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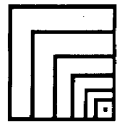
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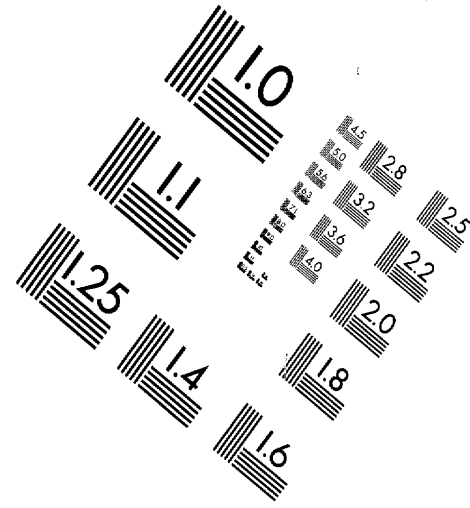
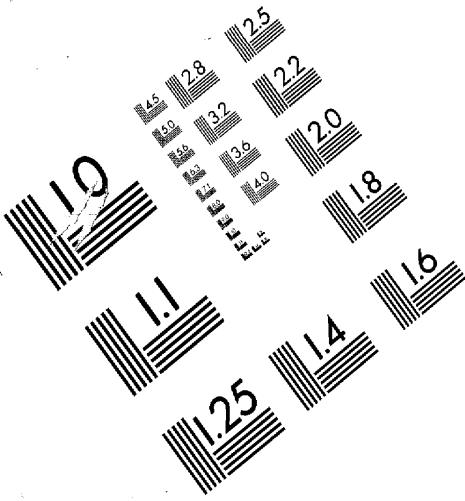
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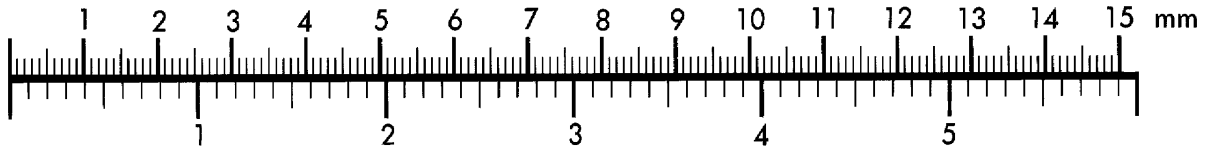


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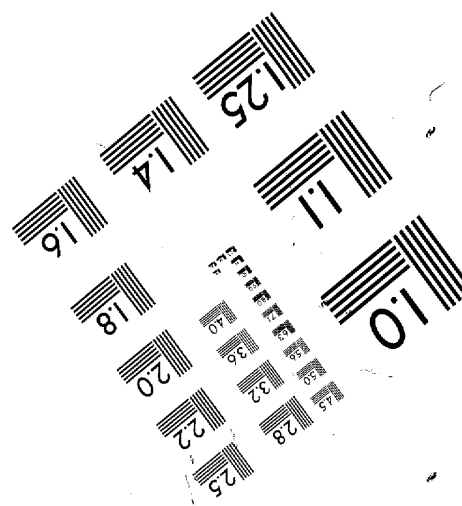
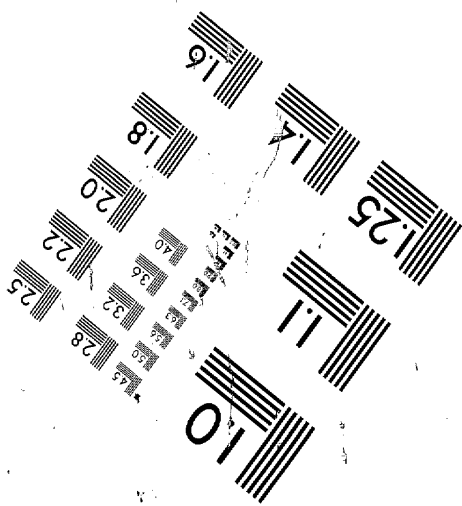
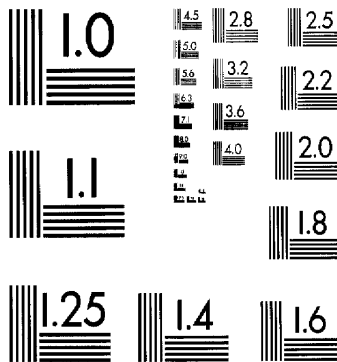
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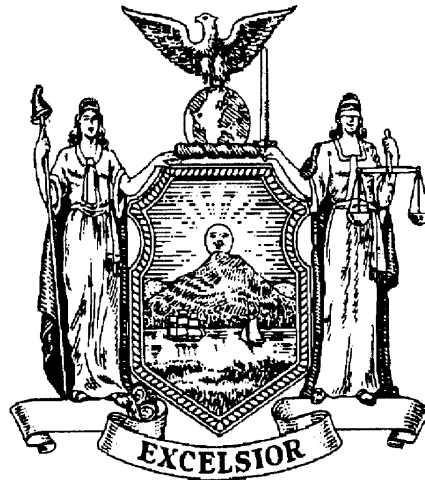


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*Annual Report  
of the  
Superintendent of Insurance  
to the  
New York Legislature*

*Calendar Year 1996*



*Governor George E. Pataki*

*Superintendent of Insurance Neil D. Levin*



***The One Hundred Thirty-Eighth***  
**Annual Report**  
**of the**  
**Superintendent of Insurance**

*A Report to the New York State Legislature for the Year*  
*Ending December 31, 1996*

***George E. Pataki***  
**Governor**

***Neil D. Levin***  
***Superintendent of Insurance***

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STATE OF NEW YORK  
INSURANCE DEPARTMENT  
160 WEST BROADWAY  
NEW YORK, NEW YORK 10013

May 8, 1997

To the Legislature:

The Annual Report of the Superintendent of Insurance for the year ending December 31, 1996 is herewith submitted in accordance with Section 206 of the Insurance Law.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Neil D. Levin", with a long horizontal flourish extending to the right.

Neil D. Levin  
Acting Superintendent of Insurance





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# ***N.Y.S.I.D. 1996 HIGHLIGHTS***

<i><b>JANUARY</b></i>	<i>Department announces major regulatory reform initiatives; HMOs required to offer Point of Service Plans as 1995 landmark HMO bill takes effect</i>
<i><b>FEBRUARY</b></i>	<i>Department activates disaster response plan to aid victims of mudslides and flooding</i>
<i><b>MARCH</b></i>	<i>Empire Blue Cross/Blue Shield fined \$1.1 million and agrees to implement corrective measures; Department supports efforts to ensure Lloyd's trust funds continue to pay U.S. claims</i>
<i><b>APRIL</b></i>	<i>Coastal Homeowners Program is up and running--voluntary network of insurers and producers assists in obtaining coverage for shore property</i>
<i><b>MAY</b></i>	<i>Governor signs 48-hour bill for newborns and their mothers; Department permits asset-based compensation for sale of annuities by life insurers</i>
<i><b>JUNE</b></i>	<i>New York City hosts NAIC summer meeting; Regulators pass resolution supporting state authority to regulate bank insurance agency activities</i>
<i><b>JULY</b></i>	<i>Swiss Re expands operations in New York State; Governor announces state banks can form insurance sales subsidiaries</i>
<i><b>AUGUST</b></i>	<i>Department opens satellite office to assist Long Island homeowners; Multi-state task force fines Prudential \$35 million</i>
<i><b>SEPTEMBER</b></i>	<i>Governor announces largest single workers' compensation rate decrease in state history; Department approves transfer of U.S. funds to Lloyd's of London Equitas program</i>
<i><b>OCTOBER</b></i>	<i>Department disputes NYC Consumer Affairs report on auto theft premiums; Superintendent testifies in support of Regulation 60 changes to life insurer expenses and compensation rules</i>
<i><b>NOVEMBER</b></i>	<i>"Zero tolerance" bill becomes effective 11/1/96; Department home-homeowners guide wins 1996 Notable Document Award</i>
<i><b>DECEMBER</b></i>	<i>Superintendent Muhl resigns; Licensing Bureau implements automated phone system for agents and brokers</i>





## II MAJOR DEVELOPMENTS

### 1. New Superintendent Nominated

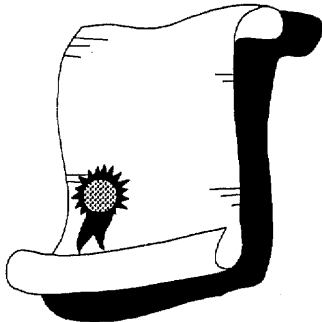
Governor George E. Pataki announced on February 21, 1997 that he would nominate Neil D. Levin as Superintendent of the New York State Insurance Department. Mr. Levin, who had been serving as New York's Superintendent of Banks, joined the Insurance Department as Acting Superintendent on April 7, pending confirmation by the New York State Senate.

Mr. Levin replaced Superintendent Edward J. Muhl who resigned in December 1996 to enter the private sector. Gregory V. Serio, First Deputy Superintendent and General Counsel, served as Acting Superintendent during the intervening period.

In his two years as Superintendent of Banks, Mr. Levin worked to improve the attractiveness of the New York State bank and thrift charters, consistent with the Pataki Administration's goal to maintain New York's status as the leading financial center of the world. In the months just prior to his nomination to head the Insurance Department, Mr. Levin initiated an investigation by the Banking Department into the handling of holocaust victims' assets by Swiss banks.



### 2. Regulatory Reform



The Insurance Department was one of just two State agencies to receive a special Governor's award for its regulatory reform efforts. The award was presented to the Insurance Department because the agency "demonstrated a top-down commitment to improving the regulatory climate of New York through changes in regulations, administering processes, and attitudes."

Under Governor George E. Pataki's Executive Order No. 2 issued in the first weeks of his administration, the Insurance Department undertook a sweeping review of all its regulations to assess the regulatory burdens on insurers licensed in New York State, and to determine where burdens could be reduced without compromising insurer solvency or the interests of policyholders. Of the 152 insurance regulations in effect in 1995, more than one-third were recommended for reform by insurers and consumers. Well over half of the regulations suggested for reform were targeted for rescission or modification.

## Regulations Repealed

*In accordance with the Department's regulatory review effort, the following regulations have been repealed through the first quarter of 1997:*

<b>Subject</b>	<b>Reg. No.</b>	<b>Effective Date of Repeal</b>
Forms for Annual Statements	4	3/1/96
Cooperative Life and Accident Insurance Companies: Forms of Policies of Life, Accident or Health Insurance	15	3/1/96
Non-Profit Medical Indemnity or Hospital Service Corporations	16	12/1/96
Investment in Mortgage Loans	24	9/ 1/96
Minimum Premiums for Group Life Insurance	32	3/1/96
High Cash Value - Minimum Deposit Life Insurance	39	12/1/96
Required Provisions of "Umbrella" Excess Liability Policies and Conditional Suspension of Filing Requirements of Article VIII of the Insurance Law	51	1/15/96
Stock Options Granted by Parent Corporations to Employees of Domestic Stock Insurance Companies	54	12/1/96
Sale and Purchase of Exchange Traded Call Options	72	9/1/96
Underwriting Practices Discriminating Against Females	75	12/1/96
Home Health Care Insurance Supplementing Medicare	81	3/1/96
Interface of Special Risk Insurers and the New York Insurance Exchange	86A	3/1/96
Agency Conferences of Life Insurers	93	12/1/96
Open Enrollment Requirements for Health Insurers to Qualify for Reduced Payments to Hospitals	137	11/22/96

### 3. Health Insurance

#### a. Health Care Reform Legislation

Legislation enacted in 1995 expanded the choices for New Yorkers who buy health insurance on an individual basis. Effective January 1, 1996, all health maintenance organizations (HMOs) authorized in New York State are required to offer two standardized comprehensive health insurance products containing a full range of benefits, including prescription drugs. In addition, one of the new policies, a point of service plan, allows policyholders to go outside the usual network of HMO providers and choose their own physicians. The provisions of the law are detailed in a publication entitled *Consumer's Guide for Standard Individual HMO and Point of Service Coverage* and is available free of charge through the Department's Research Bureau.

Building on that 1995 legislation, the Governor enacted the Managed Health Care law (Chapter 705 of the Laws of 1996). The new law significantly alters the relationships among enrollees, physicians, and their HMOs or managed care insurers. For example the law ensures that managed care enrollees have access to appropriate specialists; that questions of medical necessity are decided by health care professionals, not bureaucrats; and that emergency room treatments are properly covered. The law also eliminates "gag" clauses and provides terminated physicians with certain due process rights, such as the right to know the reason for a termination and the right to a hearing regarding such termination.

The new law achieves a balance between the need of an HMO to direct its managed care business and the needs of enrollees and physicians to ensure that New Yorkers receive the best care possible.

#### b. 48-Hour Bill for Newborns

Governor Pataki signed into law on April 15, 1996 legislation that requires all insurance policies, HMO contracts and hospitals that provide maternity care to cover a hospital stay of at least 48 hours for a natural birth and at least 96 hours if the birth is by caesarean section. The law took effect January 1, 1997. In addition, the legislation entitles mothers who leave the hospital sooner than the minimum stay to one covered visit from a home health care professional. The new law also requires hospitals to provide education programs for new mothers, including parenting skills and breast or bottle feeding training.

#### c. Minimum Hospital Stays for Mastectomies

The Women's Health and Cancer Rights Act of 1997 enacted in March provides that a woman who undergoes a mastectomy can remain in the hospital until she and her doctor determine the proper release time. The bill comes in response to the practice by some insurers of requiring release on the same day as the procedure, a practice that came to be known as "drive-through mastectomies." The new law also requires that insurers provide coverage for a second surgical opinion before breast surgery as well as the cost of reconstructive surgery.



#### 4. Property/Casualty Insurance

##### a) Catastrophe Losses Down/Claims Up in 1996



Net income for New York-licensed property/casualty insurers totaled nearly \$18 billion in 1996, an increase of almost 20%, compared with the year-to-year increase of 17% reported for all U.S. property/casualty insurers.

For the second consecutive year, covered losses from catastrophes dropped off in 1996 from the previous year. Insured damage for all U.S. property/casualty insurers totaled \$7.3 billion in 1996, compared with \$8.3 billion in 1995 and a whopping \$17 billion in 1994. Still, the losses were sizable enough to make 1996 the fifth

worst year on record in terms of catastrophe losses. Claims, however, numbered 3.8 million in 1996, up more than 40% from the 2.7 million registered in 1995.

Effective January 1, 1997, the property/casualty industry has redefined the term catastrophe for insurance purposes as a single occurrence that generates insured losses exceeding \$25 million. The previous threshold was \$5 million, established in 1982.

##### b. Coastal Homeowners Insurance

The availability and affordability of homeowners insurance in New York's coastal areas remained an issue on the front burner in 1996 and the Department took a number of steps to ensure that residents were able to obtain necessary coverage:

(1) The Department's Coastal Market Assistance Program (C-MAP) was activated to accept applications effective April 2, 1996. At year end, 945 policies had been issued through C-MAP.

(2) The Department opened a satellite office in Seaford, Long Island. Staff respond to telephone inquiries at two toll-free hotlines--for consumers (1-800-300-4593) and for agents/brokers (1-800-300-4576).

(3) Legislation was passed in April requiring insurers to submit for the Superintendent's approval a plan of orderly withdrawal if they intend to materially reduce their volume of homeowners insurance policies in coastal areas. In accordance with the legislation, the Department promulgated Regulation 154 to establish standards for the definition of "material reduction of volume of policies."



The legislation also directed the Superintendent to convene and chair an advisory panel to examine and assess the problems affecting the availability and affordability of homeowners insurance in New York State and to report to the Governor and the Legislature on its findings. The Report, issued October 1, 1996, contained a number of recommendations to help resolve the problems.

In addition, the law required the Superintendent to study and report on the market dynamics of homeowners insurance policies written, cancelled or nonrenewed in designated geographic areas. The Report was issued February 15, 1997.

## **c. Auto Insurance Issues**

### **1) Private Passenger Auto Rate Changes**

Private passenger auto filings for rate increases that do not exceed 7% can generally be implemented on a file-and-use basis under New York's flex-rating statute, which took effect July 1, 1995. During 1996, there were 34 such rate changes implemented. In addition, the Department approved 29 rate changes under the prior approval requirement.

The average increase for insurers receiving rate changes was approximately 3.1%. For those insurers, liability rates increased 8.5% on average, while physical damage (primarily collision and theft coverages) declined 5% on average. The 63 insurers that received rate changes in 1996 represent 37% of the market for private passenger auto insurance. Since nearly two-thirds of auto insurers did not implement rate hikes in 1996, the average increase for all private passenger auto writers was 1.16%, the lowest such increase since the late 1970s. It should be noted that the Assigned Risk Plan did not request a rate change in 1996.

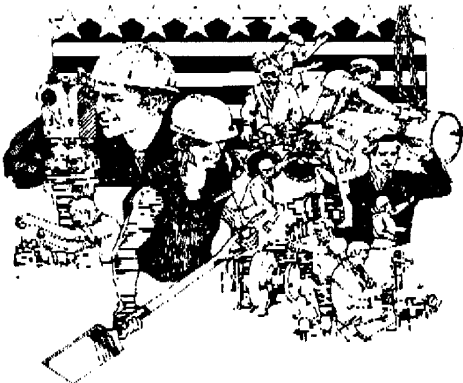
### **2) New York City Auto Theft Rates**

First Deputy Superintendent and General Counsel Gregory Serio countered seriously flawed claims in a report issued by the New York City Department of Consumer Affairs (DCA) that reductions in the number of automobile thefts over the past few years have not fully translated into reduced automobile insurance premiums for New York City drivers.

The First Deputy made his remarks in testimony at an October 3 public hearing called by New York State Senator Guy J. Velella (R-Bronx/Westchester), Chair of the Senate Insurance Committee, to explore the relationship between auto thefts and automobile insurance premiums in New York City. The DCA report erroneously concluded that the decline in auto theft rates in New York City over the past few years translated into virtually no savings for city car owners. The report was critical of both New York auto insurers and the Insurance Department.

## **d. Workers' Compensation Insurance**

Governor Pataki announced in September approval of the largest single workers' compensation rate *decrease* in state history--the change will reduce workers' compensation costs on businesses by an average 18% while improving services for injured workers. The decreases will vary by business and type of industry, but some employers can be expected to see their rates fall by as much as 35% for the following year. The new rates took effect October 1, 1996.



The changes contained in the New York State Employment Safety and Security Act will ultimately reduce workers' compensation costs for employers by an average 25% or \$1 billion while improving workplace safety.

The new law:

- attacks high costs by overriding *Dole v. Dow*, a court-imposed standard that permitted New York employers to be sued by manufacturers of injury-causing equipment, except for only the gravest of injuries;
- improves workplace safety by creating a new "safety first" mandate that requires all employers with poor safety records to institute safety programs, or else face tough new sanctions;
- further reduces costs and ensures excellent medical care by expanding the use of managed care to treat workplace injuries;
- makes the crime of workers' compensation fraud a felony, punishable by jail time;
- creates a new Workers' Compensation Inspector General with broad powers to investigate fraud wherever it occurs;
- ensures that claims filed by injured workers will be handled more quickly.

**e. Lloyd's of London**

Lloyd's of London operates both as an excess line writer and an accredited reinsurer in New York State. The Lloyd's American Trust Fund (LATF), maintained in Citibank, NY for Lloyd's U.S. business, is subject to the regulatory oversight of the New York Insurance Department. An examination undertaken by the Department to determine if the LATF was sufficient to meet Lloyd's liabilities concluded in May 1995 that Lloyd's did not meet the requirements of either Regulation 20 (which governs credit for reinsurance from unlicensed insurers) or Regulation 41 (which governs excess line placements). Each regulation requires Lloyd's to maintain in its New York-based trust funds assets that match dollar-for-dollar the organization's U.S. liabilities plus \$100 million. The report also concluded that the LATF were deficient on a net basis in excess of \$7 billion.

After several meetings with Lloyd's representatives, the Department worked out an agreement through which Lloyd's would be in compliance with New York regulations. Specifically, Lloyd's transferred an additional \$500 million into the Central Fund United States for the benefit of U.S. policyholders. Lloyd's also created two new trust funds, Lloyd's United States Situs Surplus Lines Trust Deed and Lloyd's United States Credit for Reinsurance Trust Deed, effective August 1, 1995. All future Lloyd's United States *situs* business liabilities would be fully funded gross of reinsurance by assets on a dollar-for-dollar basis in full compliance with Department regulations.

In addition, Lloyd's would continue to maintain the existing \$200 million in joint and several liability funds which would support United States *situs* business as well as United States obligations prior to the effective date of the new trust funds.

In 1996, the underwriting members of Lloyd's approved the creation of Equitas Reinsurance Limited and its wholly owned subsidiary Equitas Limited, both run-off reinsurance companies located in the United Kingdom, into which Lloyd's 1992 and prior business would be reinsured. These companies were authorized by the British regulators in September 1996. Upon authorization of these companies to do business, the Superintendent approved the transfer of approximately \$5.5 billion from the LATF to fund a portion of Lloyd's Equitas premiums. Monies transferred from LATF to Equitas for Lloyd's 1992 and prior business were deposited in a trust fund located at Citibank in New York.

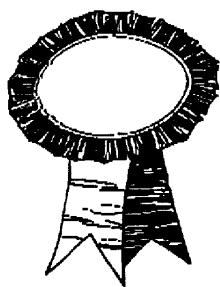
Before allowing the transfer to occur, the Superintendent required both Lloyd's and British regulators to agree that the New York Department would continue to have access to key financial data of Equitas and would receive any other information it deemed appropriate. In this way, the Department will be able to continue to carry out its primary regulatory responsibility--the protection of United States policyholders of Lloyd's. Monies to pay claims for United States business placed after 1992 through July 31, 1995 remain in the LATF.

## f. Captive Insurers

The Governor's Office, in conjunction with the New York Insurance Department, proposed legislation in 1996 to permit the formation of captive insurance companies in New York. Captives are insurers owned by the insureds and organized for the main purpose of self-funding the owner's risk. Captives are often categorized as one of the "alternative insurance mechanisms." Rather than purchasing insurance coverage from traditional insurance companies, many corporations form captives to self-insure their risks. By allowing captives for large corporations, New York intends to encourage the formation of these self-insurance vehicles in this State rather than forcing companies to look to other jurisdictions to set up captive operations.

The legislation did not pass in 1996; however, it will be proposed again in the 1997 Legislative Session. What New York will gain is enhanced economic development, an opportunity to serve as one of the global centers of captive insurance, experience in regulating the alternative insurance market and continued recognition as an effective and responsive insurance regulator.

