A strong framework is provided to minimize the potential for conflicts of interest. However, the legislature recognizes that there may be unavoidable conflicts of interest and therefore, requires regulations to minimize those unavoidable conflicts.

The regulation, consistent with legislative intent, provides a description of the external appeal process, sets criteria for entities wishing to act as external appeal agents, establishes a process whereby such entities can obtain such certification, establishes procedures to minimize any unavoidable conflicts of interest, details the responsibilities of the Insurance Department in screening external appeal requests for eligibility, requires random assignment of external appeals as required by statute, clarifies respective responsibilities of all parties to the process, ensures the confidentiality of patients' medical records, consistent with various Public Health Law provisions, including HIV confidentiality and mental health and substance abuse confidentiality statutes, affirms the right of the Department of Health and Insurance Department to inspect the records of health plans and certified external appeal agents with respect to external appeal records.

*The New Regulation 167 (11 NYCRR 310): Product and System Group Policies (Promulgated 9/27/99 as an emergency measure; Effective 9/27/99; Promulgated 12/23/99 as an emergency measure; Effective 12/23/99; Promulgated 2/9/00 as an emergency measure; Effective 2/9/00; ; Promulgated 5/9/00 as an emergency measure; Effective 5/9/00; ; Promulgated 8/7/00 as an emergency measure; Effective 8/7/00; Adopted on a permanent basis effective 10/18/00).*

Chapter 187 of the Laws of 1999 adds a new section 3446 to the Insurance Law, permitting a group policy to be issued to a manufacturer, distributor, or installer of a product or system, or to a trustee on behalf of more than one manufacturer, distributor or installer. The policy insures persons who have purchased or own the product or system where the manufacturer, distributor or installer has represented that the product or system is designed to prevent loss or damage from a specific cause.

The regulation implements the legislative purpose by establishing requirements for issuance of certificates to group members, payment of premium, and cancellation and renewal.

*The New Regulation 170 (11 NYCRR 430): Mechanism for Equitable Distribution of Insureds Unable to Obtain Medical Malpractice Insurance (Promulgated 6/30/00 as an emergency measure; Effective 6/30/00; Promulgated 9/25/00 as an emergency measure; Effective 9/25/00; Promulgated 12/22/00 as an emergency measure; Effective 12/22/00; Adopted on a permanent basis effective 3/7/01).*

Insurance Law Section 5502, as amended by Chapter 147 of the Laws of 2000, directs the dissolution of the Medical Malpractice Insurance Association ("Association") at such time and under such conditions as the Superintendent deems proper, pursuant to a plan of dissolution approved by the Superintendent and requires that all policies of the Association expire or be transferred prior to such

dissolution. Further, the Superintendent is directed to provide, by regulation, for the equitable distribution of the Association's insureds, and health care practitioners and facilities unable to obtain medical malpractice insurance after the dissolution of the Association, to other authorized medical malpractice insurers.

This regulation establishes the New York Medical Malpractice Insurance Plan ("Plan") to provide for the equitable distribution required by the legislature. Through the Plan, eligible health care providers as defined in the regulation, unable to obtain insurance in the voluntary market, will be assigned to an insurer writing the appropriate coverage in the insured's geographical territory. The Plan will be governed by a plan of operations, approved by the Superintendent. Under the plan of operations, the member insurers of the Plan may designate, with the approval of the Superintendent, one or more members to service the assignments of other members of the Plan that desire to be relieved of their responsibility to service their assignments.

The following is a summary of Insurance Department Regulations promulgated on an emergency basis in 2000 that were in effect on December 31, 2000. No final action was taken with regard to these regulations in 2000, although it is anticipated that they will be permanently adopted in 2001. These brief descriptions of the Regulations are intended only to provide general information and, therefore, should under no circumstances be used in place of the full text of the Regulations or regarded as interpretation of Insurance Department intent or policy.

*The 1<sup>st</sup> Amendment to Regulation 27A (11 NYCRR 185): Credit Life and Credit Accident and Health Insurance (Promulgated 9/19/00 as an emergency measure; Effective 9/19/00; Promulgated 1/8/01 as an emergency measure; Effective 1/8/01).*

Insurance Law sections 4216 and 4235 authorize credit life insurance and credit accident and health insurance as permitted coverages in this state. Section 4216(b)(3)(C) clearly indicates that the legislature intended that coverage could terminate because of the attainment of a specified age. Part of this amendment removes a restriction on the use of age terminations.

The current regulation specifies the rates for vendor business. The most common examples of vendor business are automobile dealerships. The rates specified in the regulation for some blocks of vendor business are inadequate. Part of this amendment would allow for the rates for blocks of vendor business to be based on their actual experience. In the absence of this change coverage will be unavailable at some vendors. Sections 4216 and 4235 also require that the premium not be unreasonable in relation to the benefits provided. This part of the amendment tries to balance the legislative objective of having the product available with the legislative objective that the insured receive fair value for their premium dollar.

*The 1<sup>st</sup> Amendment to Regulation 68-D (11 NYCRR 65-D): No-Fault/Conciliation Guidelines for American Arbitration Association (Promulgated 1/31/00 as an emergency measure; Effective 1/31/00; Promulgated 4/26/00 as an emergency measure; Effective 4/26/00; Promulgated 7/24/00 as an emergency measure; Effective 7/24/00; Promulgated 10/19/00 as an emergency measure; Effective 10/19/00; Promulgated 1/8/01 as an emergency measure; Effective 1/8/01).*

The Insurance Department has performed a no-fault conciliation function since 1978 in an effort to provide speedy resolution of disputes while saving costs for the industry, costs that are ultimately borne by the consumer. Cases that cannot be conciliated are forwarded to American Arbitration Association (AAA), to be resolved.

Over the past three years there has been a substantial increase in volume of cases to be conciliated. Consequently, there has been a substantial delay in processing these cases. In order to process these cases expeditiously, the decision was made to transfer this function to the AAA, which will be able to conciliate a greater number of cases on a more expeditious basis, thereby reducing the

cost to insurers of proceeding to arbitrations as well as reducing interest payments by insurers on overdue unpaid claims.

This amendment accomplishes the transfer of the conciliation procedures. Rather than diminishing its role in the process, the Department will strengthen its regulatory function with respect to compliance with the no-fault insurance statutes. The Department will continue to monitor conciliation activity, and will identify potential problems by analyzing trends via reports to be generated regularly by the designated organization on all aspects of the conciliation function, such as (but not limited to), provider overcharges, dilatory claims handling by insurers and overutilization of the arbitration system by claimants' representatives. Staff resources will be freed from the functions of file processing and will be in a position to focus on insurer compliance and reduction of the systemic costs of the no-fault insurance program, which should ultimately lead to cost savings to the state's automobile insurance consumers.

*The 27th Amendment to Regulation 101 (11 NYCRR 70): Medical Malpractice Insurance: Required Notices and Rate Modifications (Promulgated 12/28/00 as an emergency measure; Effective 12/28/00).*

This regulation establishes the framework for the rates and forms of policies of physicians medical malpractice insurance. This amendment establishes the rates and surcharges for primary policies of physicians and surgeons' medical malpractice insurance effective July 1, 2000.

*The Repeal and Repromulgation of Regulation 147 (11 NYCRR 98): Life Insurance Reserve Requirements (Promulgated 3/14/00 as an emergency measure; Effective 3/14/00; Promulgated 6/12/00 as an emergency measure; Effective 6/12/00; Promulgated 9/7/00 as an emergency measure; Effective 9/7/00; Promulgated 11/6/00 as an emergency measure; Effective 11/6/00; Promulgated 1/5/01 as an emergency measure; Effective 1/5/01).*

This regulation ensures the solvency of life insurers doing business in New York. The Insurance Law specifies mortality and interest standards but does not specify an explicit method to be used to value life insurance policies that do not have level premiums and/or level benefits and relies on the Superintendent to specify the method. Without this regulation, there would be no standard method for valuing such products. This could result in inadequate reserves for some insurers which would jeopardize the security of policyholder funds.

The revised regulation requires that reserves for term products and secondary guarantees on universal life, universal life-type products, and variable life products meet the same standards as reserves for level premium products. It permits the use of new select mortality factors and allows the appointed actuary for a life insurer to apply certain percentages, called X factors, to modify the mortality bases for deficiency reserves which will now give domestic insurance companies and foreign insurance companies licensed to do business in New York State the ability to compete in these markets with companies not so licensed.

*The New Regulation 169 (11 NYCRR 420): Consumer Information Privacy (Promulgated 11/10/00 as an emergency measure; Effective 11/10/00; Promulgated 2/8/01 as an emergency measure; Effective 2/8/01).*

Title V of the Gramm-Leach-Bliley Act (GLBA), enacted into law by Congress as P.L. 106-102, requires all "financial institutions" (including persons engaged in the insurance business) to comply with the privacy requirements contained therein. Pursuant to Section 505, Title V and regulations prescribed thereunder "shall be enforced... by the applicable State insurance authority..." Failure by a state to establish rules for privacy of consumer and customer financial information precludes the state from overriding the consumer protection regulations prescribed by a Federal banking agency under Section 45(a) of the Federal Deposit Insurance Act.

Section 501 of GLBA states that it "is the policy of the Congress that each financial institution has an affirmative and continuing obligation to respect the privacy of its customers and to protect the security and confidentiality of those customer's nonpublic personal information." The Act requires financial institutions to comply with certain obligations regarding disclosure of nonpublic personal information. State insurance authorities retain primary responsibility to regulate the activities of persons engaging in the business of insurance.

The proposed regulation assures that individual consumers and customers will have an opportunity to prevent unwarranted disclosure of non-public personal financial and health information. Failure by New York to adopt rules on privacy would preclude New York from overriding insurance customer protections regulations prescribed by a Federal banking agency under Section 45(a) of the Federal Deposit Insurance Act. In addition, such a failure would be an abdication of New York's regulatory responsibilities. Absent this regulation, licensees of the Department would remain subject to the provisions of GLBA, but they would not have sufficient guidance to protect them from litigation challenging their attempts at compliance. In addition, consumers would not be adequately protected because the Department would be unable to take action against licensees based upon violations of GLBA's provisions.

*The New Regulation 172 (11 NYCRR 420): Financial Statement Filings and Accounting Practices and Procedures (Promulgated 12/29/00 as an emergency measure; Effective 12/29/00).*

The purpose of this Regulation is to enhance the consistency of the accounting treatment of assets, liabilities, reserves, income and expenses by entities subject hereto, by clearly setting forth the accounting practices and procedures to be followed in completing annual and quarterly financial statements required by law. Certain provisions of the Insurance Law provide that authorized insurers, accredited reinsurers, authorized fraternal benefit societies, and Public Health Law Article 44 Health Maintenance Organizations and Integrated Delivery Systems shall file financial statements annually and quarterly with the Superintendent, on forms prescribed by the Superintendent. Except in regard to filings made by Underwriters at Lloyd's, London, the Superintendent has prescribed forms and Annual and Quarterly Statement Instructions that are adopted from time to time by the National Association of Insurance Commissioners, as supplemented by additional New York forms and instructions. To assist in the completion of the Financial Statements, the National Association of Insurance Commissioners ("NAIC") also adopts and publishes from time to time certain policy, procedure and instruction manuals. One of these manuals, the Accounting Practices and Procedures Manual Effective January 1, 2001 As Of March 2000 ("Accounting Manual") includes a body of accounting guidelines referred to as Statements of Statutory Accounting Principles. The Accounting Manual is incorporated by reference into this regulation.

The Accounting Manual is to be effective January 1, 2001. The Accounting Manual represents a codification of statutory accounting principles. The purpose of the codification of statutory accounting principles is to produce a comprehensive guide for regulators, insurers and auditors. Statutory Accounting Principles ("SAP") prior to codification did not always provide a consistent and complete basis of accounting and reporting. The prescribed statutory accounting model resulted in practices that varied from state to state. Insurers were often uncertain about what rules to follow and regulators were sometimes unfamiliar with the accounting rules followed by insurers in other states. As a result, financial statements were not always prepared on a comparable basis. The codification project results in more comparable financial statements and in more complete disclosures, which will make regulators' analysis techniques more meaningful and effective. Codification will provide examiners and analysts with uniform accounting rules against which insurers' financial statements can be evaluated. Also, calculations under Risk Based Capital will be reported more consistently under codification.

Codification does not preempt state legislative and regulatory authority. Statutory financial statements will continue to be prepared on the basis of accounting practices prescribed or permitted by the states. Further, auditors will be permitted to continue to provide audit opinions on practices

permitted by the Insurance Department of the state of domicile, even if those practices diverge from the codification standards. In some instances, a New York statute or regulation may preclude implementation of particular codification rules. In a few instances, for various reasons, the Department has not implemented the codification rule.