## g. Homeowners Guide Garners Kudos

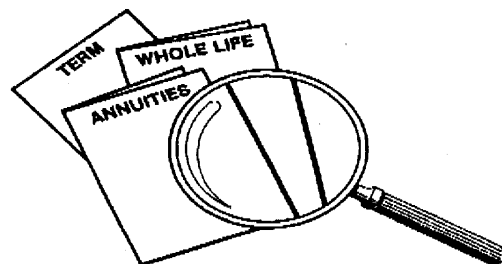


The Department's Property/Casualty Bureau was honored in November for its publication, *Consumers Shopping Guide for Homeowners and Tenants Insurance*. The 1996 Notable Document Award was presented to the Bureau by the New York Library Association. The guide, available in an upstate and a downstate version, provides important information on the types of policies available, how to determine the proper amount of coverage needed, provisions of the law regarding cancellation and renewal as well as cost-saving tips.

## 5. Life Insurance

### a. New York Results for 1996

New York-licensed life insurers posted profitable year-end results for 1996 as net income, at roughly \$7.3 billion, increased by more than 60% from the previous year. Included in these results were net gain from operations of \$6.9 billion, combined with net realized capital gains of \$0.4 billion. Comparable data for 1995 show net gain from operations of \$6.7 billion and net realized capital losses of \$2.2 billion, resulting in net income of \$4.4 billion.



### b. Prudential Fined; Records Subpoenaed

In July 1996, a multi-state Task Force fined the Prudential Insurance Company of America a record \$35 million and imposed a nation-wide restitution program that could return between \$280 million and \$1 billion to Prudential policyholders.

New York, with about 1.5 million affected residents, received about \$4.3 million of the fine. The Task Force report details deficiencies found across the country with regard to the company's sales and marketing practices, internal systems to track transactions in which existing life insurance policies were replaced with new ones, systems to recapture commissions from agents, and agent training and discipline.

In October, the Department announced it was beginning an investigation into the practices of life insurance starting with those Prudential agents involved in the activities uncovered by the Task Force. When a federal judge subsequently fined Prudential \$1 million for destroying, and removing, sales and marketing materials at four locations, one of which was Syracuse, the Department subpoenaed the materials used by Prudential agents in New York State offices. Investigators from the Department's Frauds Bureau completed a sweep of six Prudential offices throughout the State to ensure that there would be no further destruction of sales materials.

The investigators obtained copies of sales and marketing materials as well as related documents from offices in New York City, Long Island, Buffalo, Rochester, Albany and Syracuse. The Department is continuing to monitor Prudential and its use of all marketing and sales materials.

### **c. Asset-Based Compensation for Annuities**

As a result of a Department ruling in May 1996, New York-licensed life insurers may now use asset-based compensation plans when selling annuity products. Asset-based compensation plans tie a portion of the agent's compensation to the accumulated value of an annuity contract over a period of years. Such arrangements typically pay the agent a lower up-front commission than under existing plans, with the possibility of a continuing stream of compensation extending beyond the time at which commission payments previously ceased.

The ruling applies to single premium immediate and single premium deferred annuities. Companies are required to file their compensation plans with the Department for approval. Aggregate compensation limits must not exceed those currently allowed under the Insurance Law. However, once a formal regulation is promulgated, all asset-based compensation plans must conform to the regulation.

### **d. New "Anti-Churning" Regulation Proposed**

The Department held a public hearing in September on proposed new rules designed to prevent the inappropriate replacement of life insurance policies and annuities, a practice known as "churning" or "twisting." The new rules relate both to the conduct of life insurance agents and insurance companies when an existing policy is replaced with a new one.

The Department believes that the current rules governing disclosure and replacement (Regulation 60) are not adequate. Therefore, a new Regulation 60 was proposed to provide consumers with greater disclosure and to create a "cooling off" period in which policyholders can reverse the transaction.

The Department is weighing all hearing testimony as well comments from interested parties before final promulgation.



## 6. NAIC Summer Meeting

The National Association of Insurance Commissioners (NAIC) celebrated its 125th anniversary by holding its June 1996 convention in New York City, the city of its birth (May 24, 1871 to be exact). Insurance regulators from the 50 states, as well as the District of Columbia, American Samoa, Guam, Puerto Rico and the Virgin Islands, attended.



The regulators addressed a number of issues during the June 1-5 period. Particularly noteworthy was a forum on genetic testing which explored the issue of using genetic testing in medical underwriting and the question of what may be in store for insurance regulators and the industry as science learns more about individuals and their genetic makeup. An NAIC Working Group will use the information gathered in the forum to complete a white paper on genetic testing.

The Special Committee on Health Insurance met to review federal insurance reform proposals and to discuss the results of a survey on the regulation of provider-sponsored organizations. A new group, the Special Committee on Bank Sales of Insurance, was formed to monitor and analyze new court decisions and proposed legislation regarding bank insurance powers and the regulation of bank sales of insurance.

In addition, two Model Laws were adopted--the Quality Assessment and Improvement Model Act and the Health Care Professional Credentialing Verification Model Act--giving states the first components of a complete managed care regulatory system, designed with consumer protections in mind.

The sessions were so successful that NAIC officers have determined that New York will again serve as host state for the 1998 Fall Meeting.

### **III. GENERAL REVIEW OF NEW YORK STATE INSURANCE BUSINESS**

#### **A. FINANCIAL CONDITION LIFE BUREAU**

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

There were 136 life insurance companies licensed to transact business in New York State at December 31, 1996.

Total admitted assets of licensed life insurers amounted to approximately \$1.22 trillion at December 31, 1995, a ten-year gain of 118.0%. Bonds totaled \$566.8 billion; stocks \$39.6 billion; mortgage loans \$142.6 billion; real estate \$32.4 billion; policy loans \$58.9 billion, and short-term holdings \$21.1 billion. Other admitted assets totaled \$361.1 billion.

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

Domestic life insurance companies had admitted assets of \$435.2 billion at December 31, 1995, an increase of 105.1% since 1985. Insurance in force at December 31, 1995 of \$2.71 trillion represents an increase of 78.6% since December 31, 1985.

##### **3. Savings Bank Life Insurance**

There were 23 banks issuing savings bank life insurance at the close of 1996. Total ordinary and group life insurance in force at December 31, 1996 amounted to \$22.8 billion. Admitted assets totaled \$1.2 billion.

##### **4. Organizations Under Financial Condition Life Bureau Supervision**

The Financial Condition Life Bureau supervised 450 organizations as of December 31, 1995. These organizations consisted of: 136 licensed life insurance companies--86 domiciled in New York and 50 foreign; 52 fraternal benefit societies--8 domiciled in New York, 43 foreign and 1 United States Branch of a Canadian Society; 23 life insurance departments of New York mutual savings banks; 13 retirement systems--5 private pension funds and 8 governmental systems; 8 governmental variable supplements funds; 106 segregated gift annuity funds; 25 employee welfare funds; 15 viatical settlement funds and 72 accredited reinsurers.

Table 1  
**ADMITTED ASSETS**  
 Life Insurance Companies Licensed in New York State  
 Selected Years, 1985-1995  
 (dollar amounts in billions)

Admitted Assets	1995	1994	1990	1985
Total	\$1,222.6	\$1,113.1	\$870.2	\$560.9
Percent increase from 1985	118.0%	98.4%	55.1%	---
Type of asset				
Bonds	\$566.8	\$525.7	\$369.4	\$226.3
Stocks	39.6	35.1	29.1	19.6
Mortgage loans	142.6	147.0	200.0	129.9
Real estate	32.4	33.8	24.9	16.1
Policy loans/liens	58.9	54.6	43.2	40.6
Short-term holdings	21.1	24.9	19.2	13.9
Other	361.1	291.9	184.4	114.5

Note: Detail does 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, 1990-1995  
(in billions)

	1995	1994	1990
Assets	\$1,222.6	\$1,113.1	\$870.2
Liabilities	1,160.2	1,056.9	832.3
Capital & Surplus	62.4	56.2	37.9

Source: New York State Insurance Department

**Table 3**  
**TOTAL LIFE INSURANCE IN FORCE**  
Life Insurance Companies Licensed in New York State  
Selected Years, 1985-1995  
(dollar amounts in billions)

Class of Business	1995	1994	1990	1985
Total insurance in force	\$6,914.6	\$6,700.7	\$5,490.6	\$3,767.0
Percent increase from 1985	83.6%	77.9%	45.8%	--
Ordinary	\$3,626.8	\$3,415.6	\$2,702.4	\$1,906.1
Group	3,206.1	3,203.3	2,701.8	1,782.1
Credit	73.9	73.9	78.0	69.1
Industrial	7.8	7.9	8.4	9.7

Source: New York State Insurance Department

Table 4  
**SOURCES OF INCOME**  
 Life Insurance Companies Licensed in New York State  
 Selected Years, 1990-1995  
 (dollar amounts in millions)

Source of Income	1995		1994		1990	
	Amount	Percent of Total	Amount	Percent of Total	Amount	Percent of Total
Group life	\$12,011.4	4.8%	\$11,652.0	4.9%	\$9,163.6	4.2%
Group annuities	58,699.0	23.3	54,398.8	22.7	59,102.3	27.1
Group A&H	26,126.3	10.4	27,022.6	11.3	25,372.6	11.6
Ordinary life	42,493.9	16.9	40,803.1	17.1	32,390.2	14.8
Individual annuities	26,309.7	10.5	26,512.8	11.1	16,580.8	7.6
Individual A&H	3,382.6	1.3	3,447.7	1.4	2,845.4	1.3
Credit Life	375.7	0.1	438.6	0.2	410.0	0.2
Industrial life	214.7	0.1	228.2	0.1	255.6	0.1
<b>Total Premiums</b>	<b>\$169,613.3</b>	<b>67.4%</b>	<b>\$164,503.8</b>	<b>68.7%</b>	<b>146,120.5</b>	<b>66.9%</b>
Supplementary contracts	\$7,113.2	2.8%	\$6,712.7	2.8%	\$4,705.9	2.2%
Net investment income	64,979.8	25.8	59,573.3	24.9	60,375.8	27.6
Other income	10,055.2	4.0	8,497.0	3.5	7,255.8	3.3
<b>TOTAL</b>	<b>\$251,761.5</b>	<b>100.0%</b>	<b>\$239,286.8</b>	<b>100.0%</b>	<b>\$218,458.1</b>	<b>100.0%</b>

Source: New York State Insurance Department

Table 5  
**OPERATING RESULTS**  
 Life Insurance Companies Licensed in New York State  
 Selected Years, 1990-1995  
 (in millions)

	1995	1994	1990
Total premium	\$169,613.3	\$164,503.8	\$146,120.5
Investment income	64,979.8	59,573.3	60,375.7
Supplementary contracts	7,113.2	6,712.7	4,705.9
Other income	10,055.2	8,497.0	7,255.8
Total income	251,761.5	239,286.8	218,458.0
Net gain from operations	6,672.6	4,312.1	4,374.2
Net income	4,434.6	2,481.0	4,320.6

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, 1985-1995  
 (dollar amounts in billions)

Insurance In Force	1995	1994	1990	1985
Total	\$829.2	\$803.5	\$658.5	\$439.8
Percent increase from 1985	88.5%	82.7%	49.7%	---
Class of business				
Ordinary	\$501.7	\$477.6	\$371.0	\$222.0
Group	319.5	317.8	272.0	202.4
Credit	7.0	7.2	14.4	14.3
Industrial	0.9	0.9	1.1	1.1

Source: New York State Insurance Department

Table 7  
DOMESTIC LIFE INSURANCE COMPANIES  
Selected Years, 1985-1995  
(dollar amounts in billions)

Domestic Life Companies	1995	1994	1990	1985
Admitted assets	\$435.2	\$400.3	\$312.8	\$212.2
Percent increase from 1985	105.1%	88.6%	47.4%	---
Insurance in force	\$2,712.0	\$2,523.5	\$2,029.9	\$1,518.4
Percent increase from 1985	78.6%	66.2%	33.7%	---

Source: New York State Insurance Department

Table 8  
SAVINGS BANK LIFE INSURANCE  
New York State  
Selected Years, 1986-1996  
(dollar amounts in millions)

SBLI	1996	1995	1991	1986
Number of issuing banks	23	25	39	49
Ordinary insurance issued during year:				
Policies	12,118	13,342	17,324	33,600
Amount	\$317.1	\$353.5	\$471.9	\$929.9
Ordinary insurance in force end of year:				
Policies	410,814	420,990	454,990	491,649
Amount	\$5,884.4	\$5,907.8	\$5,777.7	\$5,516.9
Group life insurance in force end of year:				
Amount	\$16,955.2	\$16,836.8	\$12,247.1	\$5,527.0
Total admitted assets	\$1,198.7	\$1,154.1	\$933.0	\$709.0

Source: New York State Insurance Department

## 5. Licensed Fraternal Benefit Societies

At the close of 1996, there were 52 fraternal benefit societies licensed to do an insurance business in New York State. Of this number, eight were domestic, 43 were foreign and one was an alien society. In the ten-year period ending December 31, 1995 the admitted assets of licensed societies rose \$29.9 billion to a total of \$43.9 billion, an increase of 214%. Insurance in-force rose \$117.8 billion to \$213.5 billion, an increase of 123%.

## 6. Private Retirement Systems

At the close of 1996, five private retirement systems were under the supervision of the Insurance Department.

The five systems, which are private pension funds of certain nonprofit organizations, were made subject to Insurance Department regulation by special legislative enactments. At the end of 1995, the assets of these five private pension funds totaled approximately \$84.8 billion. The following table shows data for the private pension funds for selected years from 1985 to 1995:

Table 9  
PRIVATE PENSION FUNDS  
REGULATED BY INSURANCE DEPARTMENT  
Selected Years, 1985-1995  
(in millions)

Private Pension Funds	1995	1994	1990	1985
Total admitted assets	\$84,830.0	\$65,821.2	\$40,240.7	\$22,814.5
Payments to annuitants and beneficiaries	\$3,243.1	\$2,564.6	\$1,676.0	\$981.6

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 1995 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 1995 were approximately \$171.5 billion. During the period from 1985 to 1995, the assets of these retirement systems increased at the compound rate of 10.4% 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 1995 increased by 4.6% over its 1985 level, while the number of pensioners increased by 33% in the same period. The substantial increase in pensioners, as compared with little variation in the work force, points up 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 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, 1995 totaling \$1.9 billion, a 30% 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 1985 to 1995:

Table 10  
PUBLIC RETIREMENT SYSTEMS AND PENSION FUNDS  
Regulated by the Insurance Department  
Selected Years, 1985-1995  
(in millions)

Public Retirement Systems and Pension Funds	1995	1994	1990	1985
Total admitted assets	\$171,509.8	\$152,433.2	\$117,798.4	\$63,705.8
Payments to annuitants and beneficiaries	\$8,031.0	\$7,486.5	\$5,411.63	\$3,543.6

Source: New York State Insurance Department

## 8. Segregated Gift Annuity Funds for Charitable Organizations

One hundred and six charitable annuity societies held permits under Section 1110 of the Insurance Law at the end of 1996. 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, 1995, admitted assets of these funds increased by 223.7% and the annual payments increased by 256.0%.

Table 11  
**SEGREGATED GIFT ANNUITY FUNDS**  
 Selected Years, 1985-1995  
 (in millions)

Segregated Gift Annuity Funds	1995	1994	1990	1985
Total admitted assets	\$420.4	\$363.1	\$161.1	\$125.9
Annual payments to annuitants	\$32.4	\$31.2	\$14.4	\$9.1

Source: New York State Insurance Department

### 9. Employee Welfare Funds

Twenty-five employee welfare funds covering 111,129 employees were supervised by the Department at the close of 1995. 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 \$266.1 million in 1995. Benefits paid totaled \$237.2 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 \$13.2 million representing 5.0% of contributions and 5.6% 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 1995, 12 companies were licensed or authorized to act as viatical settlement companies in New York.

As of December 31, 1995, these companies had combined assets of \$155.3 million, with the two largest companies accounting for \$102 million. The assets were primarily in the form of life insurance policies purchased. Costs of purchasing these policies amounted to \$130.3 million, which comprised about 73.0% of the \$178.6 million total face value.

**11. Examinations of Insurers Conducted in 1996**

Table 12  
EXAMINATIONS CONDUCTED  
by the Financial Condition Life Bureau  
1996

	<u>Regularly Scheduled</u>			<u>Special</u>	<u>Other On organi- zation</u>	<u>Increase in capital and other</u>
	<u>Total</u>	<u>Initiated</u>				
		<u>In 1996</u>	<u>Prior to 1996</u>			
Life insurance cos.	34	26	5	1	2	0
Life ins. depts. of mutual savings banks	4	4	0	0	0	0
Fraternal benefit societies	1	1	0	0	0	0
Retirement systems/ pension funds	3	2	1	0	0	0
Segregated gift annuity funds of charitable organizations	12	11	1	0	0	0
Welfare funds	1	1	0	0	0	0
<b>Total</b>	<b>55</b>	<b>45</b>	<b>7</b>	<b>1</b>	<b>2</b>	<b>0</b>

**12. Auditing of Financial Statements**

a. Audit and Analysis

As of December 31, 1996, 401 companies licensed to do business in New York State, as detailed below, were required to file their 1996 Annual Statements for audit and analysis:

Life - New York	86
Life - Other Status	50
Accredited Reinsurers	72
Fraternals - New York	8
Fraternals - Other States	42
Fraternals - Canadian, U.S. Branch	1
Charitable Annuities	106
Retirement Systems	21
Viaticals	<u>15</u>
<b>Total</b>	<b>401</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 NAIC requirements for completing the 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 the 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 1996 were updated to meet current needs and requirements. Copies of the Supplements were distributed to all life companies and Fraternal Benefit Societies licensed to do business in New York State.

**c. Valuations of Securities**

In most instances, this Department adheres to rules promulgated by the National Association of Insurance Commissioners in its Book of Valuations of Securities, pertaining to the valuation of bonds and stocks reported in the Annual Statement. The bonds reported by licensed insurers were reviewed to determine amortizability and market value. The accuracy of market values reported for preferred and common stocks listed in the Annual Statements were verified.

**d. Public Inspection of Records**

The Bureau provides public access to various Insurance Department documents and insurance-related materials. In 1995, 246 Annual Statements, 114 Quarterly Statements and 12 Reports on Examination were reviewed. Information was also made available from such source materials as the National Association of Insurance Commissioners (NAIC) Book of *Valuations of Securities* and *Best's Insurance Reports*.

**13. Real Estate Review**

During 1996, the Real Estate Unit, in connection with financial condition examinations, completed reviews of the real estate and mortgage portfolios of the Teachers Insurance and Annuity Association and the Equitable Life Assurance Society.

Ten projects involving the acquisition, construction and improvement of home office or branch office facilities were recommended for approval in the aggregate amount of \$63,528,661. In addition, recommendations were made relative to asset transfers, leases between related entities and possible conflicts of interest.

**14. Actuarial Submissions and Reviews**

The Bureau's actuarial staff reviews submissions made by licensed life insurance companies to secure the Insurance Department's approval of redistributed commission scales, persistency production bonus plans, expense allowance plans, and other forms of agent compensation as required by Section 4228 and Regulations 49 and 50. In addition, the Bureau reviews plans of operation and projections for new companies, mergers and acquisition of control, as well as separate account filings, changes in a company's method of distribution of investment income and synthetic GICs. Finally, the actuarial staff performs examinations of insurers' actuarial practices during regularly scheduled examinations by its Corporate Regulatory Unit. The actuarial staff also follows up allegations that company practices are not in compliance with the law and Department policy.

During 1996, the actuarial staff approved one plan of levelized compensation and was reviewing a second company's proposal at year end. These were the first of such compensation plans proposed under Section 4228. While working with the industry, the staff developed a proposed regulation for fund-based compensation and approved 20 filings under the proposed rules in 1996. The actuaries also worked with the industry in reviewing their proposals for a new Section 4228 and new Regulations 49 and 50. In addition, they worked on developing a regulation for self-support and on new guidelines for the submission of synthetic GICs including the various types of projections required by the Superintendent's new rules concerning these.

## **15. Financial Indicators**

The Risk-Based Capital 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 1996. New York is a member of the Life Risk-Based Capital Working Group and representatives from the Financial Condition Life Bureau were present during all of the deliberations undertaken by the NAIC to update and improve the formula.

The risk-based capital levels reported in the 1995 Annual Statements filed by licensed insurers did not disclose inadequate capitalization by the reporting companies.

## **16. National Association of Insurance Commissioners (NAIC)**

The New York Insurance Department is a member of a number of NAIC committees and groups. In 1996, the Financial Condition Life Bureau represented the Insurance Department in the work of the IMR/AVR Study Group as chair; the Financial Analysis Research and Development, Model Investment Law, Codification, Invested Assets, Separate Accounts and Life Risk-Based Capital Working Groups, among others.

A representative of the Financial Condition Life Bureau participated in the NAIC Examiner Team Project as Project Director. The Examiner Team analyzes the annual statements of those companies that fail a significant number of the Insurance Regulatory Information System (IRIS) Ratios to determine what degree of regulatory attention is required.

## **17. Surplus Notes**

Since mutual life insurance companies do not have access to the equity markets, the issuance of surplus notes, pursuant to the provisions of Section 1307 of the Insurance Law, is the only way for a mutual life insurance company to enhance surplus. Statutory accounting rules allow the net proceeds from the sale of such notes to be included as part of the insurer's surplus. The notes are unsecured obligations of the insurer and are subordinate in right of payment to all existing and future indebtedness, policy claims and other creditor claims. All payments of principal and interest on outstanding notes require prior approval of the Superintendent. During 1996, the Financial Condition Life Bureau approved the issuance of surplus notes by Phoenix Home Life Mutual Insurance Company and Security Mutual Life Insurance Company of New York.

## B. FINANCIAL CONDITION PROPERTY/CASUALTY BUREAU

### 1. Entities Under Financial Condition Property/Casualty Bureau Supervision

The Financial Condition Property/Casualty Bureau had regulatory authority over 1,572 insurer and noninsurer entities as of December 31, 1996.

The Bureau regulated 936 insurer entities comprised of:

- 17 Accident & health insurers;
- 62 Accredited reinsurers;\*
- 20 Advance premium co-operatives;
- 30 Assessment co-operatives;
- 11 Financial guaranty insurers;
- 53 Nonprofit health insurers and health maintenance organizations;\*\*
- 14 Joint underwriting associations;
- 7 Medical malpractice insurers;
- 1 Medical Malpractice Insurance Association;
- 21 Mortgage guaranty insurers;
- 1 New York Property Insurance Underwriting Association (FAIR Plan);
- 679 Property/casualty insurers; and
- 20 Title insurers

The Bureau oversaw the operation of 45 risk retention groups in 1996 and supervised 258 reinsurance intermediaries, 15 insurer-controlling producers, and 318 managing general agents.

The Financial Condition Property/Casualty Bureau received 44 applications for licensing and 14 applications for accreditation during 1996. Fifty-two insurers were newly licensed, including five domestic stock companies, two domestic title insurers, one foreign mortgage guaranty insurer, and 44 foreign stock insurers. In addition, 14 insurers were accredited, including 11 stock insurers and three alien insurers. At the close of the year, five domestic stock companies and 26 foreign stock companies had license applications pending with the Department. In addition, four applications for accreditation were still outstanding.

The Financial Condition Property/Casualty Bureau also received five applications for accident and health insurance licenses and six applications for Article 44 HMO Certificates of Authority in 1996. One accident and health insurer was licensed and three Article 44 HMOs were licensed or certified in 1996. Ten applications are still pending.

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\* Lloyd's of London (Lloyd's), included as an accredited reinsurer, is made up of individual underwriting syndicates each of which must meet the requirements for recognition as an accredited reinsurer. As of December 31, 1996, 184 Lloyd's syndicates were recognized as accredited reinsurers by the Department.

\*\* These include 16 health, hospital service, medical and dental expense indemnity corporations, two Article 43 of the Insurance Law health maintenance organizations (HMOs) and 35 Article 44 of the Public Health Law HMOs.

Article 47 of the New York Insurance Law, enacted in 1994, permits the formation of municipal cooperative health benefit plans. The 16 municipal cooperative plan applications that have been submitted are still pending.

## 2. Property and Casualty Business

Unless otherwise noted, tables and related data for property and casualty business refer to the nation-wide operations of insurers authorized to do business in this State. Data for stock insurers include United States branches of alien insurers. Data for mutual insurers include the State Insurance Fund, the Medical Malpractice Insurance Association and reciprocals. Data for accident and health insurers, financial guaranty insurers, mortgage guaranty insurers, title insurers, co-operative fire insurers, municipal cooperative health benefit plans, and New York Insurance Law Article 43 and Public Health Law Article 44 corporations are summarized separately.

### a. Premium Volume and Surplus to Policyholders

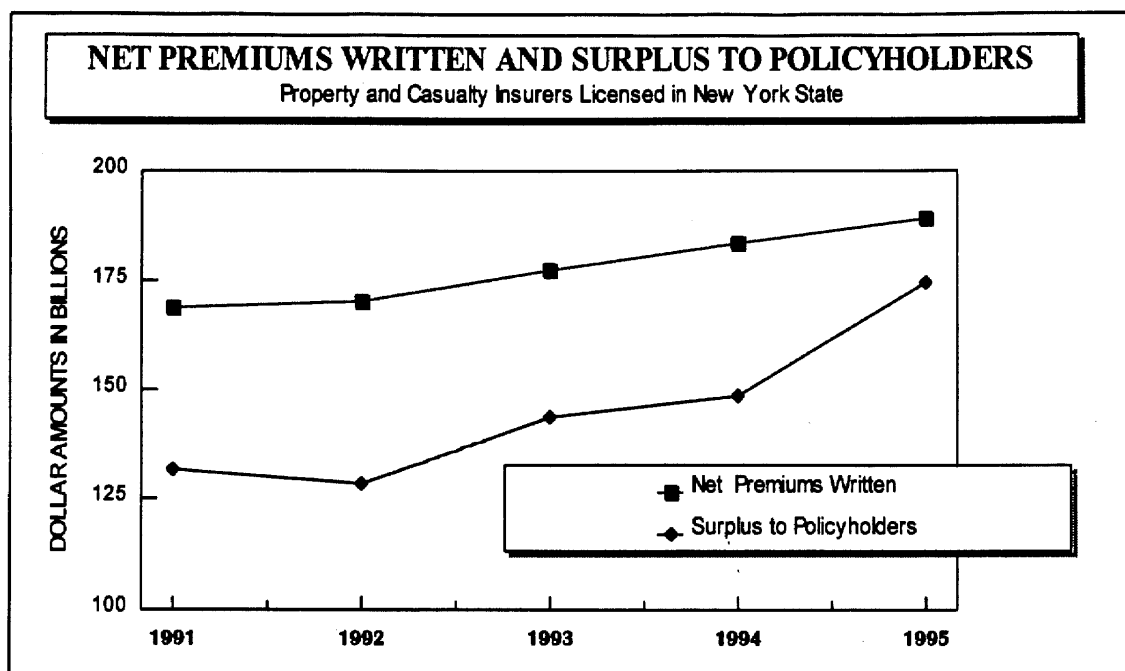
Net premiums written during 1995 by all New York-licensed property and casualty insurers aggregated \$188.9 million of which 72% represents stock company writings. The following discussion of underwriting and investment results deals with the country-wide business of New York-licensed companies:

Table 13  
NET PREMIUMS WRITTEN AND SURPLUS TO POLICYHOLDERS  
Property and Casualty Insurers Licensed in New York State\*  
1991-1995  
(dollar amounts in millions)

Year	Stock Companies			Mutual Companies				
	No. of Cos.	Net Premiums Written (during year)	Surplus/Policyholders (end of year)	Ratio of Premiums to Surplus	No. of Cos.	Net Premiums Written (during year)	Surplus/Policyholders (end of year)	Ratio of Premiums to Surplus
1991	526	\$121,434	\$ 92,721	1.3	79	\$47,300	\$39,104	1.2
1992	531	120,338	90,885	1.3	78	49,460	37,689	1.3
1993	539	126,064	101,796	1.2	79	51,039	42,130	1.2
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

\* Includes eight reciprocals

Source: New York State Insurance Department



### b. Underwriting Results

Results for 1995 show a net underwriting loss of \$10.6 million for stock companies and \$1.7 million for mutual companies. For 1994, stock companies showed a net underwriting loss of \$12.8 million, while mutual companies experienced a net loss of \$2.9 million.

Table 14  
**UNDERWRITING RESULTS**  
Property and Casualty Insurers Licensed in New York State  
1993-1995  
(dollar amounts in millions)

Year		<u>Stock Companies</u>		<u>Mutual Companies</u>	
		Number of Companies	Amount	Number of Companies	Amount
1993	Underwriting gains	126	\$ 830.4	15	\$ 363.2
	Underwriting losses	389	12,560.9	64	2,534.5
	No gain or loss	24	0.0	0	0.0
1994	Underwriting gains	128	\$ 909.2	20	\$ 744.4
	Underwriting losses	401	13,713.1	58	3,617.7
	No gain or loss	20	0.0	0	0.0
1995	Underwriting gains	145	\$1,452.4	20	\$1,492.7
	Underwriting losses	395	12,057.7	55	3,191.3
	No gain or loss	27	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 1993 to 1995 are as follows:

Table 15  
**INVESTMENT INCOME AND CAPITAL GAINS**  
 Property and Casualty Insurers Licensed in New York State  
 1993-1995  
 (in millions)

Year		Stock Companies	Mutual Companies
1993	Net investment income	\$19,241.8	\$6,283.6
	Realized capital gains	5,894.9	1,511.5
	Unrealized capital gains	<u>1,937.5</u>	<u>1,249.4</u>
	Net gain from investments	<u>\$27,074.2</u>	<u>\$9,044.5</u>
1994	Net investment income	\$19,844.8	\$6,448.3
	Realized capital gains	840.7	358.2
	Unrealized capital gains	<u>-2,647.1</u>	<u>-808.3</u>
	Net gain from investments	<u>\$18,038.4</u>	<u>\$5,998.2</u>
1995	Net investment income	\$21,327.5	\$ 7,059.8
	Realized capital gains	3,316.1	787.0
	Unrealized capital gains	<u>9,174.7</u>	<u>5,991.1</u>
	Net gain from investments	<u>\$33,818.3</u>	<u>\$13,837.9</u>

Source: New York State Insurance Department

d. Underwriting and Investment Exhibit

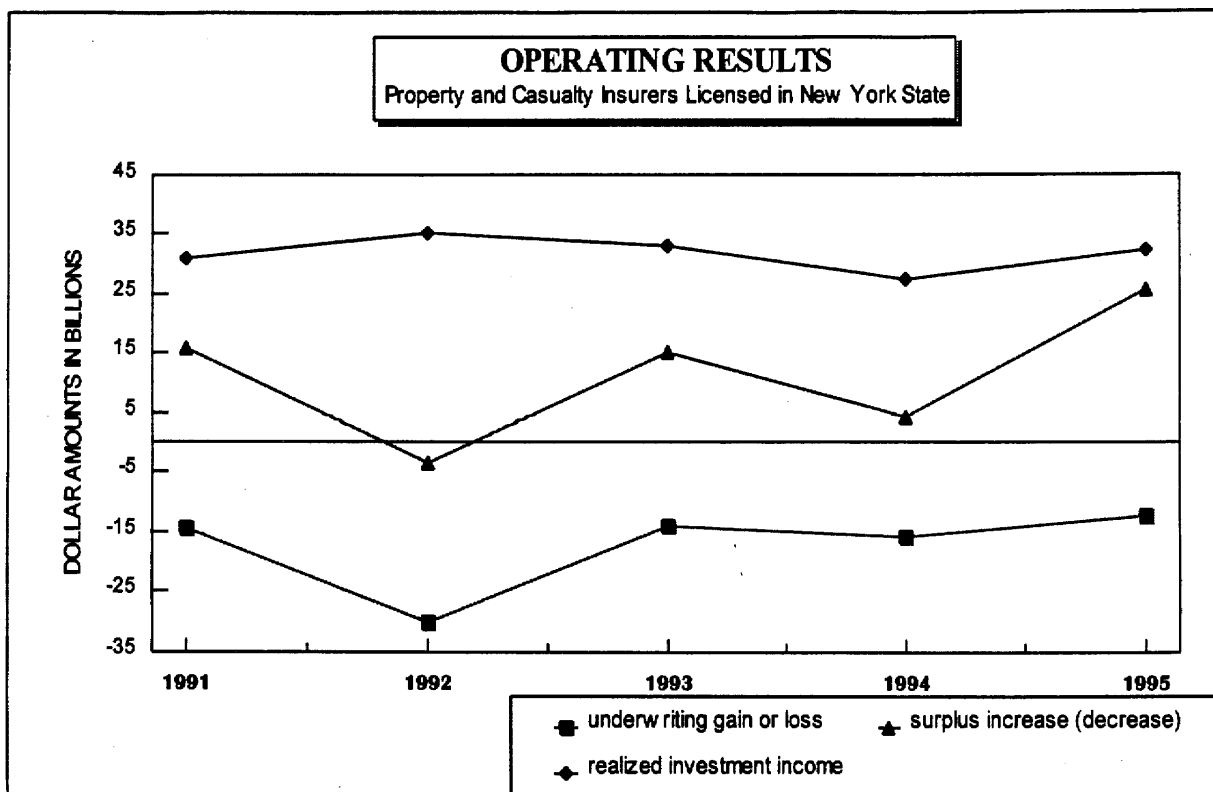
During 1995, dividends to stockholders amounted to \$6.9 million; for the same period, dividends to policyholders aggregated to \$2.6 million. The aggregate contribution to surplus for 1995 was \$5.9 million compared with \$5.8 million for 1994.

Table 16  
**AGGREGATE UNDERWRITING AND INVESTMENT EXHIBIT**  
**Property and Casualty Insurers Licensed in New York State**  
**1994 and 1995**  
(in millions)

	<u>1995</u>		<u>1994</u>	
	Stock Companies	Mutual Companies	Stock Companies	Mutual Companies
<b>Net gain or loss from:</b>				
Underwriting	\$-10,605.3	\$-1,698.6	\$-12,803.9	\$-2,873.3
Investments*	24,643.6	7,846.8	20,685.5	6,806.4
Other income	<u>325.6</u>	<u>-177.7</u>	<u>-102.9</u>	<u>41.9</u>
Net gain or loss	\$ 14,363.9	\$5,970.5	\$ 7,778.7	\$ 3,975.0
<b>Less:</b>				
Dividends to policyholders	1,124.2	1,511.1	956.2	1,325.9
Federal income taxes incurred	<u>2,205.8</u>	<u>768.8</u>	<u>905.2</u>	<u>152.6</u>
Net income	\$ 11,033.9	\$ 3,690.6	\$ 5,917.3	\$ 2,496.5
<b>Surplus changes other than net income:</b>				
Dividends to stockholders				
• Cash	\$ -6,861.5	\$ 0.0	\$-5,852.9	\$ 0.0
• Stock	-33.2	0.0	-87.3	0.0
Net remittance to/from home office	<u>123.1</u>	<u>0.0</u>	<u>-43.2</u>	<u>0.0</u>
Total dividends and remittance	\$ -6,771.6	\$ 0.0	\$-5,983.4	\$ 0.0
Unrealized capital gains	9,174.7	5,991.1	-2,647.2	-808.3
Changes in statutory over case basis	34.1	-29.3	-303.9	-28.9
Miscellaneous items	-1,962.8	-1,335.4	-378.6	192.2
Contributions to surplus	<u>5,850.1</u>	<u>67.8</u>	<u>5,828.1</u>	<u>11.7</u>
Total other sources	<u>\$ 6,324.5</u>	<u>\$ 4,694.2</u>	<u>\$-3,485.0</u>	<u>\$ -633.3</u>
Net increase or decrease in surplus	<u>\$17,358.4</u>	<u>\$8,384.8</u>	<u>\$ 2,432.3</u>	<u>\$ 1,863.2</u>

\* excludes unrealized capital gains.

Source: New York State Insurance Department



e. Selected Annual Statement Data

From 1993 to 1995, aggregate net premiums written increased 7%; admitted assets increased 12%; unearned premium and loss reserves increased 7%; and other liabilities increased 15%. Capital and surplus to policyholders increased by 21%.

Table 17  
**SELECTED ANNUAL STATEMENT DATA**  
**Property and Casualty Insurers Licensed In New York State**  
**1993-1995**  
(dollar amounts in millions)

	1995	1994	1993
	<u>Stock Companies</u>		
Number of insurers	567	549	539
Net premiums written	\$136,270	\$131,404	\$126,064
Admitted assets	438,090	406,112	391,336
Unearned premium & loss reserves	279,091	266,677	256,747
Other liabilities	36,664	34,760	32,793
Capital	4,350	4,244	2,993
Surplus funds	117,985	100,431	98,803
	<u>Mutual Companies</u>		
Number of insurers	75	78	79
Net premiums written	\$52,647	\$52,049	\$51,039
Admitted assets	150,411	139,806	135,716
Unearned premium & loss reserves	85,611	85,410	83,443
Other liabilities	12,629	10,345	10,143
Surplus to policyholders	52,171	44,051	42,130

Source: New York State Insurance Department

#### f. Audit and Analysis

The 1995 Annual Statements of the companies authorized to transact business in the State of New York were filed for audit and analysis in 1996, 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 2,560 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 1996, the State Insurance Fund acquired bonds totaling \$3.6 million and sold bonds totaling \$580 million. Upon review, the Financial Condition Property/Casualty Bureau recommended the approval of acquisitions totaling \$3.5 million and sales totaling \$552 million. Acquisition of \$101 million and sales of \$28 million are currently under review. In 1995, the Bureau recommended approval of acquisitions totaling \$379 million and sales totaling \$276 million.

**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 748 companies. There were seven companies entitled to exemption from the filing requirements.

**i. Public Inspection of Records**

The Financial Condition Property/Casualty Bureau provides public access to various Insurance Department documents pursuant to the Freedom of Information Law (FOIL). In 1996, 456 FOIL requests to review and copy records maintained by the Bureau were received from members of the public.

**j. Holding Company-Related Transactions**

Pursuant to Article 15 of the New York Insurance Law and Department Regulation 52, the Financial Condition Property/Casualty Bureau is responsible for the review and approval of transactions within holding company systems. During 1996, 137 transactions were reviewed and approved by the Bureau. These included, but were not limited to, 75 reinsurance agreements, one management agreement, 17 service agreements, three notices of acquisition of control of insurers, and five requests for sales, purchases or transfers of assets.

**3. Accident and Health Insurance**

Twelve stock and four mutual companies were licensed to transact only accident and health insurance at year-end 1995.

Table 18  
**SELECTED ANNUAL STATEMENT DATA**  
 Accident and Health Insurers  
 1993-1995  
 (dollar amounts in millions)

	1995	1994	1993
Number of insurers	16	14	14
Net premiums written	\$3,348.6	\$3,201.6	\$5,889.4
Admitted assets	5,114.3	4,671.4	4,394.5
Unearned premium & loss reserves	904.5	923.5	916.6
Other liabilities	2,221.9	2,076.0	1,992.7
Capital	20.2	18.6	8.6
Surplus	1,967.7	1,653.3	1,476.6
Ratio of premiums written to capital and surplus	1.7	1.9	4.0

Source: New York State Insurance Department

#### 4. 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, 1996, there were six domestic and five foreign financial guaranty insurers licensed in New York.

Table 19  
**NET PREMIUMS WRITTEN AND SURPLUS TO POLICYHOLDERS**  
 Financial Guaranty Insurers Licensed in New York State  
 1993-1995  
 (dollar amounts in millions)

Year	Net Premiums Written (during year)	Surplus to Policyholders (end of year)	Ratio of Premiums to Surplus
1993	\$1,174.3	3,925.6	0.30
1994	845.4	4,193.3	0.20
1995	729.5	4,569.4	0.16

Source: New York State Insurance Department

Table 20  
**UNDERWRITING RESULTS**  
 Financial Guaranty Insurers Licensed in New York State  
 1993-1995  
 (dollar amounts in millions)

	<u>1995</u>		<u>1994</u>		<u>1993</u>	
	Underwriting Gain	Loss	Underwriting Gain	Loss	Underwriting Gain	Loss
No. of Companies	9	3	7	5	6	6
Amount	\$240.6	\$20.9	\$227.8	\$22.4	\$357.1	\$76.3

Source: New York State Insurance Department

Table 21  
**INVESTMENT INCOME AND CAPITAL GAINS**  
 Financial Guaranty Insurers Licensed in New York State  
 1993-1995  
 (in millions)

	1995	1994	1993
Net investment income	\$619.0	\$552.8	\$538.2
Realized capital gains	58.5	-5.7	114.5
Unrealized capital gains	80.6	-4.4	-24.9
Net gain from investments	<u>\$758.1</u>	<u>\$542.7</u>	<u>\$627.8</u>

Source: New York State Insurance Department

Table 22  
**AGGREGATE UNDERWRITING AND INVESTMENT EXHIBIT**  
 Financial Guaranty Insurers Licensed in New York State  
 1993-1995  
 (in millions)

	1995	1994	1993
Net gain or loss from:			
Underwriting	\$ 219.7	\$ 205.4	\$ 280.8
Investments*	677.5	547.1	653.6
Other Income	<u>13.0</u>	<u>4.7</u>	<u>6.7</u>
Net gain or loss	\$ 910.2	\$ 757.2	\$ 941.1
Less:			
Dividends to policyholders	0.0	0.0	-78.0
Federal income taxes incurred	<u>164.8</u>	<u>155.9</u>	<u>04.8</u>
Net income	<u>\$ 745.4</u>	<u>\$ 601.3</u>	<u>\$ 658.3</u>
Surplus changes other than net income:			
Dividends to stockholders			
- Cash	\$-287.8	\$-128.0	\$ 0.0
- Stock	0.0	-11.0	-128.0
Net remittance to/from home office	0.0	0.0	0.0
Total dividends and remittance	<u>\$-287.8</u>	<u>\$-139.0</u>	<u>\$-128.0</u>
Unrealized capital gains	80.6	-4.4	-24.9
Changes in statutory over case basis	-1.2	0.0	0.0
Miscellaneous sources	-276.7	-200.6	-160.2
Contributions to surplus	<u>115.7</u>	<u>10.0</u>	<u>184.5</u>
Total other sources	<u>\$-369.4</u>	<u>\$-334.0</u>	<u>\$-128.6</u>
Net increase or decrease in surplus	<u>\$ 376.0</u>	<u>\$ 267.3</u>	<u>\$ 529.7</u>

\* Excludes unrealized capital gains.

Source: New York State Insurance Department



Table 23  
**SELECTED ANNUAL STATEMENT DATA**  
 Financial Guaranty Insurers Licensed In New York State  
 1993-1995  
 (in millions)

	1995	1994	1993
Exposure	\$869,852.0	\$763,318.7	\$643,252.7
Net premiums written	729.5	845.4	1,174.3
Admitted assets	11,256.7	10,267.7	9,436.4
Unearned premium & loss reserves	4,247.0	4,027.1	3,685.4
Other liabilities	2,440.3	2,047.3	1,825.1
Capital	203.5	214.5	203.5
Surplus funds	4,365.9	3,978.8	3,722.1

Source: New York State Insurance Department

### 5. Mortgage Guaranty Insurance

At year-end 1995, there were two domestic and 16 foreign companies licensed to transact mortgage guaranty business in New York.

Table 24  
**SELECTED ANNUAL STATEMENT DATA**  
 Mortgage Guaranty Insurers  
 1993-1995  
 (dollar amounts in millions)

	1995	1994	1993
Number of companies	18	17	13
Net premiums written	\$1,713.4	\$1,510.8	\$1,412.7
Assets	7,157.4	6,193.1	5,423.6
Liabilities	4,950.9	4,091.9	3,617.4
Capital and surplus	2,206.4	2,101.3	1,806.2

Source: New York State Insurance Department

Table 25  
 PERCENT DISTRIBUTION OF ASSETS  
 Mortgage Guaranty Insurers  
 1993-1995

	1995	1994	1993
Total	100.0%	100.0%	100.0%
Bonds	79.0	74.1	78.6
Stocks	9.6	12.7	12.4
Mortgage loans	0.1	0.1	0.2
Real estate	0.1	0.5	0.5
Short term	7.4	7.1	2.3
Cash	0.2	0.5	0.3
Premiums and fees receivable	-0.4	-0.3	-0.4
Other assets	4.0	5.3	6.1

Source: New York State Insurance Department

## 6. Title Insurance

Nine domestic and 10 foreign companies were licensed to write title insurance in this State at the close of 1995. The statutory reinsurance reserve of domestic title insurers approximated \$74.8 million as of December 31, 1995.

Table 26  
 SELECTED ANNUAL STATEMENT DATA  
 Domestic Title Insurance Companies  
 1993-1995  
 (dollar amounts in millions)

	1995	1994	1993
Number of Companies	9	9	9
Net premiums written	\$228.7	\$294.3	\$244.7
Admitted assets	203.4	224.8	228.2
Liabilities	114.7	112.7	111.1
Capital	9.3	9.0	9.2
Surplus	79.4	103.1	107.9

Source: New York State Insurance Department

Table 27  
**PERCENT DISTRIBUTION OF ASSETS**  
 Domestic Title Insurance Companies  
 1993-1995

	1995	1994	1993
<b>Total</b>	100.0%	100.0%	100.0%
Bonds	53.6	66.8	64.0
Stocks	5.7	3.7	4.8
Mortgage loans	1.8	2.2	2.2
Real estate	3.3	2.8	2.6
Cash	19.9	12.1	15.0
Premiums and fees receivable	4.4	3.1	1.8
Other assets	11.3	9.3	9.6

Source: New York State Insurance Department

#### **7. Advance Premium and Assessment Co-operatives**

The total number of assessment co-operative companies decreased by one during 1995, due to a conversion to advance premium status. The net premium volume of these 31 companies increased by 18%.