## V. CIRCULAR LETTERS ISSUED IN 2000\*

NUMBER	DATE	ADDRESSED TO	SUBJECT
1	1/7/00	All Motor Vehicle Self-Insurers and Insurers Licensed to Write Motor Vehicle Insurance in New York State	Revision of Insurance Department Regulation 68
2	1/7/00	All Authorized Motor Vehicle Insurers and Insurance Producer Organizations	Motor Vehicle Insurance Policies Covering Taxis, Liveries, Buses and Rental Vehicles: Insurance Information Enforcement System (IIES)
3	1/19/00	All Licensed Hospital, Medical, and Dental Service or Indemnity Article 43 Corporations and Public Health Law Article 44 Health Maintenance Organizations	New York Supplements to the Annual Statement and Quarterly Statement Electronic Filing Requirements
4	1/31/00	All Licensed Fraternal, Life and Accident And Health, Title, Property and Casualty, Reciprocal, Financial Guaranty and Mortgage Guaranty Insurers, Medical Malpractice Insurance Association, Cooperative Property/Casualty Insurers Operating on the Advance Premium Plan, Assessment Cooperative Companies, The State Insurance Fund, United States Branches, Accredited Reinsurers of the Aforementioned Types of Companies, Hospital, Health, Medical, and Dental Service or Indemnity Article 43 Corporations, and Public Health Law Article 44 Health Maintenance Organizations	Electronic Filing via the Internet of National Form (NAIC) Annual and Quarterly Statements
Supplement 1 To CL No. 4 (2000)	3/8/00	All Licensed Life and Accident and Health, Property/Casualty, Reciprocal, Financial Guaranty and Mortgage Guaranty Insurers, Medical Malpractice Insurance Association, Cooperative Property/Casualty Insurers, The State Insurance Fund, Accredited Reinsurers, Hospital, Health, Medical, and Dental Service or Indemnity Article 43 Corporations, and Public Health Law Article 44 Health Maintenance Organizations	Electronic Filing via the Internet of New York Supplement Annual and Quarterly Statements
5	2/4/00	All Licensed Insurers	Insurers Adjusting Claims On Behalf of Other Insurers

6	1/27/00	All Insurance Companies and HMOs Licensed to Write Accident and Health Insurance in New York State	Section 3224 Insurance Law Prompt Payment of Accident and Health Claims
7	2/3/00	All Licensed Life Insurers, Property/Casualty Insurers, Co-operative Property/Casualty Insurers, Financial Guaranty Insurers, Mortgage Guaranty Insurers, Reciprocal Insurers, Title Insurers, Accident and Health Insurers, Article 43 Corporations, all Public Health Law Article 44 Health Maintenance Organizations, and the New York Property Insurance Underwriting Association; all Hereinafter Referred to as "Licensees"	Privacy Safeguards Protection of Nonpublic Personal Information
8	2/8/00	All Licensed Life Insurers, Property/Casualty Insurers, Accident and Health Insurers, and Insurance Producer Organizations	Brokers and Agents Authorized to Market Legal Services Insurance
9	2/29/00	All Public Health Law Article 44 HMOs Including Insurance Law Article 43 Corporations with a Line of Business HMO Certificate of Authority	Inclusion of IPA Financial Statements in the HMO New York Data Requirements Annual Statement
10	3/9/00	All Licensed Insurers	Electronic Fraud Reporting System
12	3/1/00	All Insurance Companies and HMOs Licensed to Write Accident and Health Insurance in New York State	Section 3224-a Insurance Law and the Use of IPAs (Independent Practice Associations)
13	6/5/00	All Life Insurers and Fraternal Benefit Societies	Bonus Interest Rate or Credit Provisions in Deferred Annuity Contracts
14	5/1/00	All Licensed Fraternal, Life and Accident And Health, Title, Property and Casualty, Reciprocal, Financial Guaranty and Mortgage Guaranty Insurers, <i>et al.</i>	Furnishing of Fax Numbers in Connection with Complaints
15	5/23/00	All Licensed Fraternal, Life and Accident And Health, Title, Property/Casualty, <i>et al.</i>	The Violent Crime Control Law Enforcement Act of 1994, Title 18 U.S.C. Sections 1033 and 1034
16	5/10/00	All Motor Vehicle Self-Insurers and Insurers Licensed to Write Motor Vehicle Physical Damage Insurance in New York State	Application of Section 2610(b) of the Insurance Law

Supplement 13 to CL No. 9 (1988)	5/10/00	All Property/Casualty Insurance Companies; Co-operative Property/Casualty Insurance Companies; Reciprocal Insurers; Financial Guaranty Insurance Corporations; and the Medical Malpractice Insurance Association	Property/Casualty Insurance Security Fund
17	5/22/00	All Licensed Insurance Agents, Insurance Brokers and Insurance Producer Organizations	Promissory Note Fraud Alert
18	5/26/00	The Insurance Community of New York State; Other Parties Affected by Insurance Department Circular Letters	Circular Letter Review
19	6/5/00	All Licensed Life Insurers and Fraternal Benefit Societies	Race-Based Underwriting
Supplement 1 to CL No. 19 (2000)	6/22/00	All Licensed Life Insurers and Fraternal Benefit Societies	Race-Based Underwriting
20	6/14/00	All Motor Vehicle Self-Insurers and Insurers Licensed to Write Motor Vehicle Insurance in New York State	Insurance Department Regulation 68 Lawsuit
21	6/21/00	All Licensed Life Insurance Agents, Licensed Life Insurers and Fraternal Benefit Societies	Duties and Obligations in the Sale of "Bonus" Interest Rate or Credit Provision Annuity Contracts
22	8/11/00	All Insurers Licensed to Write Marine Insurance in the State of New York	Marine and Inland Marine Insurance
23	9/8/00	All Authorized Life Insurance Companies, Accredited Life Reinsurers, Fraternal Benefit Societies and Charitable Annuity Societies	Maximum Reserve Valuation and Maximum Life Policy Nonforfeiture Interest Rates
24	7/18/00	All Motor Vehicle Self-Insurers and Insurers Licensed to Write Motor Vehicle Insurance in New York State	Insurance Department Regulation 68 Lawsuit
25	8/11/00	All Insurers Licensed to Write Motor Vehicle Insurance in New York State	Restriction of Installment Payment Plans and Financed Premiums
26	8/3/00	All Public Health Law Article 44 HMOs, Insurance Law Article 43 Corporations, and Insurers Licensed to Write Accident and Health Insurance in New York State	Point-of-Service Products
27	8/21/00	All Insurers Authorized to Write Life Insurance and Annuities	Procedural Changes in the Approval Process and Recommended Changes

Supplement 3 to CL No. 11 (1998)	8/21/00	All Authorized Property/Casualty Insurers and Rate Service Organizations	Optional Procedures for the Filing of Policy Forms, Rules and Rates
28	8/22/00	All Insurers Authorized to Write Accident and Health Insurance in New York State, Including Article 43 Corporations and Health Maintenance Organizations	Procedural Changes in the Filing Process for Accident and Health Insurance Policy Form and Rate Submissions: Optional "Fast Track" Prior Approval Process
30	10/13/00	All Licensed Property/Casualty Insurance Companies And Insurance Producer Organizations	2000 Insurance Availability Survey and Annual Free Trade Zone Update
31	9/28/00	All Licensed Insurers, Public Health Law Article 44 HMOs, Insurance Law Article 43 Corporations, and Municipal Cooperative Health Benefit Plans	Licensing Requirements for Independent Practice Associations (IPAs) and Other Entities that Adjust Claims
32	12/11/00	All Insurers	Change in Qualifications for Employment in Insurer Special Investigations Units
33	11/14/00	All Licensed Life Insurers, and Accredited Life Reinsurers	Issues Regarding Liquidity
34	10/24/00	All insurers Authorized to Write Accident and Health Insurance in New York State, Including Article 43 Corporations and HMOs	Update on Implementation of Chapter 728 of the Laws of 1993, Requiring Coverage for Preventive and Primary Care Services
Supplement 1 to CL No. 30 (1999)	11/22/00	All Motor Vehicle Self-Insurers and Insurers Licensed to Write Motor Vehicle Liability Insurance in New York State	Designation of a Contact Person Concerning Assessments for Conciliation and Arbitration Costs
35	12/11/00	All Licensed Property/Casualty Insurers Authorized To Write Workers' Compensation Insurance In New York State	Workers' Compensation Board's Treatment Utilization Pilot Program
39	12/21/00	All Insurers and Corporations Subject to Examination by the New York State Insurance Department	Change in Examination Billing Methodology

\* Circular Letters No. 29, 36, and 37 were not issued in 2000. Circular Letter No. 38 was not sent out in 2000, but issued in 2001 as CL#1-2001

## VI. MAJOR LITIGATION

### ***Medical Society of the State of New York, et al. v. Levin***

Supreme Court, New York County  
Appellate Division, First Department

This Article 78 proceeding, brought by various medical societies, health care providers and suppliers, bar associations and individual automobile owners and drivers, challenged the validity of amendments to Department Regulation 68 (11 NYCRR Part 65) implementing the no-fault law (Article 51 of the Insurance Law). The amendments, which became effective on February 1, 2000, were intended to help reduce fraud and abuse in the no-fault system. The major changes included reduction in the time for notifying no-fault insurers of an accident and for submission of written proofs of claim for medical treatment; change in the method of calculating interest on overdue no-fault benefits from compound to simple interest; elimination of attorney fees in cases where charges by a health care provider who is an applicant for benefits exceed regulatory fee limits; modification of arbitration procedures; and elimination of assignment of claims to certain non-licensed providers of medical benefits.

On June 9, 2000, the Supreme Court (Justice Phyllis Gangel-Jacob) issued an order declaring the new Regulation null and void, and enjoining implementation thereof, on the ground that the Regulation was promulgated in violation of the State Administrative Procedure Act (SAPA). The Court found that the Department had failed to consider the projected cost of the amendments on claimants and providers, and whether additional paperwork would necessarily be generated by covered persons. The Court also found that the regulatory impact statement filed with the new regulation failed to provide an adequate statement regarding alternatives to the amendments and failed to adequately address public comments, and that the Department's regulatory flexibility analysis failed to properly consider the impact of the amendments on small businesses.

On June 14, 2000, the Department filed an appeal to the Appellate Division, First Department, which denied a stay of enforcement of the order of the Supreme Court. On February 6, 2001, the Appellate Division affirmed the decision of the Supreme Court. While the appeal was pending, the Department reissued proposed amendments to Regulation 68, which are currently being processed in accordance with SAPA rule-making procedures.

### ***Allstate Insurance Co. v. Serio***

### ***Government Employees Insurance Co., et al. v. Serio***

United States District Court, Southern District of New York  
United States Court of Appeals for the Second Circuit

These actions, filed by property and casualty insurers, challenge the Department's interpretation and enforcement of Section 2610(b) of the Insurance Law, which prohibits insurers from recommending or suggesting that repairs to motor vehicles be made in particular repair shops unless the insured expressly requests such a recommendation.

On May 4, 2000, the District Court (Richard Conway Casey, U.S.D.J.) granted summary judgment to the plaintiffs, and ruled that Section 2610(b), as applied to Allstate and GEICO, impermissibly restricted commercial free speech in violation of the United States and New York State Constitutions.

In response to this decision, on May 10, 2000, the Department issued Circular Letter No. 16 (2000), which states that "it is clear from the decision that the First Amendment protection of commercial free speech would extend to . . . insurers that were not parties to the . . . actions" and that "attempts by the Department to enforce . . . section 2610(b) run afoul of First Amendment protections." The Circular Letter goes on to state that insurers are therefore "free to recommend or suggest that

repairs to a damaged vehicle be made in particular places or repair shops regardless of whether the insured expressly requested such recommendations.”

The Attorney General, acting pursuant to his statutory role in defending the constitutionality of state statutes, filed an appeal from the decision of the District Court to the U.S. Court of Appeals for the Second Circuit, where the case is *sub judice*.

***New York Health Plan Association, Inc., et al. v. Levin***

Supreme Court, Albany County

This is an Article 78 proceeding challenging the Department’s interpretation of Section 3224-a of the Insurance Law, the “prompt pay law.” The Department, in Circular Letter No. 12 (2000), issued March 12, 2000, advised HMOs and health insurers that they are ultimately responsible for compliance with the prompt pay law, despite any contractual delegation of the claims payment process to outside entities such as independent practice associations (IPAs).

The Petitioners, which include the New York Health Plan Association and several health maintenance organizations (HMOs), argued that they have no contractual obligation to pay a provider bill or claim submitted to an IPA, and that such claims are therefore not subject to the prompt pay law. The petitioners also argued that Circular Letter No. 12 was a rule under the State Administrative Procedure Act (SAPA), and that the Department failed to follow the required SAPA procedure for promulgation of the rule.

On January 2, 2001, the Supreme Court (Justice George L. Cobb) dismissed the Article 78 proceeding. The Court held that Circular Letter No. 12 was an authorized interpretive statement or statement of general policy, and was therefore not a rule within the meaning of SAPA. The Court also found that the Department’s interpretation of Section 3224-a in Circular Letter No. 12 was neither arbitrary nor capricious, and was consistent with the statute. The Petitioners have filed a Notice of Appeal of the decision to the Appellate Division, Third Department.

***Joseph M. Belth v. New York State Department of Insurance***

Supreme Court, New York County

On December 4, 2000, Joseph Belth, publisher of a monthly newsletter, *The Insurance Forum*, brought an Article 78 petition challenging the Department’s determination that certain names be redacted from Schedule G of the New York Supplement to the Annual Statement on the grounds that such disclosure would be an “unwarranted invasion of personal privacy” under the New York Freedom of Information Law (FOIL), N.Y. Pub. Off. Law, Art. 6.

Mr. Belth had requested, pursuant to FOIL, the Schedule G for each life insurance company doing business in the New York State for the year ended December 31, 1999. The Department determined that, pursuant to FOIL, the names of the employees listed on Schedule G must be redacted except for the names of the directors, the trustees and three senior officers, to prevent an “unwarranted invasion of personal privacy” under FOIL. The Life Insurance Council of New York moved to intervene as a respondent on February 15, 2001, on the grounds that it is an interested party under CPLR §7802(d). The Department answered the Article 78 petition and submitted a Memorandum of Law in Opposition to the Article 78 Petition on February 16, 2001.

***Vijay J. Shah, et al. v. Metropolitan Life Insurance Company, et. al***

Geneva Meloy, et al., v. Levin, et. al, Supreme Court, New York County

These two cases involve the Superintendent’s determination approving the demutualization of Metropolitan Life Insurance Company. In the first case, a class action, the Department has moved to dismiss on the grounds that an Article 78 is the proper forum for challenging the Superintendent’s determination approving the demutualization. There have been no developments in the second suit.

## VII. 2001 Legislative Recommendations

*These are the legislative recommendations that were available at press time. Additional recommendations may be submitted throughout the year.*

### A. Governor's Program Bills for 2001

#### 1. Miscellaneous Regulatory Improvements: Program Bill No. 39

To make a number of amendments of the Insurance Law that address miscellaneous regulatory issues, including proposals to:

- amend Article 66 to increase the authority of cooperative P/C insurers to invest in certificates of deposit;

- amend Section 1320 to impose a \$500,000 minimum deposit requirement on licensed alien insurers that do two or more lines of insurance, which is the same minimum that presently applies to alien insurers authorized to do only one kind of insurance;

- amend Section 1110 to expand the authority of charitable annuity societies to make or issue annuity contracts without having to have first obtained a special permit, by increasing the reserves threshold from \$80,000 to \$500,000;

- amend Section 7907(a)(6) to eliminate the requirement that service contract providers include with their registration applications to the Insurance Department, copies of each form of service contract they propose to use in New York State;

- amend Section 3211 regarding authorization for a senior citizen insured under a long-term care policy to designate a third party to receive premium notices;

- amend Section 1112 to change the calculation of the amount of estimated tax payments by insurers subject to retaliatory taxes;

- amend Section 2324 and Section 4224 to prohibit the inclusion of certain goods and services in the sale of certain insurance policies without the insured's informed consent, and to provide an enhanced penalty for violation of such provisions;

- amend Section 3201(c) to permit the Insurance Department to approve long-term care policy forms for general use rather than on a case by case basis;

- amend Section 1113(a)(28) to include indemnity insurance to benefit service contract providers;

- amend Section 4230 to eliminate the prohibition on employment contracts between a domestic life insurance company and its officers/salaried employees which currently cannot exceed 36 months in duration; and

- amend Section 4233 to revise information required to be reported regarding salaries for life insurers filing annual statement forms.

The need for the amendment to Section 6623 was occasioned by a 1992 amendment of Section 1409(a). When Section 1409(a) was amended by Chapter 324 of the Laws of 1992 (effective January 1, 1993), some small assessment corporations were forced to reduce their Certificates of Deposit in local banks to 10% of admitted assets. As these companies are located in rural areas, their

investment/banking opportunities were thus significantly decreased by the 1992 amendment. The amendment of Section 6623 proposed in Section 1 of the bill will make it easier for assessment corporations to comply with investment statutes; improve their investment yields as interest rates tend to be higher on larger investments; decrease their investment costs as larger investments result in fewer transactions; and increase their local investment/banking opportunities.

The current Section 1320(a)(2) requirement of a minimum deposit from a licensed alien insurer doing two or more kinds of insurance, of the lesser of the capital to be maintained by a domestic stock insurer licensed to do the same kinds of insurance or \$1 million, may result in a deposit amount below the \$500,000 minimum amount required by Section 1320(a)(1) for a alien insurer licensed to do only one kind of insurance in this State. The amendment in Section 2 of the bill will correct that anomaly.

The current \$80,000 threshold in Section 1110(d) for reserves of a charitable annuity society was adopted nearly fifty years ago, and in view of the inflation that has taken place over the last fifty years this amount appears unrealistic. The change proposed in Section 3 of the bill to \$500,000 would exempt the smaller charitable annuity societies from the expenses of examination and annual statement filing.

The Department is not required to review or approve service contract forms, although the requirement in Section 7907 that the forms be filed with the Department (eliminated by Section 4 of the bill) might be misconstrued as a Department sanction similar to the approval of policy forms filed by insurance companies. A significant number of Service Contractor Registration applications must be returned because of the applicant's failure to submit all of the forms listed on its application, delaying the issuance of Registrations and increasing the time and resources required to be devoted to these applications. Should a complaint arise regarding contract compliance by a Service Contract provider registered with the Department, a copy of the contract could be obtained from the registered provider and the customer.

The proposed provisions in Section 3111 (added by Section 5 of the bill) regarding long-term care policies are patterned after existing provisions which similarly protect senior citizens insured under other types of policies. The amendment of Section 1112(a) which is proposed by Section 6 of the bill would have the effect of reducing the large number of instances in which insurers are presently required to pay large estimated tax payments of retaliatory taxes, only to later receive refunds of overpayments. The new calculation would avoid many of these overpayments.

The amendments proposed in Sections 7 through 10 of the bill address the Department's most recent experience with the sale of products and services coupled with insurance products. The level of complaints indicates that this activity warrants enhanced penalties.

Section 11 of the bill repeals paragraph 11 of Section 3201(c) (and Section 12 makes conforming amendments), concerning the requirement of approval of a long term care policy for a specifically identified policyholder. Section 3201(c)(11) was added by Chapter 689 of the Laws of 1989 as part of the Life Care Community legislation. The concept of the 1989 legislation was that by requiring single case approvals, the Department could monitor proposed policyholders to prevent entities that might seek to emulate life care communities and avoid the requirements of the legislation through the purchase of long term care insurance. Legislative amendments to the Life Care Community legislation which have been enacted since 1989, such as recognition of Life Care Communities and Continuing Care Retirement Communities as eligible group policyholders, have reduced the need to review such policyholders on a case by case basis. Repeal of Section 3201(c)(11) would place long term care policies on the same footing as other types of group accident and health insurance which can be issued to any group recognized under Section 4235(c)(1) once the policy forms are approved. Repeal of Section 3201(c)(11) would also remove the burden imposed upon both licensees and the Department to review and extend one case approvals each and every time an insurer seeks to issue group long term care insurance to a new policyholder.

By expanding the scope of service contract reimbursement insurance under Section 1113(a)(28) to include the indemnification for service contract providers, such persons will be able to protect themselves against losses arising from service contracts which they insured.

With respect to the amendment of Section 4230 by Section 14 of the bill, the current legislation to restrict employment contracts originated as part of old Section 214, dating back to 1909. Old Section 214 imposed numerous restrictions on compensation to officers and employees of life insurance companies. Many of these restrictions have been repealed and there appears to be no reason at this time to maintain this remaining restriction.

The provisions of Section 4233(b) regarding reporting of salaries go back many years without any significant revision. The bill updates certain salary amounts to take cognizance of the effect of inflation.

*Senate Bill 3769 (Sen. Seward); Assembly Bill 7892 (Mr. Grannis)*

## **2. Make NYPIUA Permanent; Program Bill No. 13**

This bill would repeal Sections 5411 and 5412(g) of the Insurance law, thereby making New York Property Insurance Underwriting Association (NYPIUA) permanent. The bill would also make permanent certain provisions which were included in Chapter 42 of the Laws of 1996 and which currently have an April 30, 1999 expiration date (Section 2351 and Section 3425(o) and (n)).

Sections 1 and 2 of the bill repeal Sections 5411 and 5412(g) of the Insurance law, thereby making NYPIUA permanent.

Section 3 makes permanent certain provisions of Chapter 42 of the Laws of 1996. The provisions are Section 2351 (pertaining to multi-tier programs for homeowners' insurance policies) and amendments to Section 3425 (subsections (o) and (n) pertaining to withdrawal from the homeowners' insurance market) which would otherwise expire on April 30, 1999. Section 3 also makes a conforming amendment to reflect the permanent status of NYPIUA (as proposed in Sections 1 and 2 of the bill).

Section 4 repeals Section 12 of chapter 42 of the Laws of 1996, which created the Temporary Panel on Homeowners' Insurance Coverage.

Sections 5411 and 5412(g) of the Insurance Law set forth an April 30, 1999 expiration date for Article 54 pertaining to NYPIUA and the standby powers of the Association.

Section 2351 and Section 3425(o) of the Insurance Law have an April 30, 1999 expiration date.

Section 12 of Chapter 42 of the Laws of 1996 created a Temporary Panel on Homeowners' Insurance Coverage.

NYPIUA, a joint underwriting association made up of insurers writing property insurance in New York, affords the following coverages to commercial and residential policyholders unable to obtain such coverage in the voluntary market: Fire and extended coverage (such as windstorm); vandalism and malicious mischief; sprinkler leakage; loss of rent; and business interruption insurance. Rates are generally 20%, 30% or 40% higher (according to class of business) than voluntary rates.

The continuation of NYPIUA is important to continue its original purpose of orderly community development in inner-city areas by providing the needed property insurance protection for dwellings and business concerns, and in continuing its stand-by authority to write in several commercial markets. The insurance provided by the Association, therefore, assists in attracting the investment of private capital in such areas and helps prevent economic deterioration.

Chapter 220 of the Laws of 1986 added a new Section 5412 to the Insurance Law and granted standby powers to the Association to write commercial risk insurance, public entity insurance, and professional liability insurance. The Association will write these coverages only if the Superintendent determines, after a public hearing, that it is necessary due to the unavailability of meaningful coverage in a particular voluntary market. If meaningful insurance coverage thereafter becomes readily available in the voluntary marketplace, the Superintendent is empowered to direct the Association to suspend writing such business. However, the Superintendent has never deemed it necessary to invoke these additional powers under Section 5412. Insurance market conditions in New York State have improved partly as a result of legislative and regulatory efforts and partly as a result of cyclical progressions in the insurance marketplace. Yet because of the specter of past market cycles, the Insurance Department must be able to effectively deal with restrictive market conditions as they arise. The existence of the Superintendent's authority to invoke NYPIUA aids substantially in accomplishing this result.

The continuation of NYPIUA is also critical as it is now also serving to provide coverage in New York's coastal areas. Over the past several years, NYPIUA increased the number of fire insurance policies it issues to coastal homeowners because these residents were unable to obtain needed homeowners' insurance. It should be noted that while NYPIUA has the power to assess members, the process is, by nature, slow, in that it is not geared toward the immediacy of response that may arise out of a catastrophic situation. NYPIUA should have the ability to draw on resources such as letters of credit, or a line of credit in such instances. However, its limited life span precludes the entity from establishing that credit base. This magnifies the need to make NYPIUA a permanent entity.

Chapter 42 of the Laws of 1996 also added Section 2351 to the Insurance Law, permitting insurers to have multi-tiered programs for homeowners' insurance. It amended Section 3425(o) of the Insurance Law to require a homeowners' insurer that intends to materially reduce the volume of such policies it issues in New York, as specified in the statute, to file a plan with the Department (for approval), at least 60 days in advance. It further requires that the plan must evidence that the withdrawal will be done in a manner which will minimize market disruption.

The legislation also amended Section 3425(n) to require that where an insurer materially reduces its volume of homeowners' policies issued in New York, commissions shall be payable for an additional year beyond the required policy. These mechanisms were created to enhance the availability of homeowners' insurance in New York, and to address the problems faced in attempting to properly insure structures in coastal areas. All of these provisions are due to expire on April 30, 1999. These measures have proven to be useful and should be made permanent.

The Temporary Panel on Homeowners' Insurance Coverage has been in existence since 1996 and produced a number of special reports for the Governor and the Legislature, the most recent of which was issued in May 2000.

*Bill was signed by Governor Pataki (Chapter 25 of the Laws of 2001)*

## **B. Insurance Department Bills for 2001**

### **1. Risk-Based Capital Requirements; Capital Notes**

(a) To expand the use of risk-based capital (RBC) standards, currently applicable to life and accident and health insurers, to property/casualty insurers; to provide a more flexible and realistic statutory capital level that changes in relation to the size of the insurer and the level of risk inherent in an insurer's operations; to identify inadequately capitalized insurance companies that write property/casualty business; and to provide the Superintendent of Insurance with appropriate remedies as a property/casualty insurance company's financial condition deteriorates and its capital falls below thresholds established by the RBC formula.

(b) To also enact similar RBC standards for health organizations licensed under Article 43 of the Insurance Law or granted a certificate of authority under Article 44 of the Public Health Law.

(c) To create a new Section 1326 of the Insurance Law to authorize domestic property/casualty insurance companies and financial guaranty insurance corporations to issue capital notes with the approval of the Superintendent of Insurance within certain statutory limits.

The insurance industry is regulated to ensure that insurers maintain sufficient capital to fund policyholder obligations. In the past, the solvency of the property/casualty industry has raised concerns among consumers, legislators and regulators. In 1993, the New York Legislature applied RBC standards to life and accident and health insurers through the enactment of Section 1322 of the Insurance Law.

The amendments set forth in Sections 1, 4 and 5 will extend RBC standards to the property/casualty insurance industry. The new Section 1324 incorporates the use of a RBC formula that has been designed by regulators to establish minimum capital requirements based upon the risks applicable to the operations of individual insurers. It takes into consideration industry performance, individual insurer characteristics and the allocation of reserves and premiums in the property/casualty insurance industry.

Section 2 of the bill enacts a new Section 1325 containing similar provisions regarding health organizations. The proposal embraces the RBC standards contained in the NAIC's recently adopted Health Organization RBC Model Law. The health insurance marketplace has undergone a transformation over the past ten years from predominantly traditional indemnity based insurance carriers to predominantly pre-paid managed care organizations. As these organizations (NYIL Article 43 Insurers and PHL Article 44 health maintenance organizations) have increased their share of the health market, solvency concerns have been heightened among consumers legislators and regulators. In 1993, the New York legislature applied RBC standards to commercial health insurers through the enactment of Section 1322 of the Insurance Law. By adding the new Section 1325, Section 2 will extend these standards to the remainder of the health insurance industry. The new Section 1325 incorporates the use of an RBC formula that has been designed by regulators to establish minimum capital requirements based upon the risks applicable to the operations of individual organizations. It also takes into consideration the arrangements by which these organizations share risk with the providers of health services. Conforming amendments with respect to health organizations are also included in Sections 5 and 6 of the bill.

The structure and methodology of the formula used to calculate the RBC have been developed by the National Association of Insurance Commissioners ("NAIC") and may be revised by that Association from time to time. However, the proposed bill would give the Superintendent the discretion to adopt or reject those changes when applying RBC to New York property/casualty insurers and health

organizations, consistent with New York law, as was previously done in the legislation enacted in 1993 in Section 1322.

The bill also corrects an inadvertent error in Section 1322. Subsequent to the enactment of Section 1322 in New York in 1993, it came to the attention of the persons who developed the National Association of Insurance Commissioners Model Act, on which Section 1322 was based, that "regulatory" should be replaced with "company". The NAIC Model Act was corrected and, accordingly, the New York statute should also be corrected at this time.