The total number of advance premium co-operatives increased by one during 1995, due to the conversions of one assessment co-operative company and one mutual company to advance premium status, and of one advance premium co-operative to mutual status. The net premium volume of the 20 advance premium companies increased by 8.5% during this period.

At year-end 1996, there were 20 advance premium co-operatives and 30 assessment co-operative companies under the Financial Condition Property/Casualty Bureau's supervision. During 1996, examinations of 14 companies were conducted.

Table 28  
**SELECTED ANNUAL STATEMENT DATA**  
 Advance Premium and Assessment Co-operative Companies  
 1993-1995  
 (dollar amounts in millions)

Year	Total	Advance Premium Companies	Assessment Co-operative Companies	
1993	Number of companies	53	20	33
	Total assets	\$834.8	\$671.2	\$163.6
	Net premiums written	408.6	347.8	60.8
	Surplus funds	307.1	209.7	97.4
1994	Number of companies	51	19	32
	Total assets	\$833.8	\$678.0	\$155.8
	Net premiums written	414.5	355.7	58.8
	Surplus funds	297.3	205.8	91.5
1995	Number of companies	51	20	31
	Total assets	\$920.0	\$755.4	\$164.6
	Net premiums written	429.9	365.7	64.2
	Surplus funds	345.4	250.0	95.4

Source: New York State Insurance Department

#### 8. New York Insurance Exchange, Inc.

Effective July 6, 1989, the regulation of the New York Insurance Exchange, Inc. (the Exchange), the NYIE Security Fund, Inc. and the Exchange Underwriting Members was transferred to the Financial Condition Property/Casualty Bureau.

During November 1987, the Exchange Members voted to suspend writing new and renewal business. No business has been written on the Exchange since that time. As of December 31, 1996, the Exchange and six Underwriting Members were in liquidation, the Exchange and five Underwriting Members in New York and one in its domiciliary jurisdiction. All of the remaining Underwriting Members have withdrawn by assumption.

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

Calendar year 1996 was the 18th full year of operation for the companies licensed as special risk insurers pursuant to Section 6302 of the Insurance Law. There were 145 licensed companies as of December 31, 1996. Net premiums written during the year amounted to an estimated \$441.7 million, bringing the net premiums written since inception to approximately \$4 billion. Net premiums written (in millions) since inception are as follows:

1978-1991	\$2,066.7
1992	323.5
1993	340.7
1994	355.4
1995	364.7
1996	441.7 (estimated)

## 10. 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 Condition Property/Casualty Bureau regulates risk retention groups. The Property and Casualty Insurance 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, 1996, 45 risk retention groups had notified the Department of their intention to do business in New York under the provisions of the federal legislation. (An additional 18 risk retention groups filed notices of intent that were subsequently withdrawn. Fifteen other risk retention groups are in liquidation, receivership or dissolution in other states.)

In calendar year 1995, 43 risk retention groups filing financial statements with this Department reported total direct premiums written of \$402.7 million and total net premiums written of \$179.9 million. These risk retention groups reported direct premiums written of \$46.9 million in New York State during this same period.

**11. Examinations of Insurers Conducted in 1996**

Table 29  
EXAMINATIONS CONDUCTED BY THE FINANCIAL CONDITION  
PROPERTY/CASUALTY BUREAU  
1996

	<u>Regularly Scheduled</u>			<u>Other Financial Examinations</u>		
	Total	Initiated In 1996	Prior to 1996	Special	On organi- zation	Increase in capital and other
Property and casualty insurers, including financial guaranty and accident & health companies	94	55	29	1	5	4
Nonprofit health insurers and HMOs	27	12	11	0	4	0
Other insurers and related organizations*	5	4	1	0	0	0
Title and mortgage companies	4	1	1	1	1	0
Total	130	72	42	2	10	4

\* includes Underwriting Members of the New York Insurance Exchange, Inc.

**12. Municipal Cooperative Health Benefit Plans**

Chapter 689 of the Laws of 1994 enacted Article 47, "Municipal Cooperative Health Benefit Plans." The law establishes minimum reserves and surplus as well as filing and reporting requirements. The requirements apply to plans that provide health insurance benefits on a shared-funding basis among two or more municipal corporations which include cities, counties, towns, villages, school districts and libraries. The Department reviewed 16 applications for certification as a Municipal Cooperative Health Benefit Plan, but did not issue any certifications as of year-end 1996.

**13. Article 43 and Article 44 Corporations**

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

a. Subscriber Rate Changes

Chapter 504 of the Laws of 1995 established a new procedure for premium rate changes for Article 43 and Article 44 Corporations that may replace the prior-approval requirements of Section 4308(c) of the Insurance Law under specific conditions. The law permits an Article 43 or Article 44 Corporation to submit a filing for a premium rate change of not more than ten percent in any 12-month period and such filing shall be deemed approved. Such rate change must meet the loss ratios as specified in the law. This law became effective January 1, 1996. Many Article 43 and Article 44 Corporations chose this alternate method to modify its premium rates in 1996. As a result, the Department received 50 premium rate change filings under this alternate method during 1996.

In addition, the Financial Condition Property/Casualty Bureau received two premium rate change applications submitted under the prior approval requirements of Section 4308(c) of the Insurance Law from Article 43 corporations for their community-rated contracts and riders with requested effective dates in 1996. One application was for a rate increase; the approved rate was lower than requested. The other application was for a rate decrease which was denied. Additionally, the Insurance Department received one application from an HMO for a decrease in premiums which was approved as submitted.

Table 30  
SUBSCRIBER RATE CHANGES SUBJECT TO PRIOR APPROVAL  
Insurance Law Article 43 Corporations  
1996

Insurance Company	Average Percent Requested	Average Percent Approved	Effective Date
Blue Cross and Blue Shield of Western New York, Inc. Buffalo Division	25.6%	17.3%	1/1/96
Preferred Assurance Co., Inc.	-55.5	0.0	1/1/96
Physicians Health Services	-19.7	-19.7	7/1/96

b. Article 43 and Article 44 Corporations:

The following tables show aggregate figures on assets, liabilities, surplus funds, premium income and membership for years 1993-1995:

Table 31  
HEALTH SERVICE CORPORATIONS\*  
Selected Data, New York State  
1993-1995  
(in millions)

	1995	1994	1993
Number of Companies	10	10	12
Admitted Assets	\$3,998.3	\$4,512.7	\$4,216.6
Liabilities	3,184.1	3,758.3	3,513.8
Surplus Funds	814.2	754.4	702.8
Net Premium Income			
Hospital	\$5,539.6	\$6,683.6	\$6,445.3
Medical/Dental	4,184.5	3,627.7	4,133.3
Number of Contracts & Riders in Force:			
Hospital	3.0	3.8	5.4
Medical/Dental	2.7	1.8	2.5

\* 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.

Source: New York State Insurance Department

Table 32  
MEDICAL & DENTAL EXPENSE INDEMNITY CORPORATIONS  
Selected Data, New York State  
1993-1995  
(in millions)

	1995	1994	1993
Number of Companies	5	5	4
Admitted Assets	\$77.9	\$70.5	\$68.3
Liabilities	43.9	39.8	38.9
Surplus Funds	34.0	30.7	29.4
Net Premium Income	\$132.9	\$138.9	\$146.4
Number of Contracts in Force	0.2	0.3	0.2

Source: New York State Insurance Department



Table 33  
**HEALTH MAINTENANCE ORGANIZATIONS**  
 That Are a Line of Business of a  
 Health Service Corporation\*  
 Selected Data, New York State  
 1993-1995  
 (in millions)

	1995	1994	1993
Number of Companies	5	5	5
Net Premium Income	\$2,579.1	\$2,516.8	\$1,939.9
Participants	1.6	1.6	1.6

\* Figures shown in this Table are included in the corresponding figures shown in Table 31.  
 Source: New York State Insurance Department

Table 34  
**HEALTH MAINTENANCE ORGANIZATIONS**  
 That Are Not a Line of Business  
 Selected Data, New York State  
 1993-1995  
 (in millions)

	1995	1994	1993
Number of Companies	24	25	29
Admitted Assets	\$2,040.7	\$ 1,595.7	\$1,225.6
Liabilities	1,346.1	1,020.2	805.7
Surplus Funds	\$694.6	\$ 575.5	\$ 419.9
Net Premium Income	\$5,547.7	\$ 3,893.4	\$2,697.3
Participants	3.6	2.8	2.2

Source: New York State Insurance Department

## C. LIFE AND HEALTH BUREAU

### 1. Review of Life and Accident and Health Policy Forms

The Life and Health Bureau processed 16,635 life, annuity and accident and health policy forms in 1996, including 162 fraternal benefit society certificate forms, constitutions, by-laws, articles of incorporation and amendments thereto. The number of forms processed in 1996 reflects a 1.8% increase over the number of forms processed in 1995.

Table 35  
LIFE AND ACCIDENT & HEALTH POLICY FORMS PROCESSED  
1996

Individual Life	2,401
Individual Annuity	395
Individual Accident and Health	1,228
Group Life	544
Group Accident and Health	6,648
Combination Group Life and Health	174
Blanket	728
Article 43 Organizations	690
HMO	1,346
Credit Life	54
Credit Accident and Health	94
Credit Unemployment	22
Variable Life and Annuity	601
Fraternals	162
Group Annuity	1,512
Funding Agreements	35
Pre-Paid Legal	1
<u>Total</u>	16,635

Of the 16,635 total, 8,021 forms were approved for use both in and out of state; 4,494 forms were either disapproved or withdrawn; 3,777 forms were filed for use in states other than New York; and 343 forms or memoranda explaining variable contract language were filed for reference purposes.

### 2. Review of Accident and Health Rate Filings

The Bureau received 1,439 rate filings and processed 1,500 rate filings during 1996.

### 3. Pre-filings, Inquiries and Complaints

In conjunction with the policy form and premium rate review process, the Bureau processes pre-filings and responds to inquiries and complaints. The Bureau processed 73 pre-filings of policy form submissions in 1996 and provided written answers to 489 formal consumer inquiries and complaints concerning policy forms or related issues.

#### **4. Health Care Reform Act of 1996)**

Effective January 1, 1997, the New York Prospective Hospital Reimbursement Methodology (NYPHRM) system expired and was replaced by a new system established pursuant to the provisions of Chapter 639 of the Laws of 1996. Under NYPHRM, non-Medicare payors were required to reimburse inpatient hospital services consistent with a statutorily delineated methodology and associated regulations. Inpatient reimbursement rates established under NYPHRM included surcharges which were pooled and distributed to subsidize hospital indigent care and fund various health care initiatives.

The Health Care Reform Act (HCRA) substantially deregulates the inpatient hospital reimbursement system. Commencing January 1, 1997, certain payors, including Article 43 corporations, HMOs, self-insured funds ( and third-party administrators of such funds), and commercial insurers licensed to do business in New York are authorized to negotiate reimbursement rates for inpatient services with hospitals. These payors will continue to be required to make surcharge payments for the subsidization of indigent care and health care initiatives. Payors have the option of submitting payments directly to the administrator of a pool established by the New York State Department of Health. Direct remittance to the pool results in a decreased surcharge liability for payors.

In addition, certain payors under HCRA are required to fund a professional education pool either through surcharges on payments to general hospitals for inpatient services or through a voluntary election to pay an assessment on each individual residing in New York State for whom the payor provides coverage for inpatient hospital care. The Bureau had a significant role in the bill drafting and negotiation process and is involved in implementation of the statute's requirements.

#### **5. Integrated Delivery Systems**

The Health Care Reform Act of 1996 (HCRA) added new provisions to the Public Health Law authorizing the establishment of integrated delivery systems. Under the law, a health care provider, or an affiliated group of providers, may establish an integrated delivery system to deliver comprehensive health services on a capitated basis to defined populations. An integrated delivery system may provide services to Medicare enrollees, Medicaid and commercial enrollees, or Medicare, Medicaid and commercial enrollees.

The law makes the Superintendent of Insurance responsible for overseeing matters relative to the fiscal solvency of integrated delivery systems (including reserves, surplus and provider contracts), premium rates and subscriber contracts. The Commissioner of Health is responsible for matters relating to the delivery of care, quality of care and access to care.

#### **6. Medicare Supplement Insurance**

On October 1, 1996, the Superintendent promulgated the Twenty-First Amendment to Regulation 62 and the Third Amendment to Regulation 145 to be effective upon publication in the State Register on October 16, 1996. The Amendments to Regulation 62 were in effect as an emergency measure since May 1, 1996. These Amendments adopted revised minimum standards for the form, content and sale of Medicare supplement insurance as a result of changes to the federal minimum standards for Medicare supplement insurance enacted by the Social Security Act Amendments of 1994 (Public Law 103-432) and permit the sale of "Medicare Select" policies in this State as authorized by Public Law 104-18.

The Medicare Select program is designed to permit insurers to provide Medicare supplement benefits through managed care arrangements with one of the primary goals being resultant savings of premium costs to those enrolled in Medicare Select plans. In a May 10, 1996 letter, the Health Care Financing Administration advised the Superintendent that the Secretary of Health & Human Services had recertified approval of New York's Medicare Supplement Insurance Regulatory Program. The Secretary found that New York's program meets or exceeds the federal standards mandated under Section 1882 of the Social Security Act, as amended by the Social Security Act Amendments of 1994.

## **7. Maternity Care Coverage**

Chapter 56 of the Laws of 1996 amended the existing statutory mandate for maternity care coverage. The Insurance Law was amended to provide that all individual and group contracts that provide hospital, surgical or medical coverage also include coverage for maternity care which must include inpatient hospital coverage for mother and newborn for at least 48 hours (96 hours for cesarean section) following childbirth and at least one home care visit if the mother exercises her option to be discharged earlier than such time periods. This legislation was intended to address a growing trend of "drive through deliveries" in which HMOs, insurance carriers and hospitals limited the length of stay for mothers and newborns to a very short period of time, in some instances 24 hours or less. The amendments are effective as of January 1, 1997 and apply to all policies and contracts issued, renewed, modified, altered or amended on or after such date. Insurance contracts and subscriber agreements are required to be amended to conform to the new minimum requirements. The New York legislation predates similar action taken at the federal level in the "Newborns' and Mothers' Health Protection Act of 1996" to become effective January 1, 1998.

## **8. Health Insurance Portability and Accountability Act of 1996**

The federal Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191) was signed into law by President Clinton on August 21, 1996. The Act provides for improved access, portability and renewability of health insurance in both the group and individual health insurance markets. The Act retains the states' current role as primary regulators of health insurance at the same time that it sets forth minimum federal standards and a new role for the federal government in overseeing the enforcement of these standards. The states may enforce the provisions of the Act; however, provisions of state law that prevent the application of the new federal requirements will be pre-empted by the Act. The Life and Health Bureau drafted legislation for introduction in the 1997 Legislative Session to bring state law into compliance with federal law and preserve state regulation of health insurance policies issued in New York State.

## **9. Long-Term Care**

In 1996, the Insurance Department continued to approve forms and rates for insurers in long-term care insurance markets. In late 1996, there were ten insurers approved to sell individual long term care insurance, eleven insurers approved to sell individual nursing home insurance only, ten insurers approved to sell individual nursing home and home care insurance and two insurers approved to sell individual home care insurance only. There were seven insurers approved to sell group long-term care insurance. Ten insurers were approved to sell individual long-term care insurance offered through the "Partnership" program. The Insurance Department along with other state agencies participated on a task force that studied reform of the long-term care financing system in 1996. Key tenets of the findings of this task force were to encourage the purchase of long-term care insurance and enhance the development of managed long-term care and promote other strategies to implement alternatives to Medicaid as a long-term care financing source. The Insurance Department will play a key role in 1997 in developing legislation concerning some of these findings.

On the federal level, the Health Insurance Portability and Accountability Act (HIPA) was enacted in 1996. Part of this federal statute enacted standards and requirements for long-term care insurance coverages to qualify for favorable federal tax treatment. It is hoped that this favorable federal tax treatment for long-term care coverages deemed to qualify will spur the development of the long-term care insurance market as an alternative to public financing of long-term care services. The Insurance Department in 1996 reviewed the federal legislation and determined that there were no major impediments in state law to the approval of long-term care insurance products in New York State qualifying for favorable federal tax treatment. In late 1996, the Insurance Department began to receive long-term care insurance products from the insurance industry which we were requested to approve, and the insurance industry identified these submissions as qualifying for favorable federal tax treatment under the HIPA.

## **10. Application of ERISA to Insurance Company General Accounts**

In *John Hancock Mutual Life Insurance Co. v. Harris Trust & Savings Bank*, 114 S.Ct.517 (1993), the U.S. Supreme Court determined that John Hancock was an ERISA fiduciary with respect to the nonguaranteed component of a participating group annuity contract funded through the insurer's general account. This case is significant because ERISA fiduciary status which requires a fiduciary to act "solely in the interest of" and for the "exclusive purpose of providing benefits" to plan participants and their beneficiaries is incompatible with state insurance laws that require insurers to manage general account assets so that all general account policyholders are treated in a fair and equitable manner.

The incompatibility has created tremendous uncertainty concerning the status of general account operations and activities relating to ERISA-covered employee benefit plans because a substantial amount of general account assets held by life insurers in this country (over \$558 billion in 1994) is attributable to life insurance, health insurance, annuity and other pension products sold to pension plans or welfare plans subject to ERISA. Any insurer issuing a general account contract to an ERISA-covered plan becomes an ERISA fiduciary and the assets supporting the contract become plan assets if the contract does not allocate investment risk to the insurer or provide a genuine guarantee of an aggregate amount of benefits payable to plan participants and their beneficiaries.

In 1994, the American Council of Life Insurance, on behalf of the insurance industry, requested broad-based exemptive relief from the U.S. Department of Labor (DOL) for all transactions involving the internal operations of the general account and all investment transactions between the general account assets and a party in interest with respect to a plan that has purchased a general account contract. On July 12, 1995, the U.S. Department of Labor issued Prohibited Transaction Class Exemption 95-60 which granted insurers limited retroactive relief from ERISA fiduciary requirements for plan assets held in their general accounts. However, the relief applied solely to external transactions between the general account and parties in interest with respect to plan contractholders. The exemption did not address transactions involving the internal operations of the general account where an insurance company's obligation to reconcile competing interests raises more difficult conflict-of-interest issues.

To further address the uncertainties and potential disruptions caused by *Harris Trust*, an ERISA clarification provision was added to the Small Business Job Protection Act of 1996 (Public Law 104-188). Section 1460 of Public Law 104-188 adds a new subsection (c) to ERISA Section 401 and requires the U.S. Department of Labor to issue proposed regulations by June 30, 1997 that provide guidance as to which assets supporting general account contracts constitute plan assets and guidance with respect to the application of ERISA to general account assets of insurers.

In addition, for nonguaranteed benefit policies, the regulations must require (1) that an independent fiduciary authorize the purchase, (2) that the insurer provide periodic reports to the contractholder disclosing the method by which income and expenses are allocated to the policy, (3) that the insurer disclose alternative separate account products, and (4) that the insurer must manage general account assets under the prudent man standard.

Pursuant to the new Section 401(c), final regulations must be issued by December 31, 1997 and will apply to all general account contracts issued to ERISA plans on or before December 31, 1998. There is no relief for general account contracts issued after December 31, 1998 to ERISA-covered plans. Such contracts will be subject to the fiduciary responsibility provisions of ERISA.

On November 5, 1996, the U.S. Department of Labor published a Request for Information in the *Federal Register* (61FR59845) to assist it in developing proposed regulations to clarify the application of ERISA to insurance company general accounts. The Bureau worked with the NAIC in drafting a response to the U.S. DOL's request for information. It is clear that additional work will be required in 1997 as the proposed regulation is issued and later finalized. The Department will need to re-examine general account operations for consistency with ERISA fiduciary standards and review all life insurance, health insurance and annuity products sold to employee benefit plans to determine whether they constitute guaranteed benefit policies appropriate for general account funding after December 31, 1998.

## **11. Group Life Continuation and Portability**

The Bureau received several group life submissions in late 1995 and early 1996 that were designed to give employees the right to continue group term life insurance coverage after termination of employment, in addition to the statutory right to convert to an individual policy. Such continuation coverage is common under group life insurance policies issued in other states and is similar to the federal and state continuation requirements applicable to group health insurance. In addition, insurers argued that the continuation benefit is easier to understand, has a lower initial cost, and experiences a greater participation rate than the statutory conversion option.

Because previous group life submissions providing continuation benefits for terminated and retired employees had been rejected, the Bureau consulted with the Office of General Counsel, the Financial Condition Life Bureau and the Consumer Services Bureau concerning the new benefit. As a result, the Department issued Circular Letter No. 3 (1996), dated March 11, 1996, to advise all licensed life insurers that the Department would approve group life insurance policies that permitted terminated employees to continue their group term coverage under the existing group life policy or under a group life policy established solely for the purpose of making portable coverage available.

The Circular Letter stated that the Department would exercise discretion to recognize a group life portability trust to which coverage could be ported as a qualifying discretionary group under Section 4216(b)(14) of the Insurance Law and that continuing coverage under the existing group policy could be viewed as being more favorable or at least as favorable as the conversion benefit, as long as terminated employees and members can exercise their statutory conversion right at any time.

Since the issuance of the Circular Letter, the Department has received and approved a number of group life continuation/portability forms. This group life continuation/portability benefit is attractive to both employers and employees. The benefit makes it easier, with little cost, for New York employers to recruit and retain employees and it permits terminated employees switching jobs, by choice or otherwise, to maintain adequate life insurance protection.

## **12. Equity-Indexed Annuities**

The high rates of return in equity markets and the relatively low fixed interest rate environment over the last few years has resulted in increased sales of variable annuities and led to the development of a new type of equity-indexed annuity product as an alternative to traditional fixed annuity products. The equity-indexed annuity is a hybrid annuity product that offers participation in the growth of the equity market in which excess interest is based upon the appreciation of a specified equity index (usually the Standard & Poor's 500 Index), while at the same time providing protection from market declines. Over the last two years, this new equity-indexed annuity product has seen phenomenal growth nationally with annual premium around \$2 billion for 1996 and estimates ranging from \$10 to \$15 billion by the year 2000.

Until 1995, equity-indexed annuity products were offered through insurance company separate accounts usually on a group basis to qualified plans. However, most of the new equity-indexed annuities are funded through the insurer's general account and are marketed directly to individuals rather than qualified plans. Most insurers offering equity-indexed annuities have not registered them with the Securities and Exchange Commission.

Because of the novel issues raised by general account equity-indexed annuities, the Bureau consulted with the Office of General Counsel and the Financial Condition Life Bureau. To date, the Department has approved only one equity-indexed annuity for sale in New York. Most product designs offered nationally (1) fail to comply with the individual nonforfeiture law for annuities, especially the 3% minimum interest rate guarantee, (2) fail to credit excess interest annually as required by Section 4232, or (3) fail to comply with the investment restrictions and limitation applicable to general account assets in Article 14 of the Insurance Law.

At the national level, the Department will participate in NAIC working groups established to consider appropriate reserve, nonforfeiture, investment and disclosure requirements for equity-indexed annuities. In addition, the Department will continue to monitor developments under the Securities Act of 1933 and the Investment Company Act of 1940.

## **13. Corporate-Owned Life Insurance**

Corporate-owned and trust-owned life insurance (COLI/TOLI) has been used in most jurisdictions by employers as a flexible, tax-advantaged financing vehicle for broad-based employee benefit plans. The promulgation of Statement 106 by the Financial Accounting Standards Board (FASB) has heightened the interest in and use of COLI/TOLI products because post-retirement benefits, including retiree health benefits, are required to be accrued as they are earned over the working lives of employees. However, life insurers were prohibited from issuing COLI/TOLI coverage in New York to employers because of the lack of insurable interest and the prohibition against group policyholders being the beneficiary under group life insurance policies.

Over the last several years, the Bureau has worked with the Life Insurance Council of New York in drafting legislation that would amend the insurable interest provisions of Section 3205 and the group life provisions in Sections 3220 and 4216 of the Insurance Law to expressly allow life insurers to write corporate-owned and trust-owned life insurance, while safeguarding the interest of insured employees. Chapter 491 of the Laws of 1996, effective August 8, 1996, expressly authorizes businesses to purchase insurance on the lives of their employees in order to fund employee benefit plans that provide retirement, health and life insurance, and deferred compensation benefits.

A new subsection (d) was added to Section 3205 to clarify that employers or trusts established by employers have an insurable interest in the lives of employees who participate or are eligible to participate in the employee benefit plan funded by the COLI/TOLI product. The new subsection (d) also provides for notice and consent requirements that permit employees to reject or consent to coverage on their lives and to discontinue such coverage at any time. With the enactment of Chapter 491, businesses in this State now have a cost-effective and efficient means of providing health insurance and other benefits to their employees and retirees, and life insurance companies have an additional market for life insurance products. In addition, because notice and consent are a prerequisite to insurable interest, insurers can ascertain the validity of the coverage and employees can take steps to decline or cancel unwanted coverage on their lives.

#### **14. Discrimination Based on Being a Victim of Domestic Violence**

Chapter 174 of the Laws of 1996 added a new Section 2612 to the Insurance Law which prohibits discrimination based solely on being a victim of domestic violence. No individual, insurer or entity subject to the supervision of the Superintendent shall refuse to issue or renew, deny or cancel any insurance policy or contract, demand or require a greater premium or payment, designate domestic violence as a pre-existing condition for which coverage will be denied or reduced, or fix any lower rate or discriminate in the fees or commissions of agents or brokers for writing or renewing a policy solely because the person is or has been a victim of domestic violence. The fact that a person is or has been a victim of domestic violence is not a permitted underwriting criterion.

However, an insurer may still take such actions as long as the insurer relies on underwriting criteria that is reasonably related to the physical or mental condition of a person, his or her property or claim history. In addition, the decision must be based on sound underwriting and actuarial principles reasonably related to actual or anticipated loss experience. In such case, the selection criteria permitted must be based on such principles. The insurer is required to notify the insured of its specific reason or reasons for such a decision. Any insurer that complies with the above procedure and acts in good faith will not be subject to civil liability. Section 2612(f) mandates that the Insurance Department in consultation with the Department of Social Services and the Office for the Prevention of Domestic Violence promulgate rules to guide insurers on guarding against disclosure of the address and location of an insured who is a victim of domestic violence. The Department is currently in the process of drafting such regulations which will enable insurers to respond to requests for records and information without having to disclose the location of a victim of domestic violence.

The Department has met with the Office for the Prevention of Domestic Violence to discuss proposals for the regulation. The Department will also meet with the Department of Social Services and the industry, including the Life Insurance Council of New York, the New York State Conference of Blue Cross/Blue Shield Plans and the Health Maintenance Conference and Council of New York in an effort to obtain input and expertise in addressing any issues raised by the proposed regulation.

#### **15. Regulation 27-A**

As part of the Department's ongoing initiative to re-assess the impact of our current regulatory requirements on the industry and in an effort to update the regulations in effect, the Bureau has circulated a working draft of our group credit life and accident and health insurance regulation, Regulation 27-A, for comments. The credit marketplace in New York has seen several insurers withdraw from this line of insurance. This has raised concerns over the continued availability of coverage, and there has been a feeling that our rating procedures and requirements are unnecessarily complicated. In addition, our current Regulation has limited insurers to certain products, which has hindered the offering of new products in this State.



In an effort to update Regulation 27-A, the Bureau has done two drafts of a new regulation which have been provided to an informal industry group consisting of the Consumer Credit Insurance Association, the American Council on Life Insurance (ACLI), the Life Insurance Council of New York (LICONY) and several interested parties, as well as consumer groups. First, we have added two new types of disability products, *i.e.*, joint life disability and lump sum disability coverage for small amounts of insurance. We have clarified our position on lease coverages and streamlined the approval process for such coverages. We have re-rated certain plans where experience warranted change with some increases in rates as well as some decreases. We would increase the maximum length of disability coverage from 83 months to 123 months. We would allow a form of truncated coverage. Certain fees and loss ratios were re-evaluated and modified.

The Department had become aware of certain abuses of the approval requirement in the area of revolving credit insurance and we clarified our position on the need for approval of all types of credit applications and the requirements for the submission of all such application/enrollment forms. We authorized the submission of rate material in electronic format, but have not established the format yet. It is anticipated that changes such as these in our working draft will eventually streamline the regulatory process and promote a more competitive marketplace which should benefit the public.

#### **16. Proposed Life Insurance Cost Disclosure and Sales Illustration Regulation**

The Department has continued to work throughout the year with an insurance industry task force in the drafting of a comprehensive life insurance cost disclosure and sales illustration regulation for New York. The proposed regulation is intended to meet the statutory requirements of Section 3209 of the Insurance Law on disclosure and to provide standards for sales illustrations.

The Department has had several meetings with members of the task force in an effort to maintain an open dialogue on the issues that need to be addressed by the regulation. In working with the industry task force the Department has tracked, where possible, the basic standards of the NAIC Life Insurance Illustration Model Regulation. The Department has been striving to ensure a cost-efficient means for insurers doing business in New York to be in compliance with both the NAIC Model Regulation and the New York proposed regulation. The proposed regulation in New York will, however, expand slightly on the NAIC Model Regulation with respect to several specific product designs such as Universal Life- and Comprehensive Life-type products. As the NAIC works toward completion of its model regulation for annuity products and variable products, the Department, as a result of its active participation with the NAIC, anticipates incorporating similar standards within its own proposed regulation.

The issue of misleading sales illustrations has increasingly become the focus of consumer complaints and class action lawsuits in New York and on a nation-wide basis. For example, the concept of "vanishing premiums" as presented through sales illustrations where premiums are expected to be paid either through dividends or the excess interest being credited to the policy has become a particularly vulnerable area for insurers and has resulted in significant consumer misunderstandings and dissatisfaction.

Once the proposed regulation is completed, it will address the needs of consumers for more understandable and standardized sales illustrations and will reflect both the Department's and the industry's recognition of the need to eliminate the potential for any abuses during the sales presentation process as the result of sales illustrations.

## **17. Fraternal Benefit Societies**

Chapter 446, which revised Article 45 of the New York Insurance Law, was the result of hard work and cooperation between the National Fraternal Congress and the Insurance Department. All changes to Article 45 were effective as of January 1, 1997. Among the most significant changes were the authorization of fraternal benefit societies to issue variable life insurance and variable annuity contracts, as well as contracts in connection with plans providing benefits for long-term care.

In order for fraternal benefit societies to receive the authority to provide long-term care benefits, variable life insurance benefits and variable annuity benefits, as well as annuity and disability income benefits in amounts that exceed set caps, fraternal benefit societies must "opt in" to requirements of a new Section 4527 that was added to Article 45. Section 4527 subjects those fraternal benefit societies that opt to offer such benefits to risk-based capital requirements established by the Superintendent, and requires fraternal benefit societies to retain only licensed agents who meet continuing education requirements, unless exempt under Section 2101(a)(3). Existing agents would be exempt from the licensing examination. Chapter 446 also amended Section 2101 by revising existing exemption language governing part-time agents or representatives who devote less than 50% of their time to solicitation of fraternal insurance contracts. Another new Section 4528 which phases-in new business limitations on fraternal benefit societies, was also added to Article 45.

Additional changes were made to Article 45 and Section 4240 in connection with the newly granted authority of fraternal benefit societies to issue variable life insurance and variable annuity contracts. Article 45 excludes from the maintenance of solvency requirement those portions of variable life insurance or variable annuity benefits that are dependent on the experience of a separate account. Variable life insurance or variable annuity benefits are also exempt from the requirement that any changes, additions or amendments to a fraternal benefit society's articles of incorporation, constitution or by-laws made or enacted subsequent to the issue of any certificate shall bind the member and his or her beneficiaries, and shall thereafter govern and control the agreement in all respects. Section 4240 was amended to authorize the Superintendent to promulgate regulations setting forth rules with respect to required and prohibited contract provisions for variable life insurance and variable annuity contracts issued by authorized fraternal benefit societies.

Other significant changes to Article 45 include deletion of language that restricts the insured life to that of a member of a fraternal benefit society, and the addition of language that provides opportunities for fraternal benefit society members to utilize third-party insurance transactions. In the same vein, Section 4508 was repealed and replaced with a new Section 4508 that now authorizes owners of benefit contracts to establish irrevocable beneficiaries; revises terms and phrases to be consistent with third-party insurance arrangements; and allows for proceeds to be paid to the owner of a benefit contract if no lawful beneficiary is available and the owner is someone other than the insured. Section 4508 also increases the amount that may be payable under a contract to such person(s) who have incurred maintenance, medical or burial expenses on a member.

An additional Section, 4529, was added to Article 45 which authorizes domestic fraternal benefit societies to invest in subsidiaries, provided certain requirements are met. Section 4529 also authorizes the creation by fraternal benefit societies of organizations to operate not-for-profit institutions to provide social and other benefits to members. In conjunction with the creation of this new Section 4529, Section 1403 was amended to authorize domestic fraternal benefit societies to invest in or acquire subsidiaries.

Other changes to Article 45 include the reduction in the required number of board of director members for domestic fraternal benefit societies from 15 to 9, with certain conditions; the prohibition of fraternal benefit societies to provide group insurance benefits; and a new requirement that fraternal benefit societies specify in their laws or rules those persons who may be covered by benefits consistent with providing benefits to members and their dependents.

Article 45 revisions also raise caps on amounts for certain types of benefits, and authorize and define long-term care benefits and disability income insurance benefits.

## **18. Child Health Plus**

The Health Care Reform Act of 1996 made significant changes to the State's Child Health Plus insurance program, extending eligibility and broadening benefits. This program provides benefits for children of the working poor. Coverage has been extended by an additional four years to age 18 for all eligible children. Benefits are extended to include inpatient hospital care as well as the primary, preventive and outpatient hospital care provided under the prior benefit package. Income eligibility remains at 222% or less of the federal poverty level. It is expected that these enhancements will increase enrollment to 251,000 children by December 1999. Child Health Plus encourages parents to remain in the workforce by removing the worry about the affordability of health care for their children. The program encourages parents to seek routine primary and preventive care resulting in reduced emergency-room expenses and healthier children. All of the entities participating in the program are required to amend their contracts and practices to conform to program revisions.

## **19. Synthetic Guaranteed Investment Contracts**

In 1995, the Department announced it will be permitting life insurers to write a new type of product called synthetic guaranteed investment contracts (GICs) in which contractual liabilities are based upon a portfolio of assets owned by the contractholder/pension plan, rather than the insurer. Except for asset ownership, synthetic GICs operate much like other group annuity contracts funded through market value separate accounts.

In late 1995 and early 1996, the Department worked with life insurers to develop a new regulatory framework for synthetic GICs, modeled after existing requirements for Regulation 128 separate account contracts funding guaranteed benefits. Contract approval, reserve and operational guidelines were established and at year end 18 synthetic GIC policy forms had been approved on a general basis for seven insurers. Three other insurers have products pending approval.

The ability to write synthetic GICs allows New York-licensed life insurers to offer a full range of products demanded by their pension plan customers and to compete with other financial institutions and non-New York licensed insurers in a growing segment of the stable value fund market. The Department also participated in the NAIC Synthetic GIC Working Group throughout the year and assisted in preparing a draft discussion regulation for synthetic GICs.

## **20. New York State Small Business Health Insurance Partnership Program**

The Health Care Reform Act of 1996 continues and expands the program that began in 1989 as regional pilot projects. The program allows employers with 50 or fewer employees that have not provided group health insurance to any employee within the 12-month period prior to the act becoming effective to apply to the Commissioner of Health to participate in the small business health insurance partnership program. If approved, the employer is eligible for up to a 45% subsidy of the cost of group health insurance covering the employees.

The employer is required to pay at least 45 % of the premium and the employees may be required to contribute up to 10% of the premium cost. The bill provides for \$6 million annually to be used for the subsidies. The Health and Insurance Departments have worked closely on the implementation of this program. Bureau personnel are involved on task forces overseeing implementation.

## **21. Voucher Insurance Program**

The Health Care Reform Act of 1996 created the voucher insurance program on a demonstration basis and \$6 million annually has been allocated to help defray the cost of premiums for people with incomes below 200% of the federal poverty level. The Superintendent has been given the primary responsibility for implementing this program. The program will issue vouchers to qualified individuals and families residing in certain urban, rural and suburban communities designated by the Superintendent. Qualified insurers, integrated delivery systems and HMOs will make contracts available to program participants that cover only outpatient diagnostic x-ray and lab services, outpatient surgical services including anesthesia, mammography screening, cervical cytology screening, well-child care from birth, and primary and preventive care services. The voucher recipients will be able to choose any qualified insurer, integrated delivery system or HMO operating in the area.

## **22. Managed Care**

Chapter 705 of the Laws of 1996 enacted significant reforms in the managed care arena. The main accomplishments of the bill include: requiring HMOs and insurers providing insurance coverage in a managed care setting to make available to health care consumers more detailed information concerning their health insurance coverage options; establishing a comprehensive set of standards for the grievance procedures; banning limitations imposed by HMOs or insurers on a health care provider's right to advocate to the HMO or insurer on behalf of the patient; establishing due process protections for health care providers participating in the network of an HMO or an insurer; ensuring that HMOs maintain sufficient numbers of physicians and specialists to meet the needs of enrollees; providing patients with better access to needed specialty care; establishing a comprehensive set of standards for the performance of utilization review under HMO and health insurance products; establishing uniform standards for evaluation of state-of-the-art treatments prescribed by physicians for patients facing life-threatening illnesses; expanding current provisions requiring disclosure related to usual, customary or reasonable fee schedules; expanding the Department's annual Consumer Guide to health insurers and HMOs; and changing the definition of "emergency condition" used by health insurers and HMOs in determining when individuals can access emergency-room care without prior approval and without penalties. Insurers and HMOs will have to revise their contracts and procedures to comply. The Department will have to establish a registration form and process for utilization review agents used by insurers.

## D. PROPERTY AND CASUALTY INSURANCE BUREAU

### 1. Filings Involving Rate and Rating Rule Changes and Forms, Territories and Classifications

a. During 1996, there were 7,723 filings involving changes in rates, rating rules, policy forms, rate classifications and rating territories submitted by rate service organizations, joint underwriting associations and companies. The filings were for the following:

<u>Line of Business</u>	<u>Number of Filings</u>			<u>Total</u>
	<u>Rates &amp; Rules</u>	<u>Forms</u>	<u>Classes &amp; Territories</u>	
Fire and Allied Lines	664	401	7	1,072
Farmowners Multiple Peril	39	34	1	74
Homeowners Multiple Peril	318	254	4	576
Multiple Line	143	129	3	275
Commercial Multiple Peril	424	278	4	706
Inland Marine	265	192	2	459
Medical Malpractice	175	100	2	277
Earthquake	3	0	0	3
Rain	0	0	0	0
Workers' Compensation & Employer's Liability	68	94	0	162
Other Liability	954	891	6	1,851
Motor Vehicle Insurance	825	579	29	1,433
Aircraft	5	11	0	16
Fidelity & Surety	124	52	0	176
Glass	69	16	0	85
Burglary & Theft	189	79	4	272
Boiler & Machinery	50	43	1	94
Credit	7	7	0	14
Animal Mortality	5	6	0	11
Mortgage Guaranty	29	40	1	70
Residual Value	2	2	0	4
Title	5	8	0	13
Group Property/Casualty	29	27	0	56
Financial Guaranty	6	18	0	24
<u>Total</u>	4,398	3,261	64	7,723

These figures include approximately 260 consent-to-rate filing applications, 164 manuscript policy filings and 150 rating plan filings submitted in 1996. Ninety-four form filings, one rating classification or territorial filing, and 69 rate or rating rule filings were disapproved during 1996.

b. The following table lists major revisions in rates or loss costs that were placed in effect during 1996.

Table 36  
MAJOR EFFECTS OF PRINCIPAL RATE & LOSS COST CHANGES  
Filed in 1996 by Property and Casualty  
Rate Service Organizations  
1996

	Percent Changes in Average State-Wide Rates
<b>Automobile</b>	
Automobile Insurance Plans Service Office	
Commercial Automobile, Taxis	
Rates Revised	
Bodily Injury Liability	+ 9.0%
Property Damage Liability	+ 5.0
Personal Injury Protection	+12.0
Total, effective 2/28/96	+ 8.8
Commercial Automobile, Taxis	
Rates Revised	
Bodily Injury Liability	+ 8.0
Property Damage Liability	+ 8.0
Personal Injury Protection	+30.0
Total, effective 2/28/97	+13.6
Commercial Automobile	
Rates Revised	
Commercial Cars	
Bodily Injury Liability	+ 7.0
Property Damage Liability	+ 4.0
Personal Injury Protection	+ 5.0
Liability Subtotal	+ 6.2
Garages	
Bodily Injury Liability	+9.0
Property Damage Liability	+19.3
Personal Injury Protection	+ 4.2
Liability Subtotal	+ 9.7
Public Autos excluding Taxis	
Bodily Injury Liability	+20.0
Property Damage Liability	+ 9.0
Personal Injury Protection	+12.0
Liability Subtotal	+17.2
Zone-Rated Risks	
Bodily Injury Liability	+19.1
Property Damage Liability	+25.0
Personal Injury Protection	+19.1
Liability Subtotal	+19.7

Percent Changes  
in Average  
State-Wide Rates

Recreational Trailers, Motor Homes, Light Trucks & Church Buses Comprehensive	+25.0%
Total All Coverages effective August 1, 1996	+ 9.8
Insurance Services Office, Inc.	
Commercial Automobile Loss Costs Revised	
Commercial Cars	
Single Limit Liability	+10.0
Personal Injury Protection	+15.0
Liability Subtotal	+10.4
Comprehensive	-33.8
Collision	+10.7
Physical Damage Subtotal	- 9.1
Total Commercial Cars	+ 5.2
Garages	
Single Limit Liability	+15.0
Personal Injury Protection	+11.1
Liability Subtotal	+14.8
Physical Damage - Garage Dealers	
Comprehensive	+ 9.0
Collision	+25.0
Physical Damage - Garage Dealers Subtotal	+13.0
Physical Damage - Garage Keepers	
Comprehensive	-28.3
Collision	+25.0
Physical Damage - Garage Keepers Subtotal	-13.7
Total Garages	+ 5.8
Private Passenger Types	
Single Limit Liability	+ 5.2
Personal Injury Protection	+ 9.4
Liability Subtotal	+ 5.8
Comprehensive	- 3.6
Collision	+18.0
Physical Damage Subtotal	+ 7.9
Total Private Passenger Types	+ 6.8
Total All Coverages	+ 5.8
Total Liability	+ 9.3
Total Physical Damage effective March 1, 1997	+ 0.1

Percent Changes  
in Average  
State-Wide Rates

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Insurance Services Office, Inc. Commercial Automobile Loss Costs Revised Zone-Rated Risks Liability	+28.4%
Comprehensive	+35.0
Collision	+25.0
Physical Damage Subtotal	+27.0
Total All Coverages effective January 1, 1997	+27.8
<u>Commercial Multiple Peril</u>	
American Association of Insurance Services Businessowners Introduction of Loss Costs effective March 28, 1996	0.0
American Association of Insurance Services Businessowners Revision of Loss Costs effective March 1, 1997	0.0
Insurance Services Office, Inc. Commercial Package Policy Revision of Package Modification Factors effective April 1, 1997	-10.2
Insurance Services Office, Inc. Businessowners Advisory Loss Costs/Pricing Methodology for Revised Businessowners Policy effective June 1, 1997	+1.5
Underwriters Rating Board Other Package Policies Revised rates - Crafts/12Pak effective March 1, 1996	0.0
<u>Fire and Allied Lines</u>	
Insurance Services Office, Inc. Dwelling Fire Loss Costs Revised effective February 1996	-15.10



Percent Changes  
in Average  
State-Wide Rates

Homeowners

Insurance Services Office, Inc. Homeowners Loss Costs Revised effective February 1996	+7.30%
Underwriters Rating Board Homeowners Rates Revised effective September 1996	+4.85

Inland Marine

Insurance Services Office, Inc. Commercial Inland Marine Revision of Loss Costs effective August 1, 1996	-14.0
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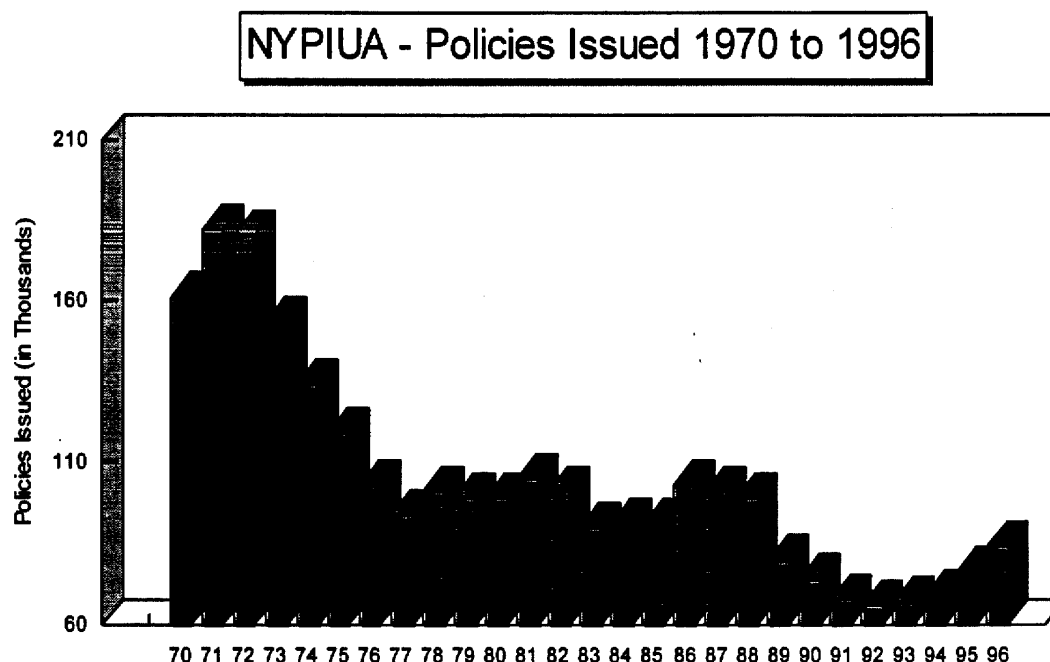
Liability Other Than Auto

American Association of Insurance Services Commercial General Liability Loss Costs Introduced effective February 26, 1996	+20.0
Insurance Services Office, Inc. Commercial General Liability Basic Limits Loss Costs Revised Manufacturers and Contractors Owners, Landlords and Tenants Product Liability Completed Operations Total All Coverages effective September 1, 1996	+15.7 +29.8 +23.8 +32.9 +21.6

## 2. 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 since 1970:



Following the peak year 1971 (182,000 policies), there was a steady decline through 1977 in the number of policies issued annually by the Association. 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 (see Section 9, "Homeowners Insurance") reflecting, in part, the ongoing concern for adequate coastal property insurance coverage.