The bill will require property/casualty insurers licensed in New York and health organizations licensed or issued a certificate of authority in New York to calculate their RBC and, in addition, will provide the Superintendent with appropriate remedies as an authorized insurer's or health organization's financial condition deteriorates (i.e. its capital falls below RBC standards). The revisions provide a new minimum level of capital at which the Superintendent must act to place an insurer under his or her control. The proposal effectively raises the statutory capital level from its current arbitrary and generally low fixed dollar amounts to a more flexible and realistic base that changes in relation to the size of the insurer and the level of risk inherent in an insurer's operations. In the case of health organizations, the proposal effectively changes the statutory capital level from its current flat percentage based calculation to a more flexible and realistic base that changes in relation to level of risk inherent in a health organization's operations.

RBC is intended to strengthen the safety net that statutory surplus currently provides for policyholder obligations. While RBC provides a threshold amount of capital, it does not set the precise amount of capital a property/casualty insurer or a health organization needs to operate in a competitive, dynamic and uncertain marketplace. It cannot address all the risks associated with the operations of an insurer or health organization. Accordingly, an excess of capital over the amount produced by the RBC requirements contained in this bill is desirable in the business of insurance, and insurers and health organizations should seek to maintain capital well above the RBC levels required by this bill. Furthermore, since RBC is not a precise amount of capital to be maintained, the proposed legislation specifically prohibits its use for ranking and advertising, or as a standard for the establishment of premium rates.

The proposed legislation provides the Superintendent with a powerful and effective new tool to measure capital adequacy of property/casualty insurance companies and health organizations. The proposed capital standard will enable the Superintendent to more effectively employ statutory remedies and, in conjunction with the array of other solvency tools, hasten intervention into troubled situations. RBC will not preclude in any way other powers and duties of the Superintendent. It will only supplement those powers. These standards will greatly enhance New York's strong, effective regulation of insurers companies and health organizations.

Section 3 of the bill expands the means by which property/casualty insurance companies and financial guaranty insurance corporations can raise capital. This section mirrors legislation enacted in 1996 for life insurers in New York. Like mutual life insurers, this authority can be important to mutual property/casualty insurance companies. Currently mutual property/casualty insurance companies can raise capital from investors only through surplus notes issued pursuant to Section 1307, which is a limited and costly capital raising mechanism. The ability to issue capital notes under the proposed new Section 1326 would give mutual and stock property/casualty insurance companies and financial guaranty insurance corporations additional flexibility to create a sound, diversified capital structure. That flexibility would still be disciplined by the limitation that the insurer generally cannot use capital notes, surplus notes and comparable financing to raise more than 25% of its total adjusted capital. These limits are intended to prevent a precipitous reduction in the insurer's capital when a capital note matures and has to be repaid. In addition, further protection is provided by requiring the insurer to start eliminating the effect of the capital notes on its total adjusted capital either five or ten years prior to maturity, depending on the term of the capital note. Also, payment of principal and interest can be

suspended by the Superintendent if the insurer's total adjusted capital does not meet a multiple of its minimum required capital as calculated by the risk-based capital formula. In applying the foregoing limits to financial guaranty insurance companies, limits are based upon the existing capital requirements under Article 69 of the Insurance Law rather than the proposed new risk based capital limits under proposed new Section 1324.

*Senate Bill 3584-A (Sen. Seward); Assembly Bill 8121 (Rules at request of Mr. Grannis)*

## **2. Life Insurance Products**

(1) To amend Section 4221(n-2) of the Insurance Law so as to permit insurers to issue individual corporate owned or bank owned life insurance policies which provide for cash surrender benefits determined using market-value adjustment formulae which permit only downward adjustments to such benefits or using other such formulae which are acceptable to the Superintendent.

(2) To amend Section 4231(g)(1) of the Insurance Law so as to permit insurers to return to their policyholders excess expense charges on variable annuity and life insurance products without requiring the contract or policy to be participating.

(3) To amend Section 4238 to include as new permissible group annuity cases those groups recognized by Section 4216(b)(12), (13) and (14) for group life insurance and Section 4235(c)(1)(K), (L) and (M) for group accident and health insurance and to amend Section 1101(b)(2)(B) to prevent unlicensed insurers from taking advantage of the new permissible groups.

Section 4221 (n-2) currently provides for restrictions on the form of market-value adjustment formulae that may be used in individual life insurance policies. Such restrictions do not necessarily allow an insurer to protect itself against economic losses upon termination of a large number of policies simultaneously, as could be the case with corporate owned or bank owned life insurance where one employer may control many policies. In such cases, significant economic losses could occur since the insurer could be forced to sell assets such that the amount of cash paid out to the policyowner would exceed the market value of the supporting assets. This could occur if the market-value adjustment formula in a policy did not accurately provide for a reflection of the true market value of the assets supporting a policy due to the formula's simplified nature as required by the current law.

The bill would permit insurers to use market-value adjustment formulae, which provide more protection for insurers against economic losses due to the termination of a large case. It would allow the same types of market-value adjustment formulae currently used by insurers for group life business. The bill is supportive of business since it should lead to the increased availability of corporate owned or bank owned life insurance policies since more insurers would be willing to enter this market. The bill would also benefit employees since these types of life insurance programs are often used to fund employee benefit plans.

Insurers issuing variable annuity contracts and variable life insurance policies have begun to design products, which would reward contractholders and policyholders who heavily fund their contracts and policies. When these products are heavily funded, leading to higher returns for the insurer, it is only equitable for the insurer to return a portion of those earnings back to the contractholders and policyholders. Insurers, however, may want to utilize retrospective formulas, i.e., looking back at the performance of a policy during the prior year in order to determine eligibility for the enhancement. Such a retrospective formula currently has the effect whereby the policyholders would be participating in the company's profits, thereby making the contract or policy participating under Section 4231 of the Insurance Law.

Insurers that are stock companies and wish to offer these types of enhancements are unable to do so without applying for and obtaining a permit from the Superintendent authorizing such insurer to issue participating products. Many insurers are reluctant to go through this process.

The bill would allow New York contractholders and policyholders to be eligible for product enhancements and facilitate the offering of such enhancements by insurers in New York.

Under current law, licensed insurers cannot market group annuity certificates in the individual market under group annuity contracts delivered in this state unless the group is specifically described in Section 4238(b). As such, a licensed insurer cannot market such certificates under a group annuity contract issued to one of the new proposed groups situated in this state. However, the same licensed insurer can market such certificates if the group annuity contract is delivered outside of New York in a state in which the insurer is licensed to do business. Some licensed insurers are not licensed in other states and must either incur the additional expense of licensing in another state or forego marketing such annuity coverage through an increasingly common marketing option.

It makes no sense to force group business out of the state when the certificates covering New York residents under such groups would be subject to in state approval standards. Section 4238 already recognizes two non-true groups in Section 4238(b)(6) and (7) (i.e., IRA Groups and the Non-Taft Hartley Trust Groups) and no public policy is served by prohibiting the three other commonly recognized non-true groups. Section 4 of the bill would address this anomaly by specifically permitting such group cases to be written in this state.

Section 3 of the bill is needed to prohibit unlicensed insurers from engaging in transactions, such as issuance of a certificate of insurance, in New York when New York residents are covered under group annuity contracts issued out-of-state to non-true groups including the three proposed groups. The deletion of the phrase "providing a plan of retirement annuities" is necessary to conform to changes made to Section 4238(b) (former Section 223(2)) by Chapter 172 of the Laws of 1982 and to recognize that individual pay-all programs are savings vehicles as well as retirement programs.  
*Senate Bill 3559 (Sen. Seward); Assembly Bill 8089 (Rules at request of Mr. Grannis)*

### **3. Technical Corrections**

To make technical corrections in a number of sections of the Insurance Law.

To amend Section 2335 of the Insurance law in order to correct technical ambiguities in the surcharge provisions relating to motor vehicle liability insurance rates.

To amend Section 1104(c) of the Insurance Law ("Revocation or suspension of license; restriction of license authority or limitation on premium written") to: (i) make it applicable to financial guaranty insurance companies; and (ii) delete its applicability to Lloyd's underwriters;

To amend Section 6116 of the Insurance Law to delete subsections (a), (b) and (d), which grandfathered any Lloyd's underwriters authorized prior to January 1, 1940 to do an insurance business in New York and which provides that the section shall not apply to the operations of the New York Insurance Exchange;

To delete numerous references in the Insurance Law to "Lloyd's underwriters" to reflect the fact that the only Lloyd's underwriter grandfathered under Section 6116 has since converted to a property/casualty insurance company and that the formation of other Lloyd's underwriters are prohibited, making these references obsolete.

Sections 1 through 10 of the bill correct spelling errors or renumber or reletter various provisions of the Insurance Law. In each instance, the amendments are technical in nature and eliminate confusion in the law. Due to changes to Article 14 enacted in Chapter 324 of the Laws of 1992, the cross-references to provisions of Article 14 which are set forth in Section 6507 require a technical conforming revision (section 2 of the bill).

The ambiguities in Section 2335 that Section 11 of the bill seeks to correct have caused confusion for both the Department and the industry. These items slow down the filing process as well. First and foremost of these items, are paragraphs (a)(3) and (a)(14) of Section 2335. Read together, these paragraphs cause some ambiguity and create confusion over meaning and interpretation. Most insurers' merit rating (surcharge) plans are structured so that any two or more violations, other than those listed in paragraphs 1 through 13, will result in a surcharge. Yet, one interpretation of the section would only permit a surcharge for violations for operating a motor vehicle in excess of the speed limit, or reckless driving, or any combination thereof, on a minimum of three or more occasions. Such an interpretation would set in place a situation where a driver who has two convictions for relatively minor infractions, such as an improper turn, would be surcharged, whereas another driver with two major offenses, such as reckless driving, would not be surcharged. This result would be detrimental to consumers and to highway safety. It also seems to be contrary to the original legislative intent, which may have been overlooked when subsequently the Legislature transported what were previously grounds for nonrenewal into bases for surcharges. Additionally, Section 2335 contains a number of words and phrases which conflict with the rest of the section, and therefore should be replaced.

Section 1104(c) is currently applicable to Lloyd's underwriters. However, the only Lloyds underwriter operating in New York at the time of the enactment of Section 1104(c) converted into a property/casualty insurance company in 1992. Furthermore, subsection (c) of Section 6116 prohibits the organization or licensing of any other Lloyd's underwriters. Accordingly, the reference to Lloyd's underwriters in Section 1104(c) is obsolete.

Section 1104(c) of the Insurance Law should be made applicable to monoline financial guaranty insurance companies. This subsection, which authorizes the Superintendent to suspend the license, restrict the license authority or limit the premium writings of a property/casualty insurance company, co-operative property/casualty insurance company, title insurance company, mortgage guaranty insurance company, reciprocal insurer or Lloyds underwriter upon a determination that the insurer's surplus to policyholders is inadequate in relation to its outstanding liabilities or financial needs, was enacted in the same 1989 session as the enabling legislation that authorized the formation of monoline financial guaranty insurance companies. As Section 1104(c) is applicable to property/casualty insurance companies which wrote financial guaranty insurance prior to the enactment of Article 69, and to other types of monoline insurance companies such as title and mortgage guaranty insurance companies, it is consistent that this authority should apply to financial guaranty insurance companies authorized under Article 69. Such authority is critical when the Superintendent has made a determination that an insurer's surplus to policyholders is not adequate in relation to the insurer's outstanding liabilities or to its financial needs.

As indicated above, the only Lloyds underwriter operating in New York converted into a property/casualty insurance company in 1992. Thus, the exemption in Section 6116(a) and (b), which allows any Lloyd's underwriters authorized prior to January 1, 1940 to continue to do an insurance business in New York, is no longer needed. In addition, the New York Insurance Exchange is no longer operational, negating the need for the affirmation in Section 6116(d) that this section does not affect the authority of the Exchange to operate under Article. The provision contained in Section 6116(c) prohibiting any other Lloyd's underwriters from being organized or doing business in New York will remain as the sole provision in Section 6116 under the bill.

Due to the conversion of the only Lloyd's underwriters to a property/casualty insurer in 1992, many of the references in the Insurance Law to "Lloyd's underwriters", where such references are meant to include a Lloyd's underwriter in the same standing as other types of authorized insurers, are no longer relevant and should be deleted.

*Senate Bill 3516-A (Sen. Seward); Assembly Bill 8090-A (Rules at request of Mr. Grannis)*

#### **4. Staggered License Renewals for Life and Accident and Health Agents**

This bill would reduce administrative burdens on licensed entities and the Insurance Department by providing staggered expiration dates for life/accident and health agents in lieu of one common date for all such licensees.

Section 1 would amend several paragraphs of Section 2103(j) of the Insurance Law to provide that each life/accident and health license currently scheduled to expire on June 30, 2001, upon renewal, will be allocated an expiration date of either February 28, 2003, June 30, 2003, or October 31, 2003. New licenses also will be allocated either a February 28, June 30, or October 31 expiration date. All such allocations will be made in such manner as the Superintendent deems reasonable. The goal is to maintain approximately equal numbers of licenses in force with expirations on each such date. On and after July 1, 2001 licenses will be issued for two year terms expiring on February 28, June 30 or October 31, as applicable, in odd numbered years. The provisions governing other agent licenses are not affected.

Section 2103(j)(2) currently provides that all life/accident and health agent licenses are valid for two year terms expiring on June 30 in odd numbered years.

The Insurance Department issues sixteen classes of licenses, fifteen of which must be renewed periodically. More than half of all license renewals, approximately 105,000, is attributable to one class of licensees, life/accident and health agents. Under current law, all life/accident and health licenses expire on the same date, June 30 of each odd numbered year. The sheer number of renewal applications has caused problems for life insurers and agencies with large numbers of life agents. In addition, this bulge makes it harder for the Department to efficiently process the renewal of these applications. Therefore, Section 2103(j) of the Insurance Law should be amended to provide that life/accident and health licenses will be divided into three groups, renewable on February 28, June 30 and October 31, respectively, in each odd numbered year.