### b. Financial Information

For the fiscal year ending December 31, 1996, the Association's Financial Report indicated premiums earned of \$36,556,730 and a net underwriting gain of \$10,253,407. Other income of \$3,460,418 comprised of net investment income of \$3,401,429, premium balances charged off (\$93,825), bond amortization loss of (\$56,846), gain on sale of securities of \$35,314, income from data processing services of \$47,174 and policy installment fees of \$127,172 resulted in net income before taxes of \$13,713,825. The change in assets not admitted of \$58,992 and taxes incurred of (\$505,492) resulted in a net change in the Members' Equity Account of \$10,951,456. The cumulative operating profit as of December 31, 1996 was \$58,820,277. After all assessments (net of distribution of \$40,268,192), the net Members' Equity Account was \$18,552,085.

In accordance with Section 5405(c) of the New York Insurance Law, the Association estimated a surplus from operations of \$1,689,000 for the calendar year 1997. 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, 1997 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 \$2,405,000 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, 1997.

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 1992 as well as the provisional 60% close-out of policy year 1993, 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 1992 and 1993 amounts to \$2,315,869.

#### c. Rate Revisions

During 1996, the Department approved rate revisions for both the Dwelling and Commercial classes of business. These revisions resulted in an average state-wide decrease of 1.2% for Basic Group I commercial insureds and an increase of 37.6% for Basic Group II commercial insureds and an average state-wide decrease of 14.2% affecting owners of dwellings throughout the State. These revisions correspond with rate revisions promulgated by the Insurance Services Office for the voluntary market.

#### d. Legislation in 1996

Chapter 42 of the Laws of 1996 (Senate Bill 6846) extended the life of the New York Property Insurance Underwriting Association until April 30, 1997. The bill also amended the insurance law to require the Association to issue homeowners insurance upon a determination of necessity by the Superintendent due to unavailability of meaningful coverage in the voluntary market.

In accordance with this Chapter, the Superintendent of Insurance submitted to the Governor and the Legislature the Report of the Temporary Panel on Homeowners' Insurance Coverage. Among the recommendations concerning NYPIUA and also affecting the availability and affordability of homeowners' insurance/catastrophe coverage in this State were: legislation should be enacted to make NYPIUA permanent; NYPIUA should be given the authority to use hurricane deductibles similar to any that are approved in the voluntary market; legislation should be enacted to authorize NYPIUA to establish a hurricane exposure-related credit provision; legislation should be considered to authorize the Superintendent to establish a Hurricane Pool within NYPIUA, if necessary, in preference to writing Homeowners insurance in NYPIUA. (This subject is also discussed in Section 9, "Homeowners Insurance," below.)

### 3. Federal Crime Insurance Program

The Federal Crime Insurance Program began operations in 1971 and authorized the sale of insurance by the federal government in any eligible state participating in the program. The federal program was intended to provide a source of coverage against financial losses from burglary and theft for residents and businessowners in high crime areas who might be unable to obtain coverage through the voluntary market. The Federal Crime Insurance Program expired on September 30, 1995, and has not been reauthorized by Congress. As of September 30, 1996, the program had run off all of its business.

#### **4. Insurance Availability Problems**

The general easing of availability problems that has characterized most liability insurance markets over the past several years continued in 1996. 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 conducted special surveys to ascertain the existence of markets for difficult-to-place insurance coverages. Where a meaningful market did not exist for critical coverages, voluntary market assistance programs (MAPs) were successfully developed.

It was intended that the availability survey be conducted annually in order to assure that meaningful and timely information is obtained. 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.

##### **b. Family Day Care Market Assistance Program**

The Family Day Care Market Assistance Program (FDCMAP) was established in 1988 to enable licensed providers of family day care (three to six children) and group family day care (seven to twelve children) services in a private home to obtain affordable liability insurance coverage. Aetna Casualty and Surety Company acts as the servicing carrier for the FDCMAP, in which 15 insurers participate by sharing risks under a quota-share arrangement.

In order to qualify for FDCMAP placement, family day care providers must comply with governing rules and regulations, including licensing and registration requirements, issued by the New York State Department of Social Services and relevant local agencies, such as the New York City Health Department and county social services agencies.

There is no application fee for the FDCMAP, which provides liability coverage on an occurrence basis. In addition to basic \$5,000 per-child medical payments coverage, the provider may choose from minimum liability limits of \$100,000 per occurrence/\$300,000 per year up to \$500,000/\$1,000,000 maximum limits. A brochure prepared by the Insurance Department explains how family day care providers can obtain liability insurance coverage through the FDCMAP. The brochure is distributed by the Department of Social Services through its network of local offices and is also available from the Insurance Department.

Overall, there have been 321 policies issued in the FDCMAP since its inception. Twenty-six new policies were issued during 1996. There were 95 policies in force at the end of 1996.

##### **c. Pollution Liability Insurance for Underground Storage Tanks**

Implementing regulations of the Resource Conservation and Recovery Act (RCRA) and the U.S. Environmental Protection Agency (EPA) require owners and operators of underground storage tanks (USTs) to evidence financial responsibility in the amount of \$1 million through pollution liability insurance or some other acceptable mechanism.

The requirement was phased in over several years starting with the largest facilities. The last group of facilities, those having 1 to 12 USTs, had to comply with this requirement as of December 31, 1993. Unlike larger petroleum marketers, small owners and marketers are generally less familiar with the elements of risk management and the process of procuring specialized coverages such as pollution liability insurance.

With the assistance of the Independent Insurance Agents Association of New York (IIAANY) and the Professional Insurance Agents of New York (PIANY), the Department established the UST Helpline to assist owners of 1 to 12 USTs that experience difficulty in obtaining the coverage necessary to satisfy the EPA financial responsibility requirements. Tank owners/operators and their insurance agents or brokers can call designated telephone numbers at the Department, at IIAANY, and at PIANY to obtain information about the requirements and assistance in locating insurers willing to provide the necessary coverage. Since its inception in 1994, the UST Helpline has provided assistance to approximately 86 owners/operators.

#### d. Insurance for Lead Liability

Beginning in 1991, a number of insurers requested approval of policy exclusions for lead liability, citing claims already paid, claims pending, the trend of court rulings, and the uncertainty of lead paint abatement standards as the reasons for their requests. As of the end of 1996, exclusions have been approved for approximately 70 insurers. In response to the concerns of property owners who have continued to have experienced difficulty in obtaining coverage, the Department has actively pursued various options to encourage the availability of meaningful lead paint liability insurance for property owners. (These efforts were described in detail in previous reports.)

The Department has participated in regulatory and legislative efforts to develop state-wide lead abatement standards, which must be in place in order to encourage insurance underwriters to assess risks and to restore such coverage. The Department, as an adjunct member of the Lead Poisoning Prevention Advisory Council, continues to work closely with the Department of Health and other Council members in efforts to recommend effective legislative and regulatory remedies for the lead hazard.

#### e. 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 remained generally available in 1996, difficulties continued in several key markets, in particular, properties located in coastal areas of the State. During 1996, 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 9, "Homeowners Insurance."

### 5. Workers' Compensation

#### a. Comprehensive Reform

Legislation to reform New York's workers' compensation system was enacted in 1996. Among its major provisions, the law modified the conditions under which employers may be held responsible for contribution or indemnity by third parties (*Dole v. Dow*); established various programs to promote workplace safety and loss prevention, insurance-premium and claims-cost reductions; and introduced measures to combat fraud in the system.

In addition, the law requires that the Department conduct several studies and gather data to support various rate credits that have been mandated. These subjects require cooperation and coordination among the Department and other State agencies, including the Labor Department and the Workers' Compensation Board.

**b. Employee Leasing**

In March of 1993, the Department approved manual rules and endorsements filed by the New York Compensation Insurance Rating Board (NYCIRB), which are currently used for employee leasing arrangements in New York. An employee leasing arrangement is established when an employer (client) utilizes the services of a labor contractor (leasing firm) to provide its workers for a fee or other compensation. The same workers are then leased back to the employer. Based on the approved rule, the client company in an employee leasing arrangement purchases the major workers' compensation policy while the labor contractor must provide a back-up policy.

During 1996, the Department met with the Governor's Office of Regulatory Reform (GORR); the Workers' Compensation Board; CIRB; the State Insurance Fund; and several interested insurers concerning proposals to revise the rules currently applicable to such arrangements. Recommendations discussed include a revision permitting the parties in a leasing arrangement to choose which of them will be responsible as the primary workers' compensation provider, as well as other proposals that may reduce the cost of workers' compensation for employers that utilize leasing firms to conduct some or all of their personnel management obligations.

**c. Drug-Free Workplace Credit Program**

On February 2, 1996, the Department approved for the Great American Insurance Companies a 5% workers' compensation premium rate modification for policyholders adopting a drug-free workplace program. Consideration of the credit 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. Conversely, a well-focused and properly managed program aimed at eliminating drug and alcohol abuse in the workplace could be a useful means of reducing injuries and the associated workers' compensation claims costs. The Department has received requests from several other insurance carriers desiring to offer similar credits, which would provide an incentive to more employers to implement such programs.

**6. 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 linemarket 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. 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 pursuant to Section 2130 of the New York Insurance Law.

For calendar year 1996, total excess line gross premiums written on risks located or resident both in and out of New York State amounted to approximately \$571 million, of which \$420 million was attributable to risks located or resident wholly in New York State.

a. Business Written in New York

Excess line premiums written in New York State went up from \$394 million in 1995 to \$416 million in 1996, an increase of 5.5%. Since 1993, premium writings have increased by 8.8%. The largest dollar increase over the year occurred in the errors and omissions line, up \$39 million for an increase of nearly 33%. The largest percentage increase occurred in the other lines which, although small in volume, was up by 55.4%. Other increases included inland marine, up by \$2.7 million and malpractice, up by \$1.2million.

The largest dollar decline over the year occurred in the other liability line which went from \$137 million in 1995 to \$119 million in 1996. The largest percentage decrease occurred in the aircraft physical damage line, which was off by 33.1% over the year. The commercial multiple peril and fire and allied lines dropped by \$3.5 million and \$2 million, respectively.

Table 37  
EXCESS LINE PREMIUMS  
Written in New York State  
1993-1996  
(dollar amounts in thousands)

Line of business	1996	1995	1994	1993
Fire and allied lines	\$48,856	\$50,878	\$37,730	\$21,599
Inland marine	27,370	24,683	25,836	26,703
Auto liability	3,060	1,975	2,775	2,950
Malpractice	5,717	4,476	2,100	4,475
Errors and omissions	160,956	121,462	117,832	144,808
Commercial multiple peril (excluding fire)	15,458	18,991	16,294	13,554
Other liability	118,502	136,580	142,884	135,719
Auto physical damage	16,214	15,118	13,133	7,538
Aircraft physical damage	1,146	1,713	14	211
Burglary and theft	4,583	5,761	2,654	4,447
Fidelity and surety	8,555	9,192	10,620	17,754
Other lines	<u>5,602</u>	<u>3,605</u>	<u>3,203</u>	<u>2,725</u>
<b>Total</b>	<b><u>\$416,019</u></b>	<b><u>\$394,434</u></b>	<b><u>\$375,075</u></b>	<b><u>\$382,483</u></b>
Excess line premiums as a percentage of all property and casualty insurance premiums written in New York	1.90%*	1.78%	1.80%	1.83%

\*Estimated

Source: Excess Line Association of New York

#### b. Warranty Programs

The Department has continued its investigation of companies offering illegal warranty programs. For a set price these companies offer to repair or replace consumer products if they break during a specified period. For the most part, the Department considers these products to be insurance and not warranties. Although these types of programs initially declined due to the Department's investigation, they appear to be on the rise again.

A radon program offering homeowners a guaranty to correct unacceptable radon levels found in their homes for a prepaid fee was investigated. A review of these agreements disclosed that none were entered into in New York State.

The Signature Home Protection Plan offered benefits to consumers if their homes were burglarized. Additionally, people providing information leading to the capture of these burglars were paid a benefit as well. The entities writing this business were not licensed in any capacity by the Department; however they are affiliated with a family of companies that include New York-licensed insurers. The program was eliminated voluntarily in October 1996 because it did not comply with the Insurance Law.

#### c. Security Guard Program

The Department is currently investigating a security guard liability insurance program to determine whether policies are properly being placed in the unlicensed market. Such coverage may be placed with unlicensed insurers only after it has been declined by three licensed insurers.

#### d. Jewelers Block Investigations

The Department is currently investigating jewelers block business placed with unauthorized insurers by New York brokers. A portion of the jewelers block policy, which is referred to by these brokers as transit coverage and sendings coverage, insures the transportation of jewelry in one manner or another. The Department has taken the position that jewelers block is inland marine insurance subject to regulation and taxation. Some brokers have argued that this coverage is ocean marine, which is not subject to regulation and taxation. At administrative hearings, two of these cases have been decided in the Department's favor. A hearing in another case was adjourned indefinitely due to another legal proceeding involving the same broker.

The investigations revealed that the companies with which these policies were placed at best do not meet the Regulation 41 requirements, and at worst may not even exist.

#### e. Managing General Agents

We are currently aware of five brokers and/or managing general agents representing excess line companies that maintain a physical presence in New York State. Section 2117(a) of the Insurance Law contains a general prohibition against aiding and abetting unlicensed insurers. These agents and brokers are presently being contacted by the Department to ascertain the volume of New York business that they have placed. Additionally, the Department has requested that the brokers detail their involvement in the insurance placements and their responsibility with the excess line companies.



**f. 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 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 inception of the LRRRA, the Department has received notices of intent from 543 purchasing groups. Subsequently, 203 have withdrawn their notice of intent, 61 have notified the Department of their inactive status, and 38 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, 1996, of the remaining 241 purchasing groups (12 of which are in pending status), 29% 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, health care facilities and services, and manufacturers/dealers.

**g. Export List**

The Second Amendment to Regulation 41 (Excess Line Placements Governing Standards), which became effective January 24, 1996, permits excess line brokers to place various types of risks with nonadmitted carriers without having to go through the usual declination process. The specific risks affected are contained in the Regulation's "export list." On the same date, the Free Trade Zone Class Two Risk List in Regulation 86 (Special Risk Insurance) was expanded to include the exposures appearing in the export list.

**7. Automobile Insurance**

**a. Motor Vehicle No-Fault Activity - 1996**

**1) Insurance Department Administration of the Optional Arbitration System**

Effective for disputes arising out of accidents occurring on and after December 1, 1977, the Department administers the arbitration of no-fault disputes involving the payment of first-party benefits to claimants. The volume of requests for no-fault arbitration began to increase in 1990. That trend continued in 1996, establishing a new high of 31,667 cases filed. This represents a 23.8% increase in volume from 1995, when the Department received 25,589 requests for no-fault arbitration, which more than doubled the number of cases received in 1994, when the Department processed 12,398 no-fault arbitration requests. The 23.8% increase in 1996 appears to be primarily the result of increased use of the arbitration system by health providers. These assignee cases increased by 44.4%, from 14,895 cases in 1995 to 21,514 cases in 1996.

All requests for no-fault arbitration are put through a pre-screening process that rejects incomplete arbitration requests as well as those that are not properly filed and those that should not have been filed at all. This prescreening process returned approximately 18% of all no-fault arbitration requests received by the Department. In excess of 31,000 arbitration requests were reviewed last year and it appears that the screening process has resulted in a reduction in the number of cases processed and the removal of many of those that would have been easily resolved by Department examiners or withdrawn by the applicant.

Of the disputes received in 1996, 3,271 were successfully conciliated by Department examiners. The Department's conciliation rate of 22.5% represents a decrease from the 22.9% experienced in 1995. This decrease is primarily due to the increase in arbitration requests received in 1996.

The promulgation of the Twentieth Amendment to Regulation 68, effective July 1, 1988, changed the structure of the No-Fault Arbitration System in order to establish a more equitable and efficient system for the adjudication of no-fault disputes. The Amendment reduced the number of arbitration forums from four to two by eliminating the Expedited Arbitration forum, which was administered by the American Arbitration Association (AAA), and the Health Service Arbitration forum, which was administered by the Workers' Compensation Board. Insurance Department Arbitration (IDA) resolves disputes involving the correct computation of health service provider fees, amounts in dispute under \$400, and disputes solely involving interest and attorneys' fees. All other disputes fall under the jurisdiction of the American Arbitration Association. The arbitrators employed under the current system have become experts in the adjudication of no-fault disputes, resulting in more consistent application of the no-fault law and regulations.

The IDA's expanded role under the Twentieth Amendment resulted in the adjudication of 1,255 cases in 1996, a 28.7% increase from the 975 cases decided in 1995. This accounted for 8.6% of all cases filed for arbitration in 1996. Overall, 31.1% of all no-fault cases closed in 1996 were resolved either through conciliation by the Insurance Department or by the Department's arbitration forum (IDA).

The Department's direct involvement in the arbitration process contributes to the consistent application of the no-fault law as well as substantial savings in arbitration administrative expenses and legal fees paid by no-fault insurers.

Table 38  
DISPOSITION OF NO-FAULT ARBITRATION CASES  
1994-1996

	<u>1996</u>		<u>1995</u>		<u>1994</u>	
	<u>No. of Cases</u>	<u>Percent of Closed Cases</u>	<u>No. of Cases</u>	<u>Percent of Closed Cases</u>	<u>No. of Cases</u>	<u>Percent of Closed Cases</u>
Total Cases accepted by the Department	25,967		19,380		12,398	
Disposition:						
Disputes Conciliated by the Department	3,271	22.5%	2,467	22.9%	2,740	29.8%
Transmitted for arbitration to:						
American Arbitration Forum (AAA)	10,010	69.1	7,309	68.0	5,284	57.5
Insurance Department Arbitration Forum (IDA)	1,255	8.6	975	9.1	1,152	12.5
IDA and AAA Concurrently	12	*	2	*	10	0.1
Total Transmitted for Arbitration	11,277	77.8	8,286	77.1	6,446	70.2
Total Closed	14,548	100.0%	10,753	100.0%	9,186	100.0%
Pending Disposition	11,419		8,627		3,212	

\*less than 0.1

Table 39  
SOURCES OF APPLICATIONS FOR NO-FAULT ARBITRATION  
1994-1996

	<u>1996</u>		<u>1995</u>		<u>1994</u>	
	<u>No. of Disposition Cases</u>	<u>Percent of Total</u>	<u>No. of Disposition Cases</u>	<u>Percent of Total</u>	<u>No. of Disposition Cases</u>	<u>Percent of Total</u>
Applications Made by Assignee	21,514	82.9%	14,895	76.9%	8,504	68.6%
Applications Made by Claimants	4,453	17.1	4,485	23.1	3,894	31.4
Total	25,967	100.0%	19,380	100.0%	12,398	100.0%

## 2) Changes in the No-Fault Law and Regulations

Chapter 726 of the Laws of 1993 amended New York's no-fault law in order to permit motor vehicle insurers to provide no-fault managed care programs for policyholders who elect to have their health care services provided pursuant to such programs. The managed care coverage differs from that presently provided by no-fault insurers because it requires, except in very limited circumstances, that all health-related matters be administered through a managed care organization.

The purpose of this legislation is to reduce costs and enhance the quality of medical and other health care services applicable to motor vehicle no-fault insurance policyholders, covered persons, insurers and self-insurers, by providing managed care alternatives for delivery of such services. If the insurer provides a managed care program, insureds, at their option, can choose either to participate in the managed care program or remain with the traditional fee-for-service no-fault coverage.

The Department has approved three Managed Care Organizations to provide medical/health-related services and has two applications pending. In addition, three insurers have had their managed care programs certified by the Department.

The Twenty-Fourth Amendment to Regulation 83 was promulgated as an emergency measure effective October 1, 1996. The Regulation adopted the amendments to the existing medical, chiropractic and psychological services fee schedules which were prepared and established by the chair of the Workers' Compensation Board. The Insurance Department is required to do this by Article 51 of the Insurance Law.

### b. Other Changes in Laws of Relevance to Auto Insurers

#### 1) "2% Rule" extended to August 1, 1998

Sections 464 and 465 of Chapter 309 of the Laws of 1996 extended until August 1, 1998 the provisions of Section 3425 of the Insurance Law which limit to 2% the maximum number of voluntarily written policies that may be nonrenewed in each territory.

#### 2) Nonrenewal Solely on the Basis of the Age of a Vehicle Prohibited

Chapter 136 of the Laws of 1996, which became effective August 10, 1996, added a new subsection (c) to Section 3435-a of the Insurance Law. This subsection prohibits insurers from refusing to renew an existing motor vehicle liability insurance policy solely on the basis of the age of the vehicle to be used unless such decision is based on sound underwriting and actuarial principles reasonably related to actual or anticipated loss experience.