*Senate Bill 7082 (Mr. Seward); Assembly Bill 9904 (Mr. Grannis)*

#### **5. Authorize Writing of Directors and Officers Insurance**

This bill would facilitate the writing of directors and officers insurance in New York by authorizing the Superintendent of Insurance to promulgate a regulation modifying certain liability insurance provisions that do not accommodate the unique characteristics of directors and officers insurance.

Section 1 would add a new subsection (k) of Section 3420 of the Insurance Law to provide that the Superintendent may by regulation modify provisions of Section 3420(a) with respect to directors and officers insurance written pursuant to Section 726 of the Business Corporation Law, Section 726 of the Not-For-Profit Corporation Law, or Section 7023 of the Banking Law, or with respect to directors and officers of a corporation that, if it were a New York corporation, would be subject to one of such sections. The bill also provides that the Superintendent shall consider the unique characteristics of directors and officers insurance and the prevailing policy standards applicable to it, and shall limit any modifications as necessary and proper to enhance the availability of such coverage while protecting the interests of persons covered by such policies.

Section 726 of the Business Corporation Law, Section 726 of the Not-For-Profit Corporation Law, and Section 7023 of the Banking Law each authorize a corporation to purchase directors and officers insurance in specified situations.

Directors and officers insurance is not a separate kind" of insurance under Section 1113(a) and is considered by the Insurance Department to be a type of personal injury liability insurance as specified in Section 1113(a)(13). Section 3420(a) contains provisions applicable to liability insurance policies which do not address the unique characteristics of directors and officers insurance.

Section 726 of the Business Corporation Law, Section 726 of the Not-For-Profit Corporation Law and Section 7023 of the Banking Law authorize corporations subject to those sections to purchase and maintain insurance for the purpose of indemnifying their directors and officers and to indemnify themselves for obligations that the corporations incur as a result of the indemnification of directors and officers pursuant to such laws. However, Section 1113(a) of the Insurance Law does not explicitly recognize directors and officers indemnification insurance in New York as a specific kind of insurance. The Insurance Department has considered this type of insurance to be personal injury liability insurance as specified in paragraph 13 of Section 1113(a), and thus subject to the minimum requirements for liability policies contained in Section 3420 of the Insurance Law.

The Insurance Department has long interpreted Section 3420(a) of the Insurance Law as precluding liability policies from being written on an indemnification basis. Accordingly, directors and officers liability insurance could not be made available by authorized insurers or excess line insurers as contemplated under the Business Corporation Law, Not-For-Profit Corporation Law and Banking Law and insurers could not meet the needs of many corporations, especially for-profit corporations, impeding the development of directors and officers insurance in New York. As a result, many of these corporations have purchased insurance out-of-state, or relied on alternative insurance mechanisms.

The purpose of this legislation is to permit the Superintendent, by regulation, to modify the applicability of those provisions of Section 3420(a) which hamper the availability of directors and officers liability policies, while maintaining those provisions which are appropriate. The Department anticipates that these modifications may reflect the type and size of the corporations. In this manner, policyholders' protections will be facilitated, while the specialized needs of these markets will be accommodated. Moreover, insurers will be permitted to sell these policies in this state, thus allowing them to compete with unauthorized insurers and alternative insurance mechanisms.

*Senate Bill 7006 (Mr. Seward); Assembly Bill 9967 (Mr. Grannis)*

## **6. Increase Civil Monetary Penalties**

This bill would amend the penalty provisions of Section 109 of the Insurance Law by increasing the maximum amount thereof to \$1,000 for each offense and to permit such penalties to be imposed in addition to any monetary penalty otherwise provided in the Insurance Law.

Section 1 of the bill amends Section 109(c) of the Insurance Law which currently provides for a penalty not in excess of \$500 for each willful violation of the Insurance Law by any authorized insurer, representative of such insurer, licensed insurance agent, licensed insurance broker or licensed adjuster. In addition, paragraph (3) is repealed which provides that no penalty shall be imposed pursuant to Section 109(c) if a monetary penalty is otherwise provided in the Insurance Law.

Section 109 currently provides for a \$500 maximum penalty for each violation of the Insurance Law. Penalties cannot be imposed pursuant to Section 109 if monetary penalties for the violation in question are provided for elsewhere in the Insurance Law. Chapter 521 of the Laws of 1966 enacted the predecessor provision to Section 109 of the Insurance Law and established the maximum \$500 generic civil money penalty for violations of the Insurance Law. Chapter 521 was introduced at the request of the Insurance Department. After 34 years the increase is needed in order to provide a credible, effective maximum civil money penalty for violations of the Insurance Law.

Paragraph (3) of section 109 should be repealed because it is neither efficient, nor practical to seek to amend the myriad individual penalty provisions scattered throughout the Insurance Law.

*Senate Bill 6989 (Mr. Seward); Assembly Bill 9905 (Mr. Grannis)*

## VIII. Regulatory Activities

### A. OPERATING STATISTICS

#### 1. Licenses Issued During Year

**Table 56**  
**LICENSES ISSUED DURING YEAR**  
**1999 and 2000**

	2000	1999
<b>Total</b> .....	<b>76,193</b>	<b>110,241</b>
<b>Adjusters<sup>a</sup></b>		
Independent.....	1,259	4,070
Public.....	139	404
<b>Agents<sup>b</sup></b>		
Life and Accident & Health.....	16,346	94,403
Savings Bank Life Certificate Holders.....	0	1,790
Property and Casualty.....	28,003	5,593
Rental Vehicle.....	47	2
Mortgage Guaranty Insurance.....	0	1
Bail Bond.....	8	70
Limited Lines <sup>c</sup> .....	22	24
<b>Brokers<sup>d</sup></b>		
Regular.....	29,384	3,373
Excess Line (Regular).....	376	165
Excess Line (Limited).....	16	4
Viatical Settlement.....	13	13
<b>Consultants<sup>e</sup></b>		
Life.....	17	183
General.....	319	28
<b>Reinsurance Intermediaries<sup>f</sup></b> .....	<b>216</b>	<b>40</b>
<b>Service Contract Registrants</b>	<b>28</b>	<b>78</b>

**Note:** Footnotes to table appear on next page

**Footnotes to Table 56**

<sup>a</sup>Adjuster licenses issued pursuant to Section 2108 are renewable biennially as of January 1 of odd numbered years.

<sup>b</sup>Life/Accident & Health Agent licenses issued pursuant to Section 2103(a) are renewable biennially as of July 1 of odd numbered years.

Savings Bank Life Certificates issued pursuant to Section 2203 were renewable biennially as of July 1 of odd numbered years. Effective December 1999, the Savings Bank Life Insurance Fund was eliminated and the coverage issued by the Fund was assumed by The SBLI Mutual Life Insurance Company of New York, Inc., currently The SBLI USA Mutual Life Insurance Company, Inc. Savings Bank Certificates were converted to Life & Accident and Health Agent licenses.

Property and Casualty Agent licenses issued pursuant to Section 2103(b) are renewable biennially as of July 1 of even numbered years.

Rental Vehicle Agent licenses issued pursuant to Section 2131 are renewable biennially as of July 1 of even numbered years.

Mortgage Guaranty Agent licenses issued pursuant to Section 6535 are perpetual.

Bail Bond Agent licenses issued pursuant to Section 6802 are renewable biennially as of January 1 of odd numbered years.

<sup>c</sup>Limited Lines licenses – Effective January 1, 1987, licenses were issued to agents of assessment co-operative property/casualty companies enabling them to sell only coverage written by such companies. These licenses are renewable biennially as of July 1 of even numbered years.

<sup>d</sup>Broker licenses issued pursuant to Section 2104 and Excess Line Broker licenses issued pursuant to Section 2105 are renewable biennially as of November 1 of even numbered years.

Limited Excess Line Brokers are licensed to deal only with purchasing groups as defined in Regulation 134.

Viatical Settlement Broker licenses issued pursuant to Section 7802 are renewable annually as of December 1.

<sup>e</sup>Consultant licenses issued pursuant to Section 2107 are renewable on a biennial basis, Life Consultants as of April 1 of odd numbered years and General Consultants as of April 1 of even numbered years.

<sup>f</sup>Reinsurance Intermediary licenses issued pursuant to Section 2106 are renewable biennially as of September 1 of even numbered years.

<sup>g</sup>Service Contract Registrations issued pursuant to Section 9707 are renewable biennially as of March 1 of odd numbered years.

2. Results of Examinations for Licenses

**Table 57**  
**RESULTS OF EXAMINATIONS FOR LICENSES**  
**Adjusters, Agents, Brokers and Consultants**  
**1999 and 2000**

<u>Type of Examination</u>	<u>2000</u>		<u>1999</u>	
	<u>Number Taking Examination</u>	<u>Percent Passing</u>	<u>Number Taking Examination</u>	<u>Percent Passing</u>
<b>Total</b>	<b>39,071</b>	<b>50%</b>	<b>44,970</b>	<b>52%</b>
<b>Public Adjusters.....</b>	35	26	63	32
<b>Independent Adjusters - Total....</b>	1,661	57	1,644	62
Accident & Health.....	86	63	83	60
Automobile.....	259	57	258	67
Aviation.....	1	100	0	0
Casualty.....	454	43	445	52
Fidelity and Surety.....	4	100	15	80
Fire.....	94	38	85	44
General (All Lines).....	349	45	363	45
Health Service Charges.....	35	31	25	40
Inland Marine.....	5	20	5	40
Limited Auto (Damage or Theft Appraisals only).....	374	92	365	92
<b>Agents - Total.....</b>	35,416	50	40,717	51
Accident & Health.....	16,134	46	18,491	48
Life and SBLI.....	16,982	52	19,170	54
Mortgage Guaranty.....	9	44	5	20
General Agent (P&C).....	2,269	60	3,046	52
Bail Bond.....	22	73	10	60
Credit.....	0	0	0	0
<b>Brokers.....</b>	1,959	58	2,546	57
<b>Consultants - Total.....</b>	0	0	0	0
General.....	0	0	0	0
Life.....	0	0	0	0

**3. Changes in Authorized Insurers During 2000**

**a. Life Insurance Companies**

**Domestic Companies Incorporated**

The Standard Life Insurance Company of New York Westchester County, NY.....	Apr. 24
Forethought Life Insurance Company of New York, Monroe County, NY.....	Oct. 24

**Domestic Companies Licensed**

Chase Life & Annuity Company of New York, New York, NY.....	Aug. 31
National Income Life Insurance Company, Liverpool, NY.....	Oct. 16
Standard Life Insurance Company of New York, White Plains, NY.....	Oct. 25
Balboa Life Insurance Company of New York, New York, NY.....	Dec. 22

**Foreign Company Licensed**

Fidelity Life Insurance Company, Radnor, PA.....	June 16
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**Amendments to Charter**

Companion Life Insurance Company, Rye, NY.....	Mar. 6
Farm Family Life Insurance Company, Bethlehem, NY.....	Mar. 6
Jackson National Life Insurance Company of NY Purchase, NY.....	Mar. 28
SBLI Mutual Life Insurance Company of New York, Inc., New York, NY.....	Apr. 12
Security Equity Life Insurance Company, Armonk, NY.....	July 28
Intramerica Life Insurance Company, Orangeburg, NY.....	Aug. 22
Teachers Insurance and Annuity Association of America, New York, .....	Sept. 11

Canada Life Insurance Company of New York, Ardley, NY.....	Oct. 25
Gerber Life Insurance Company, White Plains, NY.....	Nov. 2
SBLI USA Mutual Life Insurance Company, Inc., New York, NY.....	Nov. 15
Jackson National Life Insurance Company of New York, Purchase, NY.....	Dec. 12
Bankers American Life Assurance Company, Pearl River, NY.....	Dec. 13

**Changes of Name**

“John Hancock Mutual Life Insurance Company” to “John Hancock Life Insurance Company,” Boston, MA.....	Feb. 2
“SBLI Mutual Life Insurance Company of New York, Inc.,” to “SBLI USA Mutual Life Insurance Company, Inc.,” New York, NY.....	Apr. 12
“AXA Re Life Insurance Company” to “AXA Corporate Solutions Life Reinsurance Company,” Wilmington, DE.....	Nov. 15

**Foreign Company Licensed**

Garden State Life Insurance Company League City, TX .....	June 5
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**Merger Agreements Filed**

Royal Life Insurance Company of New York, Albany, NY into North American Company for Life and Health Insurance, Garden City, NY.....	June 23
Swiss Re Life & Health America, Inc., Armonk, NY into Life Reassurance Corporation of America, Stamford, CT.....	Sept. 28
First Alexander Hamilton Life Insurance Company, Williamsville, NY into Jefferson Pilot LifeAmerica Insurance Company, Florham Park, NJ.....	Dec. 31

**Conversions**

John Hancock Mutual Life Insurance Company. Boston, MA From mutual to stock.....	Feb. 2
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Metropolitan Life Insurance Company,  
New York, NY  
From mutual to stock..... Apr. 7

**b. Accident and Health Insurance Companies**

**Domestic Company Incorporated**

MVP Health Insurance Company,  
Schenectady County, NY..... Apr. 24

**Foreign Company Licensed**

Northwestern Long Term Care Insurance Company, Milwaukee, WI ..... Mar. 20

**Charter Amendment**

Finger Lakes Long Term Care Insurance Company,  
Rochester, NY..... Dec. 18

**Name Changes**

“Trustmark Insurance Company (Mutual)’ to  
“Trustmark Insurance Company,”  
Lake Forest, IL..... Aug. 18

“Finger Lakes Long Term Care Insurance Company” to “MedAmerica  
Insurance Company of New York,”  
Rochester, NY..... Dec. 18

**Conversion**

Trustmark Insurance Company (Mutual),  
Lake Forest, IL  
From mutual to stock..... Aug. 18

**c. Not-for-Profit Health Service Corporations**

**Name Change**

“Health Services Medical Corporation of Central  
New York, Inc.” to “Univera Healthcare-CNY, Inc.,”  
New York, NY..... Mar. 1

**d. Property and Casualty Insurance Companies**

**Domestic Companies Incorporated**

PRI Insurance Company,  
Nassau County, NY ..... Jan. 14

NIPPONKOA Insurance Company of America,  
New York County, NY..... Dec. 7

A. Central Insurance Company,  
Otsego County, NY..... Dec. 21

**Domestic Company Licensed**

Strathmore Insurance Company,  
New York, NY..... Mar. 7

**Foreign Companies Licensed**

First American Insurance Company,  
Kansas City, MO..... Feb. 3

Kemper Employers Insurance Company,  
Long Grove, IL..... Mar. 22

Travelers Personal Security Insurance Company,  
Hartford, CT..... Apr. 6

Travelers Property and Casualty Company of Illinois,  
Naperville, IL..... Apr. 6

American Family Home Insurance Company,  
Jacksonville, FL..... May 3

Gulf Underwriters Insurance Company,  
St.Louis,MO..... May 3

Federated Service Insurance Company,  
Owatonna, MN..... May 10

Kemper Casualty Insurance Company,  
Livonia, MI..... May 10

Commercial Compensation Casualty Company,  
Calabasas, CA..... May 15

Brotherhood Mutual Insurance Company,  
Fort Wayne, IN..... June 1

Economy Premier Assurance Company,  
Freeport, IL..... June 15

OHIC Insurance Company,  
Columbus, OH..... June 15

Northwestern National Casualty Company,  
Brookfield, WI..... June 20

Omni Indemnity Company,  
Chicago, IL..... June 28

Omni Insurance Company,  
Chicago, IL ..... June 28

Fulcrum Insurance Company of Arizona, Scottsdale, AZ.....	June 30
Atlantic Insurance Company. Irving, TX.....	July 11
American Ambassador Casualty Company, Itsaca, IL.....	July 21
Globe American Casualty Company, Loveland, OH.....	July 21
American Sentinel Insurance Company, Harrisburg, PA.....	Aug. 17
American Interstate Insurance Company, DeRidder, LA.....	Oct. 2
Response Insurance Company of America, Washington, DC.....	Oct. 3
Response Insurance Company of Delaware Wilmington, DE.....	Oct. 3
Mayflower Insurance Company, Ltd., Carmel, IN.....	Oct. 18
Lincoln General Insurance Company, York, PA.....	Nov. 30
The Medical Protective Company, Fort Wayne, IN.....	Dec. 7
Hartford Insurance Company of Illinois, Aurora, IL.....	Dec. 18

**Amendments to Charter Filed**

Yasuda Fire & Marine Insurance Company of America, New York, NY.....	Jan. 26
American Home Assurance Company, New York, NY.....	Jan. 27
Healthcare Underwriters Mutual Insurance Company, Latham, NY.....	Feb. 28
Jefferson Insurance Company of New York, NewYork, NY.....	Mar. 15
United Farm Family Insurance Company, Bethlehem, NY.....	Mar. 6
Mastercare Insurance Company of New York, New York, NY.....	Mar. 23

Professional Liability Insurance Company of America, New York, NY.....	May 11
Vigilant Insurance Company, New York, NY.....	May 11
XL Insurance Company of New York, Inc., New York, NY.....	June 19
Country-Wide Insurance Company, New York, NY.....	June 23
American Agents Insurance Company, Melville, NY.....	June 28
Allcity Insurance Company, New York, NY.....	July 17
Centurion Insurance Company, New York, NY.....	July 17
Country-Wide Insurance Company, New York, NY.....	July 23
Stonebridge Insurance Company, Mellville, NY.....	Aug. 14
United Concordia Insurance Company of New York, Tarrytown, NY.....	Aug. 17
Atlanta International Insurance Company, New York, NY.....	Aug. 22
Atlas Assurance Company of America, New York, NY.....	Sept. 14
Executive Insurance Company, New York, NY.....	Sept. 26
International Credit of North America Reinsurance Inc., Centerport, NY.....	Oct. 1
International Credit of North America Reinsurance Inc., Centerport,NY.....	Oct. 5
AXA Global Risks US Insurance Company, New York, NY.....	Oct. 19
First Community Insurance Company, New York, NY.....	Nov. 16
American National Fire Insurance Company, New York, NY.....	Nov. 17
Hanys Insurance Company, Inc., Albany, NY.....	Dec. 14

**Changes in Capital**

American Home Assurance Company, New York, NY (from \$4,395,395 to \$26,372,370).....	Jan. 27
Mastercare Insurance Company of New York, New York, NY (from \$952,380. To \$200,158).....	Mar. 23
Vigilant Insurance Company, New York, NY (from \$4,000,000 to \$4,500,000).....	May 11
Executive Insurance Company, New York, NY (from \$800,000 to \$900,000).....	Sept. 26
International Credit of North America Reinsurance Inc., Centerport, NY (from \$1,000,000 to \$3,000,000).....	Oct. 1
International Credit of North America Reinsurance Inc., Centerport, NY (from \$3,000,000 to \$1,000,000).....	Oct. 5

**Restated Charter**

Erie Insurance Company of New York, Rochester, NY.....	Jan. 27
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**Changes of Name**

“John Deere Insurance Company” to “Sentry Select Insurance Company,” Moline, IL.....	Jan. 11
“White Mountain Insurance Company” to “Mountain Valley Insurance Company,” Manchester, NH.....	Jan. 14
Millers Mutual Insurance Company” to “Millers Capital Insurance Company,” Pittsburgh, PA.....	Feb. 8
“Intercargo Insurance Company” to “XL Specialty Insurance Company,” Schaumburg, IL.....	Feb. 28
“Jefferson Insurance Company of New York” to “Jefferson Insurance Company,” New York, NY.....	Mar. 15

“Gan National Insurance Company” U.S.Branch to “CGU InsuranceCompany of Canada, U.S.Branch,” Williamsville, NY.....	Mar. 23
“Investors Insurance Company of America” to “Specialty Surplus Insurance Company,” Red Bank, NJ .....	May 4
“Fico Insurance Company” to “Admiral Indemnity Company,” Wilmington,DE.....	May 18
“Chartwell Reinsurance Company” to “Chartwell Insurance Company,” Minneapolis, MN.....	June 13
“Fulcrum Insurance Company of Arizona” to “Fulcrum Insurance Company,” Scottsdale, AZ.....	June 30
“Stonebridge Insurance Company” to “Stone Harbor Insurance Company” Melville, NY.....	Aug. 14
“Risk Capital Reinsurance Company” to “Arch Reinsurance Company” Omaha, NE.....	Sept. 6
“USF Reinsurance Company” to “AXA Re America Insurance Company,” Wilmington, DE.....	Sept. 6
“American Alliance Insurance Company” to “Great American Alliance Assurance Company,” Cincinnati, OH.....	Oct. 3
“AXA Global Risks US Insurance Company” to “AXA Corporate Solutions Insurance Company,” New York, NY.....	Oct. 19
“Reliance Reinsurance Company” to “Overseas Partners US Reinsurance Company,” Wilmington, DE.....	Nov. 15
“American National Fire Insurance Company,” to “Great American Insurance Company of New York,” New York, NY.....	Nov. 17
“PMA Reinsurance Corporation” to “PMA Capital Insurance Company,” Philadelphia, PA.....	Nov. 21
“AXA Reinsurance Company” to “AXA Corporate Solutions Reinsurance Company,” Wilmington, DE.....	Dec. 5

“Sydney Reinsurance Corporation” to “QBE Reinsurance Corporation,” Philadelphia, PA.....	Dec. 7
“Guaranty National Insurance Company of California” to “Guaranty National Insurance Company of Connecticut,” Farmington, Ct.....	Dec. 18
“Signet Star Reinsurance Company” to “Berkley Insurance Company,” Wilmington, DE.....	Dec. 31

**Conversions**

Millers Mutual Insurance Company, Pittsburgh, PA from a mutual to a stock company.....	Feb. 8
Trustmark Insurance Company (Mutual) Lake Forest, IL from a mutual to stock company.....	Aug. 18

**Redomestications Filed**

Travelers Home and Marine Insurance Company, Indiana to Connecticut.....	Jan. 11
Travco Insurance Company, Indiana to Connecticut.....	Jan. 11
Worldwide Insurance Company, Missouri to Ohio.....	Feb. 8
Wausau General Insurance Company, Illinois to Wisconsin.....	Mar. 31
FICO Insurance company Maryland to Delaware.....	May 18
Shelby Casualty Insurance Company, Indiana to Illinois.....	Aug. 3
National American Insurance Company, Nebraska to Oklahoma.....	Aug. 8
Vesta Fire Insurance company, Alabama to Illinois.....	Aug. 3
AXA Re America Insurance Company, Massachusetts to Delaware.....	Sept. 6
Kemper Casualty Insurance Company Michigan to Illinois.....	Nov. 10
Specialty National Insurance Company, From Pennsylvania to Illinois.....	Nov. 10
Guaranty National Insurance Company of California, From California to Connecticut.....	Dec. 18

**Merger Agreements Approved**

Commercial Compensation Insurance Company,  
New York, NY into  
Commercial Compensation Casualty Company  
Calabasas, CA..... May 15

Fulcrum Insurance Company,  
New York, NY into  
Fulcrum Insurance Company of Arizona,  
Scottsdale, AZ..... June 30

**In Rehabilitation**

Capital Mutual Insurance Company,  
Albany, NY..... June 7

**In Liquidation**

Capital Mutual Insurance Company,  
Albany, NY..... Oct. 5

**e. Title Insurance Companies**

**Amendments to Charter**

Capital Title Reinsurance Company,  
New York, NY..... Mar. 7

National Title Insurance Company of New York Inc.,  
New York, NY..... July 20

**Name Change**

“Capital Title Reinsurance Company” to “Ace Capital Title  
Reinsurance Company,”  
New York, NY..... Mar. 7

**f. Mortgage Guaranty Companies**

**Foreign Companies Licensed**

MGIC Residential Reinsurance Corporation,  
Milwaukee, WI..... Mar. 16

MGIC Mortgage Reinsurance Corporation,  
Milwaukee, WI..... Apr. 7

**Amendments to Charter**

Capital Mortgage Reinsurance Company,  
New York, NY..... Mar. 7

ACE Capital Mortgage Reinsurance Company,  
New York, NY..... Dec. 22

**Name Change**

“Capital Mortgage Reinsurance Company” to “ACE Capital  
Mortgage Reinsurance Company,”  
New York, NY..... Mar. 7

**Change in Capital**

Ace Capital Mortgage Reinsurance Company,  
New York, NY  
(from \$4,500,000 to \$8,250,000)..... Dec. 22.

**g. Accredited Reinsurers**

**Changes of Name**

“Harbourton Reinsurance, Inc.,” to “Scottish Re (U.S.), Inc.,”  
Wilmington, DE..... Apr. 18

“Mutual Life insurance Company of Canada” to  
“Clarica Life Insurance Company,”  
Lansing, MI..... Feb. 22

“Maryland Netherlands Credit Insurance Company” to  
“NCM Americas, Inc.,”  
Baltimore, MD..... Apr. 26

“Sun Life of Canada Reinsurance Company (U.S.)” to  
“Clarica Life Reinsurance Company,”  
Lansing, MI..... July 11

“Minnesota Mutual Life Insurance Company” to “Minnesota  
Life Insurance Company,”  
St. Paul, MN..... Aug. 1

**Redomestication Filed**

Peoples Benefit Life Insurance Company,  
Missouri to Iowa..... Mar. 23

Stonewall Insurance Company,  
Alabama to Ohio..... June 26

**Withdrawn**

Garden State Life Insurance Company,  
League City, TX..... June 5

Medical Life Insurance Company,  
Cleveland, OH..... Oct. 4

Lone Star Life Insurance Company,  
Dallas, TX..... Dec. 18

**h. Financial Guaranty Insurance Companies**

**Change of Name**

“Capital Reinsurance Company” to “ACE Guaranty  
Re Inc.,”  
Baltimore, MD..... Aug. 10

**i. Charitable Annuity Societies**

**Permits Issued**

Educational Broadcasting Corporation,  
New York, NY..... Jan. 11

Maryknoll Sisters of St. Dominick, Inc.,  
Maryknoll, NY..... Mar. 3

Manhattan College,  
Riverdale, NY..... Mar. 3

National Parks and Conservation Association,  
Washington, DC..... Mar. 6

Ellis Hospital Foundation, Inc.,  
Schenectady, NY..... Mar. 7

Father Flanagan’s Boy’s Home,  
Boys Town, NE..... Apr. 5

Clarkson University,  
Potsdam, NY..... Apr. 25

Christian Appalachian Project, Inc.,  
Lancaster, KY..... May 1

Princeton Theological Seminary,  
Princeton, NJ ..... May 3

Siena College,  
Loudonville, NY..... May 31

Roman Catholic Diocese of Syracuse,  
Syracuse, NY..... June 1

B’nai B’rith Foundation of the United States,  
Washington, DE..... Aug. 2

National Multiple Sclerosis Society,  
New York, NY..... Aug. 18

Save the Children Federation, Inc.  
Westport, CT ..... Sept. 11

Alzheimer’s Disease and Related Disorders Association, Inc.,  
Chicago, IL..... Oct. 19

**j. Fraternal Benefit Societies**

**Foreign Company Licensed**

Croatian Fraternal Union of America, Pittsburgh, PA..... Jan. 6

**k. Health Service Corporations**

**Name Change**

“Health Services Medical Corporation of Central New York, Inc.” to  
“Univera Healthcare-CNY, Inc.,”  
Baldwinsville, NY..... Mar. 1

**l. Health Maintenance Organizations**

**Merger Agreements**

“Healthsource New York/New Jersey, Inc.”  
into “Cigna Healthcare of New York, Inc.,” New York, NY ..... Aug. 3