#### 3) Standards for Determining the Maximum Discount on Theft and Comprehensive Coverage

Chapter 86 of the Laws of 1996, effective January 1, 1997, amended Section 2337 of the Insurance Law. This Section provides that the maximum discount on theft and comprehensive motor vehicle coverage for all anti-theft devices shall be an appropriate discount based on sound actuarial practices and limited only by sound actuarial determinations.

#### 4) Treatment of Out-of-State Licensing of Members of the Armed Forces

Chapter 416 of the Laws of 1996 amended Section 3435-a of the Insurance Law effective October 31, 1996. This amendment provides that insurers shall not deny motor vehicle coverage to persons who served in the Army, Navy, Air Force or Marines who maintained a valid out-of-state or out-of-country driver's license during the 39-month period prior to application for such insurance coverage in New York. It further provides that such individuals shall be treated as if continuous licensing had been maintained in New York during such period.

#### 5) Airbag Safety and Anti-theft Act

Chapter 161 of the Laws of 1996, effective June 18, 1996, amended Sections 3411 and 3412 of the Insurance Law and Sections 301, 398-d, 415-a, 603, 605 of the Vehicle and Traffic Law, and added Sections 119-b and 415-c to the Vehicle and Traffic Law, by establishing the airbag safety and anti-theft act. It provides for inspection of airbag systems as part of motor vehicle safety inspections; requires replacement of deployed airbags as part of motor vehicle physical damage claims; and requires motor vehicle repairers to list on invoices the name and address of the source of replacement airbags.

#### 6) Zero Tolerance for Anyone Under 21 Who Drinks and Drives

Congress passed legislation that would withhold up to 10% of a state's federal highway funding if that state fails to pass legislation making it illegal for motorists under age 21 to operate a vehicle with a blood alcohol concentration of 0.02% or greater.

In New York, effective November 1, 1996, the following penalties apply to minors found driving with a blood alcohol level in excess of 0.02% but not more than 0.07%: first offense--loss of license for six months; second or additional offense--loss of license for one year or until reaching age 21, whichever is greater.

Notices regarding alcohol and drugs are described in Circular Letter #8 (1992). Alcohol and drug offenses are described in Section 1192 of the Vehicle and Traffic Law. An informational statement showing legal and financial consequences of driving while operating a motor vehicle while under the influence of alcohol or drugs is required by Section 312.1(a) of the Vehicle and Traffic Law. These notices will have to be revised to include the additional penalties to be imposed on minors.

#### 7) Multi-tier Programs for Private Passenger Motor Vehicle Insurance

In 1995, the Legislature amended the Insurance Law by creating a new Section 2349 which permits the establishment of multi-tier programs for private passenger motor vehicle insurance to encourage depopulation of the New York Automobile Insurance Plan (Assigned Risk Plan). Multi-tiering allows insurers to move a portion of their policyholders from lower-rated tiers to higher-rated tiers within an approved multi-tier program. Regulation 150, effective December 1, 1995, established standards for multi-tier programs. It is anticipated that multi-tiered rating systems will enable policyholders to remain with a voluntary insurer rather than being nonrenewed and forced to seek coverage through the Assigned Risk Plan. During 1996, eight insurers received approval for multi-tier programs pursuant to this Regulation.

c. Regulations and Circular Letters of interest to Auto Insurers

1) Sixth Amendment to Regulation 35-A: Minimum Provisions for Automobile Liability Policies--reflects the statutory increase in the mandatory minimum liability limits to \$25,000 for bodily injury to one person/ \$50,000 per accident; and \$10,000 for property damage.

2) First Amendment to Regulation 35-B: Liability Insurance Covering Snowmobiles--brings the Regulation into technical conformity with the current provisions of the Parks, Recreation and Historic Preservation Law, by specifying that the minimum required liability insurance limits for such vehicles are \$10,000 per person/ \$20,000 per occurrence.

3) Second Amendment to Regulation 35-D: Supplementary Uninsured Motorists Insurance--a Court of Appeals decision in *Mostow v. State Farm Insurance Companies* 628 N.Y.S. 2d 146 (NY A.D. 2d Dept., 1995) found that policy language in the Supplementary Uninsured Motorists Endorsement was ambiguous and could result in injured persons receiving unequal amounts for damages. The Second Amendment to Regulation 35-D revises the prescribed Supplementary Uninsured Motorists Endorsement required by Section 3420 of the Insurance Law by clarifying that the per accident limit of liability is also subject to the per person limit of liability.

4) The Third Amendment to Regulation 79: Mandatory Underwriting Inspection Requirements for Private Passenger Automobiles--added situations in which insurers may elect to waive the mandatory photo inspection of private passenger motor vehicles for physical damage coverage. Where the possibility of fraud is minimal, waiver of the inspection reduces insurers' costs without compromising the intended benefits of the Regulation.

5) Accident Prevention Course Sponsors List Updated

Circular Letter No. 13 (1996) updates and supersedes earlier Circular Letters to advise motor vehicle insurers of all Motor Vehicle Accident Prevention Course sponsors now approved by the Department of Motor Vehicles. The Circular Letter provides an updated list of course sponsors.

6) Revised Endorsement for Uninsured Motorists Coverage

Supplements Nos. 1 and 2 to Circular Letter No. 15 (1995) informed all property and casualty insurers that the Motor Vehicle Accident Indemnification Corporation (MVAIC) filed and the Superintendent approved revisions to the New York Uninsured Motorists Endorsement. The revisions reflect the increase in the minimum limits required to be provided pursuant to Section 3420 (f)(1) of the Insurance Law. This form must be used on all motor vehicle policies except those that provide supplementary uninsured motorists coverage.

d. Consumer Guide for Automobile Insurance

On October 1, 1996, the Department published two editions of the 1996 Consumers Guide to Automobile Insurance, one for upstate New York residents and one for downstate residents. These guides are required by Section 337 of the Insurance Law to be updated annually. The comprehensive guides help consumers determine how much auto insurance they need and explain all mandatory and optional coverages available in New York State. The guides contain lists of insurers, phone numbers, and sample rates to facilitate comparison shopping. 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 and are available free of charge from the Insurance Department.

## **8. Medical Malpractice Insurance**

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

Chapter 639 of the Laws of 1996 extended for three years 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, 1995.

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-First Amendment to Regulation 101, which was promulgated on September 19, 1996 as an emergency measure, established primary medical malpractice insurance rates in New York for the July 1, 1996 through June 30, 1997 policy year. Although some physicians' rates remained unchanged from the previous year, the majority of New York State's physicians' rates decreased. Simultaneously approved classification and territory changes for all insurers resulted in rate changes for some insureds that ranged between -34.5% and +10%.

Policy year 1996 was the first time since 1991 that the Superintendent established an average rate decrease. For the intervening years, the rates were, on average, either increased or left unchanged. The analysis of medical malpractice insurance company experience showed, in general, a decrease in the severity of claims against doctors in New York, while the frequency of lawsuits continued to rise. Overall, it was determined that rates could be reduced 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 1996-1997 policy year, based on a review of the segregated account reports received October 1, 1995, 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 any time during the period 7/1/85 through 6/30/95 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 7/1/96 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, 1995. 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, 1995. The surcharge collected from these physicians was remitted to insurers in the following proportions:

Medical Liability Mutual Insurance Company	58.30%
Physicians Reciprocal Insurers	23.05
Group Council Mutual Insurance Company	6.65
Frontier Insurance Company	6.30
Medical Malpractice Insurance Association	3.00
Legion Insurance Company	1.05
Academic Health Professionals Insurance Association	1.00
Hospital Underwriters Mutual Insurance Company	0.65
Total	100.00%

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 details, see Annual Reports for prior years.) For the Twenty-first 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. Rates for Excess Insurance Coverage

The rates for first and second excess layers of insurance coverage established for the policy year July 1, 1996 through June 30, 1997 were reduced between 18% and 25% from those established 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:

	Purchased by the Physician	Purchased by a Hospital on Behalf of the Physician
First Excess Layer <sup>a</sup>	19.4%	21.5%
Second Excess Layer <sup>b</sup>	13.1%	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 policy period July 1, 1985 through June 30, 1999, 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, 1995.



## 9. Homeowners Insurance

### a. New York Coastal Areas

In 1996, 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 state-wide. However, due to major disasters such as Hurricane Andrew, insurers continue to revise their eligibility criteria by limiting the number of policies written, particularly for properties located within a specific distance from shore.

As in prior years, the Department continues to closely monitor the coastal situation. We have continued to meet with Long Island homeowners, community leaders, industry, federal agencies, legislators and other concerned 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 (212-602-0541 or 800-522-4370). Where appropriate, we have intervened on their behalf 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 Insurance Department has 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 and encouraging 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 (also known as the FAIR Plan.) 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.

Effective April 2, 1996, the Superintendent activated the Department's Coastal Market Assistance Program (C-MAP) to accept applications. The 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 the C-MAP can be obtained through most insurance producers or through NYPIUA at 212-208-9898. Most companies participating in the C-MAP are making use of the wrap-around coverage forms mentioned above.

As of December 31, 1996, 945 policies have been issued through the C-MAP. The Department believes the C-MAP will continue to help consumers secure vital homeowners coverage while still addressing insurers' coastal area concerns.

### b. Legislation, Regulations and Circular Letters

The Legislature enacted several laws designed to monitor the marketplace in designated geographical areas and to improve the availability of homeowners insurance. This legislation was embodied in Chapter 42 of the Laws of 1996 which:

1) Permits insurers to offer multi-tiered rating programs, enabling insurers to establish more than one homeowners insurance rate level in the same company. This should enhance the availability in the voluntary market of homeowners insurance in coastal areas.

2) Requires insurance companies seeking to substantially reduce the number of homeowners insurance policies written in New York State to submit a plan to the Superintendent outlining how the withdrawal can be accomplished in a manner that minimizes market disruptions. An insurer may not withdraw from New York until its plan is approved by the Superintendent.

3) Extends the operating authority of NYPIUA to April 30, 1997, thus maintaining the safety net for residents unable to obtain insurance in the voluntary market. The Superintendent of Insurance may also authorize NYPIUA to provide expanded homeowners coverage if deemed necessary. (NYPIUA provides fire and extended coverages, which includes windstorms under the peril "wind and hail," as well as coverage for damage to contents for homeowners who cannot obtain coverage in the voluntary market. However, the premium for such coverage is 20% higher than that in the voluntary market--as determined by the Insurance Services Office's loss costs--and NYPIUA does not provide protection for theft or personal liability. A consumer would then have to purchase these other coverages separately at an additional cost.)

4) Established a temporary panel on homeowners insurance coverage to examine and assess the problems affecting the availability and affordability of homeowners insurance/catastrophe coverage in the State. On October 1, 1996, the panel's report was submitted to the Governor and the Legislature. The panel recommended that the Insurance Department:

- explore the use and credibility of catastrophe models;
- approve mandatory deductibles for hurricane losses; and
- seek broader participation in C-MAP along with improvements in the application process and efforts to inform and educate agents, companies, and consumers.

In addition, the panel recommended that the Legislature:

- make NYPIUA permanent;
- allow insurers to establish catastrophe reserves;
- allow a Hurricane Pool to be established within NYPIUA; and
- authorize NYPIUA to establish a hurricane exposure-related take out/keep out credit provision.

5) Requires the Superintendent of Insurance to conduct a study of market dynamics of homeowners insurance policies written, canceled, or nonrenewed in designated geographic areas, and to report to the Governor and the Legislature on or before February 15, 1997.

In accordance with the above legislation, the Department promulgated Regulation 154 on an emergency basis, effective June 25, 1996, to establish standards for the definitions of "material reduction of volume of policies" and to establish 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. It also defines those areas in which the Superintendent has deemed that writings by NYPIUA had increased significantly since January 1, 1992. The Department issued Circular Letter #10 on July 16, 1996, to set forth the standards to be followed by insurers in completing reports to be filed in accordance with Regulation 154.

The Department also issued Circular Letter #15 on October 16, 1996, to advise insurance companies that write flood insurance policies through the "Write Your Own Program" that these policies are also subject to the claims-paying practices provisions of Insurance Law Section 2601 and Department Regulation 64. These provisions are intended to provide consumer safeguards.

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

An analysis of recent rate filings revealed that some of the proposed rate revisions were not based on past claims, but rather on the potential that a hurricane would hit Long Island. The filings include a catastrophe factor developed from a computer simulation that would predict the amount of loss for numerous projected storms and the probability that such storms would make landfall in New York. These models have indicated catastrophic loadings of more than 20% in some cases. Historically, approximately 2% of the homeowners premium was attributed to catastrophe loading.

The Insurance Department's statutory responsibility is to ensure that the rates filed by insurers are adequate, not excessive, and not unfairly discriminatory. Accordingly, with respect to catastrophe models, the Department must determine if the various models are statistically valid and produce reasonable results. In order to make these determinations, insurers are required to submit all of the underlying support and assumptions that were taken into consideration in the derivation of the proposed rates. Although insurers have provided the Department with all available information, the underlying data, assumptions and key components of modeling methodologies used have been retained by the developers of these models, citing the proprietary nature of the information. While Department actuaries have met with several developers of models on a number of occasions and continue to research and study the facts, figures, and assumptions surrounding this issue, the Department does not have the resources necessary to adequately analyze the validity of catastrophe modeling. Accordingly, this rating method has not as yet been accepted by the Department.

However, the Department recently changed its policy to permit insurers to reflect a catastrophe reinsurance load in homeowners rate filings. Since February 1996, when this policy change took effect, approximately 12 rate filings that include such loading have been acknowledged.

In addition, the Department is closely following the work done on catastrophe modeling by Insurance Departments in Florida and Louisiana. The Department is also a member of the Personal Lines P/C Insurance Committee and the Catastrophe Insurance Working Group of the NAIC, and chairs its Catastrophe Modeling subgroup, which is currently focusing on state, federal, industry and NAIC acceptability of tax deductible catastrophe reserves, as well as various accounting standards that would be required to be developed.

#### d. Seaford Office

In order to assist consumers on Long Island who are experiencing problems obtaining homeowners policies, the Department opened a satellite office located at 3886 Merrick Road in Seaford, New York. This office is designed to provide consumers with information that will assist them in obtaining insurance protection for their homes, and is staffed by Department examiners during regular business hours. Consumers can contact the staff at the Seaford office by either appearing in person or by telephone (800-300-4593 and 800-300-4576).

#### e. Homeowners Shopping Guide

The Insurance Department issued its Consumers Shopping Guide for Homeowners and Tenants Insurance in 1996. The guide, which is published in upstate and downstate versions, includes chapters on choosing a policy; evaluating your needs; maintaining adequate coverage; loss mitigation techniques; cancellations and nonrenewals; and filing a complaint.

The guide discusses perils that are covered by the basic HO-1 and HO-2 policies, as well as by the HO-3, the most common homeowners policy form. Buying tips are also included for tenants as well as cooperative and condominium owners. Price comparisons are included for the top 25 homeowners writers in New York State for four typical policies (HO-2, HO-3, HO-4, and HO-6).

The Department's Property/Casualty Bureau was recently honored for this publication by the New York Library Association.

**f. Homeowner's Environmental Loss Protection (HELP) Program**

The Department approved an innovative program that provides protection against the costs of cleanup, property damage, and fuel oil tank repair or replacement caused by the accidental release of fuel oil from a homeowner's heating system. These types of events are generally excluded from traditional homeowners insurance policies. The program is operational as of April 1, 1996. (Continuation of the HELP program in 1997 is in question, however, because of reports of the program's adverse loss experience.)

**10. Market Conduct Activities**

**a. Market Conduct Fines Collected**

The Property/Casualty 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 33 investigations in progress at the beginning of 1996. Thirty market conduct investigations were initiated during the year and 36 investigations were closed in the course of the year, leaving 27 investigations in progress at year end. One of the two statutory examinations of rate service organizations in progress during the year was filed. Fifty-one stipulations were entered into during the year. The fines collected as a result of admitted violations totaled \$2,136,925.

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

Section 3425 limits the total number of nonrenewals of personal automobile insurance policies that an insurer is allowed. Generally, an insurer is permitted to nonrenew 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), ten stipulated fines totaling \$ 99,750 were collected during calendar year 1996 (included in the total in Item 10a above).

**c. Penalties Imposed for Late Filings of Form 131-A**

Regulation 131 was promulgated on July 13, 1987, setting forth data reporting requirements for commercial property/casualty insurers. Regulation 131 implements Section 334 of the Insurance Law, which is the reporting or sunshine component of omnibus legislation enacted by Chapter 220 of the Laws of 1986 in response to the liability insurance availability and affordability crisis. The Superintendent submits every May 1 an Annual Commercial Property/Casualty Insurance Report to the Governor and the Legislature, based upon data received from insurers concerning commercial risk, public entity and professional liability insurance costs, experience and profitability.

Section 162.4(a) of Regulation 131 requires all insurers to complete Form 131-A for New York experience, setting forth direct written premiums for selected markets for each calendar year. These forms had to be completed by insurers for calendar year 1994 and submitted to the Department no later than April 15, 1996. Based on an analysis of these forms, some insurers would be required to submit further statistical data on reporting Forms 131-B, C, E, & F.

A review of insurers' compliance with Regulation 131 disclosed that many insurers had not submitted Form 131-A to the Department by the required date. As a result of this review, these companies were informed that a penalty was being imposed for late filings. Previously, insurers that had not submitted Form 131-A by the required date paid penalties based upon the number of calendar days the required form was late.

The Court of Appeals, in a 1990 decision, ruled that failure to file the 131-A form constitutes one offense regardless of the number of days the required form was late. Therefore, the maximum fine imposed is limited to the maximum penalty per offense applicable to violations of the Insurance Law, which is \$500. During calendar year 1996, 87 insurers paid a total of \$ 43,500 in penalties for late filings of Form 131-A. This represents a \$500 penalty for late filing for each company not in compliance with the Regulation. In addition, two insurers paid \$ 500 each for failing to submit the additional data required on reporting Forms 131-B, C, E & F.

d. Penalties for Failure to Pay No-Fault Arbitration Awards Timely

The No-Fault Claims Administration Unit of the Property/Casualty 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 1996, the Department collected fines totaling \$119,500 from 81 companies for their failure to pay arbitration awards in a timely manner.

e. Overcharges Remitted to Policyholders

As a result of the terms agreed to in stipulated settlements of market conduct investigations of underwriting and rating practices of commercial risks, several insurers were required to perform re-rating reviews for the periods specified. As a consequence of these reviews, four insurers refunded \$441,976 in premium overcharges.

f. Underpayments Remitted to Claimants

As a result of findings of previous market conduct investigations verifying compliance with Insurance Department Regulations 64 and 68, 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, nine insurers remitted \$ 1,766,798.

g. Availability of Homeowners Insurance in Coastal Areas

A series of new initiatives was undertaken by the Insurance Department to make homeowners insurance available to all coastal homeowners. (This subject is discussed in greater detail in Sections 2 and 10 above.) Several market conduct investigations of insurance companies to review their homeowners insurance underwriting and claim practices state-wide were initiated and are continuing.

h. New York State Financial Security Program

On July 1, 1984, Article 6 of the Vehicle and Traffic Law, the "Motor Vehicle Financial Security Act," was enacted, along with new provisions to Part 34 of the Department of Motor Vehicles (DMV) Commissioner's Regulations and Section 317 of the New York Insurance Law. As part of the Financial Security Program, insurers are required, upon termination of automobile liability policies in effect for six months or less, to report such termination to the DMV no later than 30 days following the effective date of the policy termination. While the DMV is responsible for informing the Insurance Department of violators of these reporting requirements, the Insurance Department is responsible for enforcing insurer compliance.

Based upon reports received from the DMV, there appears to be a noticeable increase in both the number of late policy terminations filed and the number of insurers that are making these late filings. The success of the Financial Security Program is of utmost importance because of its deterrent effect on the uninsured motorist population. In addition, late filings may cause unwarranted suspensions of driver's licenses and result in complaints from motorists, agents and brokers.

Accordingly, the Department, with the cooperation of the DMV, has increased its market conduct surveillance in this area. During 1996, the Colonial Penn Insurance Company stipulated to a penalty of \$301,400 (included in the total in Item 10a above) for violations of the Financial Security reporting requirements. It is expected that additional market conduct actions will be taken against other insurers during 1997.

**11. Regulatory Reform**

The Department's effort to streamline and update the regulatory process continued in 1996.

Insurance Department Regulation 51, *Required Provisions of Umbrella Excess Liability Policies & Conditional Suspension of Filing Requirements of Article VIII of the Insurance Law*, was repealed and its remaining provisions were incorporated in the Second Amendment to Regulation 129, *Flexible Rating System; Rating Plans, Tort Reform Refiling Requirements*. The amendment revised the filing requirements for individually rated risks, which are no longer required to be filed with the Department. (Information that was previously filed with us must be maintained in the insurer's underwriting file and be available for inspection by the Department.) The filing requirements for commercial umbrella excess policies had been the primary subject of Regulation 51; Regulation 129 now adequately addresses those policies as well. In addition, Regulation 57, *Responsibilities in Construction and Application of Rates*, was amended to update Insurance Law references and to eliminate obsolete and redundant provisions.

Concurrent with these amendments, Circular Letter No. 4 was issued to advise insurers of the revisions and to guide them in complying with them. In recent years, the Department processed an average of more than 50,000 individual risk filings annually.

The First Amendment to Regulation 76, *Surety Bond Forms - Waiver of the Filing and Prior Approval Requirements of Section 2307 of the Insurance Law*, was promulgated to update Insurance Law references to conform with the recodified version of the law.

The Fourth Amendment to Regulation 90, *Prohibition of Geographical Redlining in Writing Private Passenger Automobile and Fire or Fire and Extended Coverage Insurance Policies*, raised the reporting threshold for policies of fire and fire and extended coverage. Previously, insurers were required to file reports if their total direct writings were \$350,000, but as of July 1, 1996 the requirement is waived if total direct writings are below \$500,000.

In order to reduce the cost and effort of compliance with the requirements of Regulation 90, Circular Letter No. 17 (1996) was distributed to property/casualty insurers subject to the reporting requirements of the Regulation. The Circular Letter set forth streamlined and automated standards for the completion of reports required by the Regulation. The Department developed various standard PC based specifications to facilitate data capture using either Lotus 1-2-3 or Microsoft Excel. The Insurance Department provides a reporting package containing the necessary diskettes and instructions.

## **12. Reports Issued**

In addition to the reports and publications mentioned previously (for example, the *Automobile Shopper's Guide*), the Department issued several other reports in accordance with our mandate.