“HMO-CNY, Inc.”  
into “Excellus Health Plan, Inc.,” Syracuse, NY..... Aug. 25

**m. Reciprocal Insurers**

**Licensed**

California Casualty Indemnity Exchange, San Mateo, CA. .... July11

**Amendment to Charter**

Physicians’ Reciprocal Insurers, Manhasset, NY..... Nov. 14

**Name Change**

“Academic Health Professionals Insurance  
Association” to “Academic Health Professionals  
Insurance Association – A Reciprocal Insurer,”  
New York, NY..... Oct. 30

**n. Viatical Settlement Companies**

**Licensed**

Lifetime Lending Corporation,  
Woodbridge,NJ..... July 11

**o. Municipal Cooperative Health Benefit Plan**

**Authorized**

Orange –Ulster School Districts Plan, Goshen, NY..... Nov. 1

**4. Examination Reports Filed During 2000**

<b>Name of Company</b>	<b>Made as of</b>	<b>Date Filed</b>
<b>Domestic Life Insurance Companies</b>		
American General Life Insurance Company of New York	12/31/98	11/2/00
American International Life Assurance Company of New York	12/31/98	1/6/00
American Life Insurance Company of New York	12/31/98	4/24/00
American Progressive Life and Health Insurance Company Of New York	12/31/98	4/25/00
Balboa Life Insurance Company Of New York	on organization	12/22/00
Canada Life Insurance Company of New York	12/31/97	2/15/00
Chase Life & Annuity Company of New York	on organization	8/30/00
Empire Fidelity Investors Life Insurance Company	12/31/98	7/11/00
First Investors Life Insurance Company	12/31/98	3/6/00
First Safeco National Life Insurance Company of New York	12/31/98	10/31/00
GE Capital Life Assurance Company Of New York	12/31/98	4/24/00
Great American Life Insurance Company Of New York	12/31/98	7/11/00
Guardian Life Insurance Company Of America	12/31/94	1/6/00
Life Insurance Company of Boston and New York	12/31/98	4/6/00
Lincoln Life and Annuity Company of New York	12/31/98	11/1/00
Manufacturers Life Insurance Company Of New York	12/31/97	3/6/00
Massachusetts Mutual Life Insurance Company	12/31/99	9/28/00
Metropolitan Life Insurance Company	12/31/98	11/1/00
National Income Life Insurance Company	on organization	10/17/00
ML Life Insurance Company of New York	12/31/00	11/3/00
North American Company for Life And Health Insurance	12/31/98	1/14/00
Preferred Life Insurance Company Of New York	12/31/98	3/10/00

<b>Name of Company</b>	<b>Made as of</b>	<b>Date Filed</b>
Royal Life Insurance Company of New York	12/31/97	1/24/00
Sentry Life Insurance Company of New York	12/31/97	3/6/00
Standard Life Insurance Company of New York	on organization	10/17/00
Standard Security Life Insurance Company of New York	12/31/98	1/11/00
Swiss Re Life & Health America Inc.	12/31/96	2/10/00
Transamerica Life Insurance Company Of New York	12/31/98	2/22/00
United States Life Insurance Company in the City of New York	12/31/98	11/2/00
William Penn Life Insurance Company of NY	12/31/98	5/30/00

**Domestic Accident and Health Insurance Companies**

Commercial Travelers Mutual Insurance Co.	12/31/98	12/1/00
Finger Lakes Long Term Care Insurance Co. Insurance Company	12/31/97	10/17/00
U.S. Health Insurance Company	12/31/96	9/8/00

**Fraternal Benefit Society**

Polish Union of America	12/31/98	2/15/00
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**Domestic Property and Casualty Insurance Companies**

American Colonial Insurance Company	12/31/97	6/21/00
Atlantic Mutual Insurance Company	12/31/97	1/24/00
AXA Nordstern Art Insurance Corp.	12/31/98	3/23/00
Centennial Insurance Company	12/31/97	1/14/00
Generali-U.S. Branch	12/31/97	4/24/00
Euler American Credit Indemnity Co.	12/31/98	7/11/00
Gerling Global Reinsurance Corp. of America	12/31/98	10/5/00
Guilderland Reinsurance Company	12/31/98	5/24/00
Hereford Insurance Company	12/31/98	12/21/00
Hermitage Insurance Company	12/31/98	10/24/00
LG Insurance Company, Ltd.	12/31/96	3/7/00
Merchants Mutual Insurance Company	12/31/98	1/18/00
MIIIX Insurance Company of New York	11/6/98	7/13/00
New York Mutual Insurance Company	12/31/96	2/23/00
Reinsurance Corporation of New York	12/31/93	1/6/00
Spirit Insurance Company	7/12/00	7/12/00
Strathmore Insurance Company	on organization	1/26/00
Tower Insurance Company of New York	capital increase	6/21/00
Unione & Phenix Espanol Insurance Company	12/31/98	11/2/00

**Assessment Co-operative P&C Insurance Companies**

Callicoon Co-operative Insurance Company	12/31/99	12/1/00
Community Mutual Insurance Company	12/31/98	1/24/00

<b>Name of Company</b>	<b>Made as of</b>	<b>Date Filed</b>
Farmers' Town Mutual Ins. Company of Clinton	12/31/98	2/11/00
Eastern Mutual Insurance Company	12/31/99	10/6/00
Meredith Insurance Company	12/31/98	4/17/00
Midrox Insurance Company	12/31/99	8/23/00
Oswego County Mutual Insurance Co.	12/31/98	1/21/00
Wayne Cooperative Insurance Company	12/31/98	5/23/00

**Advance Premium Co-operative P&C Ins. Companies**

North Country Insurance Company	12/31/98	6/6/00
Utica First Insurance Company	12/31/98	3/13/00

**Domestic Mortgage Guaranty Company**

Atrium Insurance Company	12/31/96	3/29/00
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**Domestic Title Insurance Companies**

Capital Title Reinsurance Company	12/31/97	5/9/00
Stewart Title Insurance Company	12/31/98	8/3/00

**Charitable Annuity Societies**

American Soc'ty -Technion Israel Instit of Tech.	12/31/98	1/26/00
Fordham University	12/31/98	2/7/00
Guideposts A Church Corporation	12/31/98	2/8/00
Hofstra University	12/31/98	2/25/00
Israel Humanitarian Foundation, Inc.	12/31/98	3/20/00
Jewish Guild for the Blind	12/31/99	9/20/00
Metropolitan Museum of Art	12/31/99	10/23/00
New York Province of the Society of Jesus	12/31/99	9/13/00
Our Lady of Victory Homes of Charity	12/31/98	2/25/00
Rescue Mission Alliance of Syracuse, NY	12/31/98	1/6/00
Roberts Wesleyan College	12/31/98	3/20/00
University of Albany Foundation, Inc.	12/31/98	2/25/00

**Health Maintenance Organizations**

Elderplan, Inc.	12/31/97	10/5/00
Independent Health Association, Inc.	12/31/95	8/29/00
U.S. Helathcare, Inc.	12/31/96	1/6/00
U.S. Healthcare Inc.	3/30/00	10/24/00
Wellcare of New York, Inc.	12/31/95	3/ 6/97

**Non-Profit Corporation**

Community Health Plan	12/31/98	10/3/00
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**Underwriting Organizations**

Medical Malpractice Insurance Association	12/31/96	2/17/00
New York Mutual Underwriters	12/31/98	11/10/00

**Rate Service Organizations**

Associated Cooperative Inland Marine Conference	5/31/99	3/6/00
Underwriters Rating Board	5/31/99	3/6/00

**Viatical Settlement Companies**

Neuma, Inc.	12/31/98	2/23/00
Viaticus, Inc.	12/31/98	2/23/00

## 5. Rehabilitation, Liquidation, Ancillary Receivership and Conservation Proceedings

The insurance entities under the Liquidation Bureau's jurisdiction during 2000 were as follows:

### Rehabilitations

**Commenced:** Capital Mutual Insurance Company

**Continued:** Executive Life Insurance Company of New York

**Completed:** Capital Mutual Insurance Company  
Rochdale Insurance Company (successfully rehabilitated)

### Liquidations

**Commenced:** B'nai Zion  
Capital Mutual Insurance Company  
New York Professional Liability Insurance Company  
North Medical Community Health Plan

**Continued:** Aetna Health Plans of New York  
American Consumer Insurance Company  
American Fidelity Fire Insurance Company  
Consolidated Mutual Insurance Company  
Contractors Casualty and Surety Company  
Cosmopolitan Mutual Insurance Company  
Dominion Insurance Company of America  
First Central Insurance Company  
Galaxy Insurance Company  
Heartland Group, Inc.  
Home Mutual Insurance Company of Binghamton, NY  
Horizon Insurance Company  
Ideal Mutual Insurance Company  
Interamerica Reinsurance Company  
Long Island Insurance Company  
Midland Insurance Company  
Midland Property and Casualty Insurance Company  
Nassau Insurance Company  
Nem Re-Insurance Corporation  
New York Merchant Bakers Insurance Company  
New York Surety Company  
Northumberland General Insurance Company (U.S. Branch)  
Pan Atlantic Investors, Ltd.  
Transtate Insurance Company  
Union Indemnity Insurance Company of New York  
United Community Insurance Company  
U. S. Capital Insurance Company  
Whiting National Insurance Company

**Completed:** Realex Group, N.V.

**Ancillary Receiverships** – In the case of a New York licensed foreign (i.e., not domiciled in New York) insurer becomes insolvent, the Superintendent of Insurance must apply to the court to establish an Ancillary Receivership to enable the New York Department (and the Superintendent as Ancillary Receiver) to trigger the New York Security Fund to pay Security Fund – covered claims.

**Commenced:** Commercial Compensation Casualty Company  
LMI Insurance Company

**Continued:** American Druggists' Insurance Company  
American Eagle Insurance Company  
American Mutual Insurance Company of Boston  
American Mutual Liability Insurance Company  
Integrity Insurance Company  
MCA Insurance Company  
Mission Insurance Company  
Mission National Insurance Company  
Mutual Fire, Marine and Inland Insurance Company  
Transit Casualty Company  
Western Employers Insurance Company

**Completed:** Employers Casualty Company  
Great Atlantic Insurance Company  
Oil & Gas Insurance Company  
Warwick Insurance Company  
Yorktown Indemnity Company

**Conservations** – All foreign or alien (i.e., not domiciled in New York) insurers not licensed in New York but doing business on an excess and surplus lines basis must establish a trust fund in New York. If such an insurer becomes insolvent, the Insurance Department must apply to the court in order for the Insurance Department (and the Superintendent as Conservator) to conserve the assets of that trust fund for the benefit of all U.S. policyholders.

**Commenced:** Alliance General Insurance Company  
Chancellor Insurance Company, Ltd.

**Continued:** Belvedere Insurance Company, Ltd.  
Municipal General Insurance, Ltd.  
National Colonial Insurance Company  
Northumberland General Insurance Company – 41 Trust  
Pacific and General Insurance Company

**Completed:** Anglo American Insurance Company, Ltd.  
Njord Insurance Company, Ltd.  
Sovereign Fire & Marine Insurance Company, Ltd.

## **Insurance Companies**

During 2000, eight proceedings commenced while 45 insurance company proceedings continued. Ten proceedings were completed and closed. The 53 active insurance company proceedings were classified as follows:

- 1 Rehabilitation
- 32 Liquidations
- 13 Ancillary Receiverships
- 7 Conservations

As of December 31, 2000, assets, liabilities and current insolvency of the 53 active insurance company proceedings, taken as a group, were as follows:

Total Assets	\$3,717,491,040
Total Liabilities	\$6,275,127,641
Current Insolvency	\$2,557,636,601

During 2000, cash payments received from the New York State security funds on allowed claims totaled \$119,968,599 for claims, \$272,521 for return premiums, and \$26,849,663 for expenses. Payments by other states' guaranty funds are excluded from these totals.

During 2000, cash distributions paid to the New York State security funds from domestic estates totaled \$24,431,841. Distributions to the New York State security funds from other states' guaranty funds totaled \$39,036,583 for a combined total \$63,468,424.

## **Fraternal Benefit Societies in Liquidation**

As of December 31, 2000, there were 211 pending liquidation proceedings. During 2000, eight proceedings were terminated and fourteen proceedings were commenced.

As of December 31, 2000, the remaining assets of the 211 liquidation proceedings totaled \$1,415,725. During 2000, assets of \$341,741 were distributed to former members of fraternal benefit societies.

## **Welfare and Pension Funds in Liquidation**

As of December 31, 2000, there were six liquidation proceedings that had not yet been closed by filing of final accountings with the Supreme Court. Their status was as follows:

- 5 - Evaluation of claims by Liquidation Bureau completed. Liquidator's Report, Audit and Petition in preparation.
- 1 - Liquidation completed except for preparation and filing of final audit and accounting.

The remaining assets of the six liquidation proceedings totaled \$342,482. During 2000, no claim or surplus assets were paid to former members of welfare funds. For more detail, see the full report, *Liquidation Bureau Proceedings as of 12/31/00*. Copies may be obtained through the Public Affairs & Research Bureau at the Department's New York City Office. For earlier developments regarding rehabilitation, liquidation, ancillary receivership and conservation proceedings, see the *Annual Report of the Superintendent of Insurance to the New York Legislature* for prior years.

**6. Insurance Department Receipts and Disbursements**

**Table 58  
DEPARTMENT RECEIPTS  
Fiscal Year Ended March 31, 2000**

<b>Taxes Collected Under the New York State Insurance Law:</b>	
Taxes collected by reason of retaliation under Section 1112	\$7,935,307.02
Excess Line - Section 2118	15,036,174.65
Organization Tax - Section 180, Tax Law	<u>32,764.68</u>
<b>Total taxes collected</b>	<b>\$23,004,246.35*</b>
 <b>Fees Collected Under Section 1112 of the NYS Insurance Law:</b>	
Filing Annual Statements and Certificates of Authority to Companies	\$169,209.72
Agents' Certificates of Authority	607,295.75
Admission Fees	<u>32,061.50</u>
<b>Total</b>	<b>\$808,566.97</b>
 <b>Licensing and Accreditation Fees:</b>	
Agents' Licenses - Section 2103	\$4,714,802.23
Adjusters' Licenses - Section 2108	99,975.00
Brokers' Licenses - Section 2104 and 2105	175,038.52
Bail Bond Agents' Licenses - Section 6802	225.00
Insurance Consultants' Licenses - Section 2107	41,810.00
Reinsurance Intermediary Licenses - Section 2106	13,700.00
Special Risk Licenses - Section 6302	158,000.00
Accredited Reinsurers - Section 107(a)2	129,060.00
Limited License	140.00
Duplicate License Fees	27,146.00
Viatical Licenses	23,500.00
Continuing Education Provider Fee	365,300.00
Savings Bank Licenses	<u>63,150.00</u>
<b>Total</b>	<b>\$5,811,846.75</b>
 <b>Assessments and Reimbursement of Department Expenses:</b>	
Section 313 - Company Examinations	\$8,065,049.83
Section 332 - Assessment	78,381,605.59
Section 9104/9105 - Tax Distribution	131,921.86
Administrative Expense Security Funds	52,683.00
Reimbursement of Expenses - Other Bureaus	<u>17,712.03</u>
<b>Total</b>	<b>\$86,648,972.31</b>

*(table continues on next page)*

**Table 58**  
**DEPARTMENT RECEIPTS**  
**Fiscal Year Ended March 31, 2000**  
*(continued)*

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<b>Other Fees and Receipts:</b>	
Regulation 68 - Health Services Arbitration Expenses	\$103,400.00
Section 9107 - Certification & Filing Fees	136,138.50
Section 9108 - Fire Insurance Fee	7,957,893.33
Section 205 – Publications	216.00
Section 1212 - Summons and Complaints	455,112.00
Fines and Penalties	7,627,237.48
Arbitration Fees	1,938,160.00
FOIL Requests	66,886.61
Miscellaneous	7,623.25
Regulation 134	7,200.00
Motor Vehicle Law Enforcement Fee	12,801,807.48
Continuing Education Filing Fees	473,480.00
CAPCO Application Fees	6,500.00
Section 7902 – Service Contract Registration Fee	<u>20,500.00</u>
<b>Total</b>	<b>\$31,602,154.65</b>
 <b>Total Departmental Receipts</b>	 <b>\$147,875,787.03</b>

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\*This amount is in addition to the \$589 million collected by the Department of Taxation and Finance under Article 33 of the Tax Law.

**Table 59**  
**INSURANCE TAX RECEIPTS\***  
**(in millions)**

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Fiscal Year	Net
1995-96	502.5
1996-97	671.5
1997-98	620.7
1998-99	615.1
1999-00	589.0

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\*Collected by the Department of Taxation and Finance under Article 33 of the Tax Law.  
Source: State of New York, Annual Budget Message, 2001-02

**Table 60**  
**DEPARTMENT DISBURSEMENTS**  
**Fiscal Year Ended March 31, 2000**  
**Paid in the First Instance from Appropriations**

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Chapter 050 - 1998-99*	\$464,620.49
Chapter 050 - 1999-00*	\$47,451,988.25
<b>Personal Service</b>	
Employee salaries	\$47,916,608.74
<b>Maintenance and Operation</b>	
General office supplies	\$656,823.72
Travel expense	2,275,539.04
Rental equipment	8,021.68
Repair and maintenance of equipment	155,059.05
Real estate rental	4,847,076.41
Postage and shipping	453,959.64
Printing	155,069.65
Telephone	1,174,957.46
Miscellaneous contractual services	4,795,579.75
OGS Computer Rental	13,318.66
OGS Interagency courier	20,538.61
Equipment	2,889,798.87
Employee fringe benefits/indirect cost	18,231,349.58
<b>Total maintenance</b>	<b>\$35,677,092.12</b>
Total disbursements from Special revenue appropriations for Fiscal Year ended 3/31/00	  <b>\$83,593,700.86</b>
<b>Total Department receipts for fiscal year ended 3/31/00</b>	  <b>\$147,875,787.03</b>
Excess of Department receipts over Department disbursements	  <b>\$64,282,086.17</b>

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\*Chapter 050 – General Government Budget Appropriation Bill

7. Security Funds Income and Disbursements

**Table 61**  
**PROPERTY/CASUALTY INSURANCE SECURITY FUND<sup>a</sup>**  
**Income and Disbursements**  
**April 1, 2000**

	<b>To and Including 3/31/99</b>	<b>4/1/99 to 3/31/00</b>	<b>As of 4/1/00</b>
Paid into the Fund	\$ 570,338,860.38	\$ 15,283,679.73	\$ 585,622,540.11
Interest income - net	428,563,243.49	4,815,554.44	433,378,797.93
Recoveries from companies in liquidation	397,683,586.27	31,614,376.72	429,297,962.99
General Fund Reimbursement	112,681,939.00	5,220,000.00	117,901,939.00
<b>Total</b>	<b>\$1,509,267,629.14</b>	<b>\$ 56,933,610.89</b>	<b>\$1,566,201,240.03</b>
Less disbursements:			
Administrative expenses	\$ 1,087,460.55	\$ 54,250.33	\$ 1,141,710.88
Awards and expenses of companies in liquidation	1,203,113,510.19	120,290,712.91	1,323,404,223.10
Refunds and credits to companies	44,440,739.54	-0-	44,440,739.54
Transfers to other funds <sup>b</sup>	136,562,280.96	8,000,000.00	144,562,280.96
<b>Total</b>	<b>\$1,385,203,991.24</b>	<b>\$128,344,963.24</b>	<b>\$1,513,548,954.48</b>
<b>Total of Fund</b>	<b>\$ 124,063,637.90</b>	<b>\$(71,411,352.35)</b>	<b>\$ 52,652,285.55</b>
Cash in bank and U.S. securities (at par)	<b>\$ 124,063,637.90</b>		<b>\$ 52,652,285.55</b>
<b>Total of Fund</b>	<b>\$ 124,063,637.90</b>		<b>\$ 52,652,285.55</b>

<sup>a</sup> Monies collected under Sections 7602 and 7603 of the Insurance Law.

<sup>b</sup> State Purpose Fund - \$47,562,280.96 + \$87,000,000 per Chapter 55 of the Laws of 1982 and \$2,000,000 transferred to the Public Motor Vehicle Liability Security Fund.

**Table 62**  
**PUBLIC MOTOR VEHICLE LIABILITY SECURITY FUND\***  
**Income and Disbursements**  
**April 1, 2000**

	<b>To and Including 3/31/99</b>	<b>4/1/99 to 3/31/00</b>	<b>As of 4/1/00</b>
Paid into the Fund	\$ 77,787,762.99	\$ 6,557,351.87	\$ 84,345,114.86
Interest income - net	27,011,962.10	262,696.37	27,274,658.47
Recoveries from companies in liquidation	28,225,830.94	2,014,975.14	30,240,806.08
Transfers	2,000,000.00	8,000,000.00	10,000,000.00
<b>Total</b>	<b>\$ 135,025,556.03</b>	<b>\$ 16,835,023.38</b>	<b>\$151,860,579.41</b>
Less disbursements:			
Administrative expenses	\$ 442,577.24	\$ 11,501.80	\$ 454,079.04
Awards and expenses of companies in liquidation	110,940,792.53	26,834,512.59	137,775,305.12
Refunds to companies	13,578,904.30	4,402.68	13,583,306.98
<b>Total</b>	<b>\$ 124,962,274.07</b>	<b>\$ 26,850,417.07</b>	<b>\$151,812,691.14</b>
<b>Total of Fund</b>	<b>\$ 10,063,281.96</b>	<b>\$ (10,015,393.69)</b>	<b>\$ 47,888.27</b>
Cash in bank and U.S. securities (at par)	<b>\$ 10,063,281.96</b>		
<b>Total of Fund</b>	<b>\$ 10,063,281.96</b>		<b>\$ 47,888.27</b>

\* Monies collected under Section 7601 of the Insurance Law from companies writing bonds and policies carrying coverages set forth in Section 370 of the Vehicle and Traffic Law.

**Table 63**  
**WORKERS' COMPENSATION SECURITY FUND\***  
**Income and Disbursements**  
**April 1, 2000**

	<b>To and including 3/31/99</b>	<b>4/1/99 to 3/31/00</b>	<b>As of 4/1/00</b>
Paid into the Fund	\$ 127,603,843.79	-0-	\$127,603,843.79
Interest income - net	117,211,600.24	\$ 737,289.67	117,948,889.91
Recoveries from companies in liquidation	84,219,357.90	4,379,606.82	88,598,964.72
<b>Total</b>	<b>\$ 329,034,801.93</b>	<b>\$ 5,116,896.49</b>	<b>\$334,151,698.42</b>
Less disbursements:			
Administrative expenses	\$ 792,258.07	\$ 19,016.76	\$ 811,274.83
Awards and expenses of companies in liquidation	210,592,265.06	18,430,759.77	229,023,024.83
Refunds to companies	27,381,071.74	-0-	27,381,071.74
Transfers	67,000,000.00	-0-	67,000,000.00
<b>Total</b>	<b>\$ 305,765,594.87</b>	<b>\$ 18,449,776.53</b>	<b>\$324,215,371.40</b>
<b>Total of Fund</b>	<b>\$ 23,269,207.06</b>	<b>\$(13,332,880.04)</b>	<b>\$ 9,936,327.02</b>
Cash in bank and U.S. securities (at par)	<b>\$ 23,269,207.06</b>		<b>\$ 9,936,327.02</b>
<b>Total of Fund</b>	<b>\$ 23,269,207.06</b>		<b>\$ 9,936,327.02</b>

\* On March 1, 1990, the Stock Workers' Compensation and Mutual Workers' Compensation Security Funds were consolidated into a single fund known as the Workers' Compensation Security Fund.

**B. DEPARTMENT STAFFING**

**Table 64  
NUMBER OF FILLED POSITIONS BY BUREAU (AS OF MARCH 2001)\*  
New York State Insurance Department**

Bureau	Examiners	Attorneys	Actuaries	Other Professionals	Investigators	Support Staff	Total
<b>New York City Office:</b>							
Executive	1			7		6	14
Life	86		11	4		7	108
Health	45		5	1		4	55
Administration*	1			8		11	20
Consumer Services	24			1		16	41
Frauds	3			1	21	5	30
OGC		22		5		9	36
Pub. Affairs/Research				2		2	4
Property	169		20			27	216
Systems	5			17		6	28
Capital Markets	1			5		1	7
Examiner Pool	35						35
<b>NYC Total</b>	<b>370</b>	<b>22</b>	<b>36</b>	<b>51</b>	<b>21</b>	<b>94</b>	<b>594</b>
<b>Albany Office:</b>							
Executive				3		3	6
Life		12	18			5	35
Health	5	21	7	1		12	46
Administration**	1			10		22	33
Consumer Services	35			1		18	54
Frauds					3		3
OGC		4				1	5
Property	12					1	13
Systems	2			20		14	36
Licensing	2			8		46	56
<b>Albany Total</b>	<b>57</b>	<b>37</b>	<b>25</b>	<b>43</b>	<b>3</b>	<b>122</b>	<b>287</b>
<b>Buffalo Office:</b>							
Health	1						1
Consumer Services	3					1	4
Frauds					2		2
<b>Mineola Office:</b>							
Consumer Services	4					1	5
Frauds					8		8
<b>Oneonta Office:</b>							
<b>Rochester Office:</b>							
<b>Syracuse Office:</b>							
Life	2						2
Health	1						1
Frauds					1		1
<b>All Other Total</b>	<b>11</b>				<b>13</b>	<b>2</b>	<b>26</b>
<b>Department Total</b>	<b>438</b>	<b>59</b>	<b>61</b>	<b>94</b>	<b>37</b>	<b>218</b>	<b>907</b>

\*18 Student Assistants assigned to various bureaus not included in table

\*\*includes HRM & Offices Services

## C. NEW YORK STATE INSURANCE DEPARTMENT

### Publications as of 5/1/2001

#### Consumer Guides, Annual Reports, Directories, etc.

- Annual Health Insurer Complaint Ranking  
(ranks complaints from health maintenance organizations, commercial health insurers, and non-profit indemnity health insurers; also includes grievances and utilization review appeals closed by insurers and performance evaluations)
- Annual Ranking of Automobile Insurance Complaints
- Annual Report to the Legislature
- Statistical Tables from Annual Statements  
Volume 1, Property/Casualty, Financial Guaranty, Mortgage Guaranty and Assessment Cooperative Companies  
Volume 2, Life and A & H Companies, and Fraternal Benefit Societies  
Volume 3, Title Companies, HMOs, Non-profit Health Insurers
- Directory of Regulated Insurance Companies
- A Consumer's Guide to the New York State Insurance Department
- Consumers Shopping Guide to Automobile Insurance  
(upstate and downstate editions)
- Consumers Shopping Guide for Homeowners' and Tenants Insurance  
(upstate and downstate editions)
- Consumers Shopping Guide for Life Insurance
- Policyholder Protection Provided by the Life Insurance Company Guaranty Corporation of New York
- Insurance Policies Covering Long Term Care Services in New York State
- External Review: Your Rights as a Health Care Consumer
- Coastal Homes and Insurance: A Guide for New York Homeowners
- Discounts & Credits Available for Public Automobiles
- The New York Public Automobile Pool Safety Group Dividend Program for Public Livery Owner-Driver Risks
- Experience Rating Plan for Public Automobiles
- Premium Surcharge for Taxi & Limousine Risks
- Annual Commercial Property/Casualty Report
- Annual Frauds Bureau Report
- Welcome to the NYS Insurance Department Frauds Bureau

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**Note:** Copies of listed publications are available free of charge to New York State residents (limit: one per resident).