### **a. Gap Insurance**

Legislation enacted as part of the Omnibus Consumer Protection and Banking Act of 1994 (Chapter 1 of the Laws of 1994) added gap insurance as a new kind of insurance. The law authorizes motor vehicle gap insurance for lessees as well as motor vehicle lessor insurance for lessors that sell gap waivers. The law also authorizes motor vehicle gap insurance for borrowers and lenders under credit transactions, such as loan agreements. Gaps exist under a lease if a lessee of a vehicle that is totaled or stolen has a financial obligation to the lessor that exceeds the actual cash value of the vehicle as determined by the lessee's physical damage insurer. Gaps exist under a loan agreement when at the time of the loss the size of the outstanding loan balance exceeds the actual cash value of the motor vehicle.

In accordance with Section 339 of the Insurance Law, a report providing an assessment of the market availability of gap insurance was submitted to the Governor and the Legislature. The report contained a list of all insurers licensed to provide gap insurance, a cost comparison among companies, the market share such insurers of gap insurance represent, a summary of any consumer, agent and insurer complaints regarding gap insurance and general recommendations.

Overall, the Department found that the gap insurance market is highly specialized. While 58 insurers are licensed to write gap insurance, only 16 have submitted filings, and two filings have been approved. It appears that there was more interest in gap insurance when it was unregulated. The Department also found that it is too early to draw any conclusions regarding gap insurance since only two programs are in effect. For now, the Department is of the opinion that the current regulation affords protection to the consumer and should remain in effect.

**b. Report on Insurance Law Section 3425**

In accordance with Chapter 647 of the Laws of 1992, a report to the Legislature was made by March 15, 1996 on compliance with the provisions of Section 3425 of the Insurance Law, which governs cancellation and nonrenewal of private passenger automobile insurance policies. This Section, in part, permits insurers to nonrenew or conditionally renew up to 2% of the automobile insurance business within each of their rating territories.

The report, *The Statistical Analysis of the Operations of Subsections (f) and (m) of Section 3425 of the Insurance Law in Relation to Private Passenger Automobile Insurance Policies*, includes an analysis of data received from insurers regarding the number of new policyholders, nonrenewed policyholders, and business written by insurers in each of their rating territories, as well as the Department's conclusions and recommendations.

**c. New York Automobile Insurance Plan Report**

The Department submitted to the Governor and the Legislature its biennial report on the New York Automobile Insurance Plan as prescribed by Section 338 of the Insurance Law. The Report includes demographic information on the drivers in the Auto Plan; a description of the Department's efforts in maintaining or reducing the population of the Plan; an analysis of cancellations and nonrenewal of voluntary private passenger insurance policies based on geographic location of the risk; a review of enforcement of the anti-geographic discrimination provisions of the Insurance Law in regard to private passenger auto insurance; and recommendations for statutory or administrative changes to reduce or maintain the Plan's population.

**d. The Annual Commercial Property/Casualty Report**

As required by Section 334 of the Insurance Law, since 1989, the Department has collected from licensed property/casualty insurers (in accordance with Regulation 131), annual statement experience for selected lines of insurance; loss experience for selected lines of insurance; commercial claims reports; commercial claims summaries; and premium deviations. The report was submitted May 1, 1996, and included data through the 1993 policy year.

**13. Individual Policyholder Complaints and General Inquiries**

Certain types of complaints and inquiries are processed independently of the Consumer Services Bureau. A total of 2,390 such complaints and inquiries were received in 1996 by the Property/Casualty Bureau. This total consisted of 1,371 involving personal automobile insurance, including 938 no-fault complaints and inquiries; 88 involving commercial automobile insurance (including 2 no-fault complaints and inquiries); 187 involving homeowners insurance; 298 involving other liability insurance; 80 involving commercial multiple peril; 87 involving medical malpractice; 24 involving title insurance; and 255 involving all other types of insurance, including fire and allied lines, surety, inland marine, workers' compensation, etc.



## **Casualty Actuarial**

Casualty Actuarial reviews rate filings for workers' compensation insurance, private passenger automobile insurance, and private passenger and commercial insurance offered through the Automobile Insurance Plan (AIP). All workers' compensation filings are subject to prior approval. Private passenger automobile filings for increases not exceeding 7% can generally be implemented without prior approval under New York's "flex rating" statute (effective 7/1/95). However, filings for the Automobile Insurance Plan and voluntary filings that exceed 7% or involving classification revisions are subject to prior approval. Private passenger automobile and workers' compensation insurance are the largest (in terms of premium volume) of the property/casualty coverages, accounting for roughly \$11 billion of premium volume in 1996.

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

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 modifications. These changes must be adequately justified.

In 1996, the Department approved 29 rate requests for changes in private passenger automobile rates. Many approved rate increases reflect some reduction from the requested changes. Furthermore, in 1996 there were 34 overall rate changes implemented on a file-and-use basis. Seven insurers received approval for new automobile programs in New York. Table 40 lists both requested and approved rate changes as well as flex-rating changes, and provides the liability and physical damage components of the approved changes.

The average change for insurers receiving rate changes in 1996 was approximately 3.1%. For those insurers, liability rates increased 8.5% on average, while physical damage (primarily collision and theft coverages) declined 5% on average. The 63 insurers receiving rate changes in 1996 represent 37% of the total market for private passenger automobile insurance. The overall impact on the rate level was an average increase of 1.16%. The largest insurer implementing a rate increase was Nationwide, with a 3.6% market share.

Table 40

**PRIVATE PASSENGER AUTOMOBILE RATE CHANGES IMPLEMENTED IN 1996<sup>1</sup>**

Renewal Effective Date	Insurance Company or Group	Market Share (%)	Requested Change (%)	Rate (%) Changes <sup>2</sup>		Total Change (%)
				Liability	Physical Damage	
05/01/96	Nationwide Mutual Ins Co <sup>3</sup>	3.55	4.24	13.56	-9.16	4.24
11/20/95	General Accident Ins Group <sup>3</sup>	3.01	4.57	12.39	-11.38	4.57
07/01/96	New York Central Mutual Fire Ins Co <sup>3</sup>	3.00	1.50	5.53	-6.43	1.50
03/15/96	AETNA: AIC of Hartford; Standard Fire <sup>3</sup>	2.84	0.98	0.96	1.03	0.98
07/15/96	Liberty Mutual Fire Ins Co; Liberty Ins Corp <sup>3</sup>	2.81	2.51	4.15	0.00	2.51
01/26/96;	{Progressive: NCIC; PCIC; PSIC; UFCC} <sup>3</sup>	2.35	6.04	10.67	0.00	6.04
02/20/96.	{Progressive: NCIC; PCIC; PSIC; UFCC}					
06/17/96	Allstate Indemnity Co <sup>3</sup>	1.81	-0.64	14.22	-10.97	-0.64
01/01/96	Metropolitan P&C Ins Group <sup>3</sup>	1.71	3.59	9.53	-4.87	3.59
04/15/96	USAA Ins Group <sup>4</sup>	1.62	1.83	6.14	-5.94	1.04
06/30/96;	{Kemper Ins Group} <sup>3,4</sup>	1.60	0.13	0.01	0.37	0.13
07/01/96.	{Kemper Ins Group}					
07/01/96	Amica Mutual Ins Co <sup>4</sup>	1.16	0.61	3.40	-4.38	0.53
07/31/96	Commercial Union Ins Group <sup>3</sup>	1.13	0.85	3.47	-3.66	0.85
04/01/96	ITT Hartford Ins Group <sup>3</sup>	1.03	4.93	10.08	-4.15	4.93
06/01/96	Bankers & Shippers Ins Co <sup>4</sup>	0.92	7.17	13.73	-6.60	7.17
03/01/96	Utica: GAMIC; RFIC; UMIC <sup>3</sup>	0.81	-0.83	-0.74	-1.00	-0.83
07/01/96	Maryland Ins Group <sup>4</sup>	0.73	14.16	22.00	-3.46	11.60
08/04/96	National Grange Mutual Ins Co <sup>4</sup>	0.71	5.22	11.19	-5.00	5.52
09/01/96	Empire Ins Group <sup>3</sup>	0.69	6.46	9.97	0.00	6.46
04/22/96	Motors Ins Corp; CIM Ins Corp <sup>4</sup>	0.55	-17.81	0.00	-13.75	-13.75
08/26/96	Colonial Penn Ins Group <sup>3</sup>	0.52	-1.11	-1.30	-0.77	-1.11
07/14/96	AIG: AHAC; NUFIC <sup>3</sup>	0.36	3.64	4.83	-3.50	3.64
01/01/96;	{Interboro Mutual Indemnity Ins Co} <sup>3</sup>	0.35	12.18	25.08	-9.02	12.18
02/01/97.	{Interboro Mutual Indemnity Ins Co}					
05/01/96;	{Atlantic Mutual Ins Group} <sup>4,3</sup>	0.35	12.52	28.53	-6.13	10.73
10/15/96.	{Atlantic Mutual Ins Group}					
09/01/96	Merchants Mutual Ins; Merchants Ins Co of NH <sup>3</sup>	0.34	-2.45	2.55	-12.24	-2.45
08/15/96	Electric Ins Co <sup>4</sup>	0.28	9.69	25.84	-11.56	9.57
09/01/96	Fireman's Fund Ins Group <sup>4</sup>	0.24	5.80	5.80	5.80	5.80
12/01/96	Home Mutual Ins Co of Binghamton, NY <sup>4</sup>	0.22	19.78	30.83	0.00	19.78
07/22/96	Unigard Ins Group <sup>3</sup>	0.21	3.63	7.03	-0.89	3.63
06/10/96	GEICO Indemnity Ins Co <sup>4</sup>	0.21	4.78	4.68	4.90	4.78
09/01/96;	{St. Paul Guardian Ins Co} <sup>3</sup>	0.20	0.89	5.23	-3.42	0.89
09/14/96.	{St. Paul Guardian Ins Co}					
07/01/96	Farm Family Mutual Ins Co <sup>3</sup>	0.20	3.41	14.78	-15.82	3.41
08/01/96	Worcester Ins Co <sup>3</sup>	0.18	6.79	13.70	-4.59	6.79
06/01/96	New York Casualty Ins Co <sup>4</sup>	0.18	2.43	13.77	-18.84	1.47
09/20/96	CIGNA P&C Reinsurance Group <sup>4</sup>	0.18	28.18	35.00	5.5	26.55
06/01/96	Tri-State Consumer Ins Co <sup>3</sup>	0.17	5.02	5.08	4.93	5.02
03/15/96	Providence Washington Ins Co <sup>4</sup>	0.13	10.71	21.62	-4.77	10.71
12/29/95;	{Windsor Ins Co} <sup>3</sup>	0.11	4.68	9.25	-4.28	4.68
05/03/96.	{Windsor Ins Co}					
01/01/96	Eveready Ins Co <sup>3</sup>	0.10	2.12	0.15	4.04	2.12

Table 40

**PRIVATE PASSENGER AUTOMOBILE RATE CHANGES IMPLEMENTED IN 1996<sup>1</sup>**

Renewal Effective Date	Insurance Company or Group	Market Share (%)	Requested Change (%)	Rate (%) Changes <sup>2</sup>		Total Change (%)
				Liability	Physical Damage	
7/14/96	AIG: AIU; AIIC; INIC <sup>3</sup>	0.09	2.64	7.26	-1.80	2.64
5/04/96	Great American Ins Co; Agricultural Ins Co <sup>3</sup>	0.08	5.79	11.39	-2.60	5.79
1/01/96	Michigan Millers Mutual Ins Co <sup>3</sup>	0.06	4.88	10.39	-3.04	4.88
5/15/96	Blue Ridge Ins Co <sup>3</sup>	0.06	3.20	3.20	3.20	3.20
2/01/97	Sterling Ins Co <sup>4</sup>	0.06	0.34	2.93	-3.67	0.34
1/01/96	Agway Ins Co <sup>3</sup>	0.05	4.38	4.40	4.33	4.38
1/19/96	American States Ins Cos: AEIC; ASIC <sup>3</sup>	0.04	6.75	14.72	-5.43	6.75
5/01/96	Tokio Marine & Fire Ins Co <sup>4</sup>	0.04	5.95	16.86	0.00	5.95
3/06/96	Utica First Ins Co <sup>4</sup>	0.03	4.49	8.56	0.00	4.49
1/01/96	Pioneer Mutual Ins Co <sup>3</sup>	0.02	7.01	11.60	0.00	7.01
1/16/96	GEICO Casualty Co <sup>3</sup>	0.01	5.76	5.00	6.75	5.76
3/01/96	Greater NY Mut Ins Co; Ins Co of Greater NY <sup>4</sup>	0.00	-11.32	32.45	-41.09	-11.29
7/01/96	John Deere Ins Co <sup>4</sup>	0.00	9.87	20.92	-2.30	9.87
2/01/96	Central Mutual Ins Co <sup>4</sup>	0.00	-33.18	-34.59	-31.21	-33.18
3/23/96	TIG Ins Corp of America <sup>4,5</sup>	0.00	0.00	0.00	0.00	0.00
1/15/96	Travelers: TICOI; TICOC; THMIC <sup>4,5</sup>	0.00	0.00	0.00	0.00	0.00
1/30/96	Victoria Fire & Cas; Victoria Select Ins Cos <sup>4,5</sup>	0.00	0.00	0.00	0.00	0.00
1/01/96;	[TICO Ins Co]					
2/25/96;	[TICO Ins Co] <sup>3,4,6</sup>	0.00	-3.50	14.99	-25.86	-3.50
5/25/97.	[TICO Ins Co]					
1/11/96	Ins Co of the State of Pennsylvania <sup>4,5</sup>	0.00	0.00	0.00	0.00	0.00
5/10/96	Spirit Ins Co <sup>4,5</sup>	0.00	0.00	0.00	0.00	0.00
1/01/96	Dairyland Ins Co <sup>4,5</sup>	0.00	0.00	0.00	0.00	0.00
1/01/96	Granite State Ins Co <sup>3</sup>	0.00	3.88	9.35	-12.66	3.88
1/14/96	Merchants & Business Men's Mutual Ins Co <sup>4,5</sup>	0.00	0.00	0.00	0.00	0.00
1/01/96	Utica National Ins Co of Texas <sup>3</sup>	0.00	2.40	3.52	-16.60	2.40
1/01/96	Cincinnati Ins Co <sup>3</sup>	0.00	2.89	5.28	0.00	2.89

Average liability change for insurers receiving rate changes:	8.47%
Average physical damage change for insurers receiving rate changes:	-5.03%
Average change for insurers receiving rate changes:	3.14%
Total written premium of the above listed insurers (000's):	\$2,979,275
Percentage of total industry premium affected (cumulative market share):	37.09%
Overall effect on the total industry premium from the above changes:	1.16%

Under the flex-rating system now in effect, rate changes are either prior approval or file and use. Rate filings that include any classification changes are prior approval.

All rate changes are calculated using premiums obtained from 1994 Annual Statement data.

These are file and use changes that by statute are less than 7%. As a consequence of the above table using 1994 Annual Statement weights, a flex-rating change can have a "table"-calculated total change above 7%.

Prior Approval

New Program

Multi-Tier Program

Note: No change in Assigned Risk Plan private passenger automobile rates was approved in 1996.

## 2. New York Automobile Insurance Plan

The New York Automobile Insurance Plan (Assigned Risk Plan/AIP) did not file for a rate change in 1996 for private passenger automobiles written through the AIP which covers those drivers who cannot obtain coverage in the voluntary market. The last change was effective October 15, 1995 for new business and December 1, 1995 for renewals. The change was comprised of a 7.3% increase for liability coverages and a 13.9% decrease for physical damage coverages.

### a. Plan Experience in 1995 and 1996

#### (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 (excluding commercial autos) insured through the Plan decreased 0.6% for liability and decreased 2.4% for collision from 1995 to 1994. Table 41 shows a ten-year history for voluntary liability and assigned risk liability and collision earned car years. This marks the fifth consecutive year that assigned risk collision earned car years decreased from the previous year.

#### (ii) Risks by Surcharge Category

There were 1,268,850 private passenger earned car years for liability and 62,517 for collision coverage insured through the Plan in 1995. Table 42 shows the distribution of New York private passenger liability and collision assigned risks by surcharge category for 1993-1995.

#### (iii) Risks by Rating Territory

The proportion of all private passenger liability risks that were assigned risks in 1994 and 1995, listed by rating territory, is shown in Table 43. During 1994, 16.4% of all New York State private passenger automobiles were assigned risks as opposed to 16.0% in 1995. The number of voluntary risks increased 155,777 while the number of assigned risks decreased 3,779. The proportion of assigned risks was 10% or higher in 32 of the 70 rating territories in 1994 and was 10% or higher in 27 of the 70 in 1995. The highest 1995 ratio was 84.4% in the Bronx Territory and the lowest was 3.9% in the Syracuse Suburban Territory. Between 1994 and 1995, the percentage of assigned risks increased in 6 of the 70 rating territories, decreased in 62 rating territories, and remained the same in 2 rating territories. As usual, the congested urban areas of New York City produced the highest assigned risk-to-voluntary ratios in the State.

Table 44 displays a ten-year history of the percentage of assigned to voluntary risks by territory ranked from the highest down to the lowest.

**Table 41**  
**Earned Car Years**  
**Voluntary Liability and Assigned Risk Liability and Collision**  
**1986 - 1995**

<u>Calendar Year</u>	<u>Voluntary Liability</u>	<u>Change From Previous Year</u>	<u>Assigned Risk Liability</u>	<u>Change From Previous Year</u>	<u>Combined Liability</u>	<u>Change From Previous Year</u>	<u>Assigned Risk Collision</u>	<u>Change From Previous Year</u>
1986	6,038,283		1,022,690		7,060,973		63,975	
1987	6,241,010	3.4 %	1,173,197	14.7 %	7,414,207	5.0 %	83,019	29.8 %
1988	6,474,315	3.7	1,262,811	7.6	7,737,126	4.4	93,237	12.3
1989	6,427,253	-0.7	1,285,315	1.8	7,712,568	-0.3	112,538	20.7
1990	6,472,573	0.7	1,322,054	2.9	7,794,627	1.1	124,142	10.3
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	1,268,850	-0.6	7,912,455	1.9	62,517	-2.4

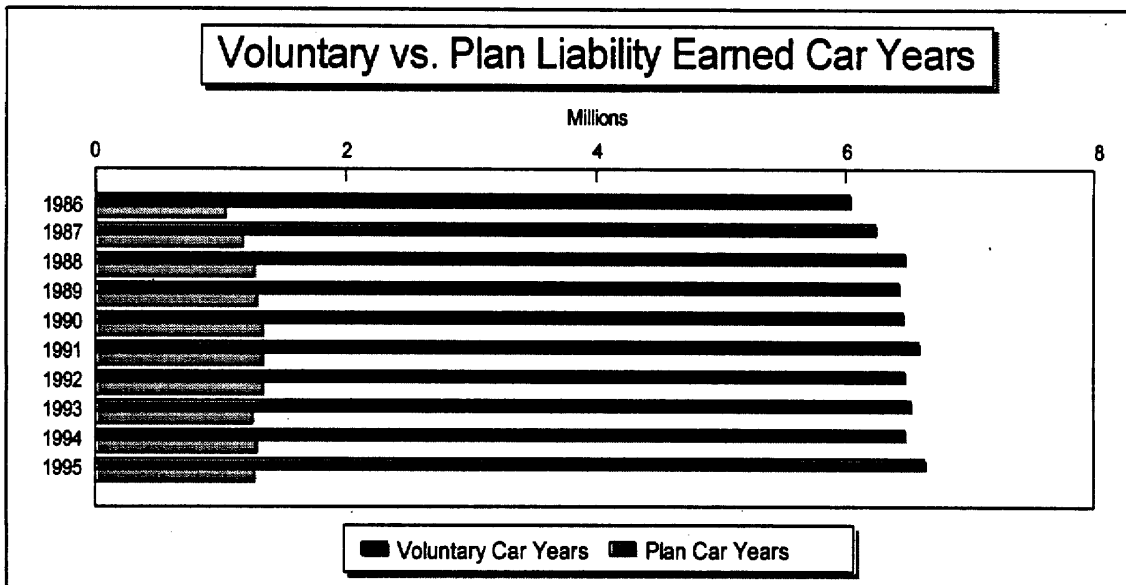


Table 42

Distribution of Private Passenger Liability and Collision Assigned Risks by Discount/Surcharge Category

Discount or Surcharge Category	Liability			Physical Damage*		
	1993	1994	1995	1993	1994	1995
Total, all categories	100.0 %	100.0 %	100.0 %	100.0	100.0 %	100.0 %
Total Unsurcharged	69.1	69.8	68.4	66.3	67.3	64.0
3 Years Claim Free (One or less with Plan) (Manual Rates)	40.9	39.5	36.4	38.4	36.6	33.6
Experience Discount						
4 Years (One or more with Plan) - 18% Credit	11.8	13.1	14.8	12.0	13.4	14.0
5 Years (Two or more with Plan) - 25% Credit	7.6	7.5	7.5	8.7	8.9	8.1
6 Years (Three or more with Plan) - 30% Credit or more	8.8	9.7	9.7	7.2	8.4	8.3
Total Surcharged	30.9	30.2	31.6	33.7	32.7	36.0
Inexperienced Operator Surcharge	12.8	12.4	13.4	7.4	7.9	10.1
Experience Surcharge						
15%	11.5	11.0	11.1	16.0	15.4	15.1
25%	0.0	0.0	0.0	0.0	0.0	0.0
35%	2.7	2.5	2.5	4.6	4.0	4.0
50%	1.1	1.2	1.3	1.2	1.3	1.4
75%	1.4	1.2	1.1	2.1	1.9	1.9
100%-150%	1.5	1.9	2.1	2.3	2.2	3.4

\* Discount/Surcharge for physical damage applies only to collision coverage  
 Source: Automobile Insurance Plans Service Office.







Table 44

Percentage of All Private Passenger Automobiles Insured Through the  
New York Automobile Insurance Plan by Territory  
1986 - 1995

Territory	1986	#	1987	#	1988	#	1989	#	1990	#	1991	#	1992	#	1993	#	1994	#	1995	#
01 Bronx Territory	76.8	1	79.2	1	79.7	1	81.1	1	81.6	1	81.7	1	82.9	1	83.7	1	86.0	1	84.4	1
19 Queens	51.7	2	54.5	2	54.5	2	55.1	2	55.4	2	52.8	2	51.9	2	51.0	2	60.9	2	62.0	2
18 Manhattan	41.3	3	43.0	3	43.4	3	45.2	3	45.9	3	46.2	3	47.1	3	45.8	3	46.5	3	46.5	3
17 Kings County	38.8	4	42.5	4	43.4	4	45.4	4	46.0	4	45.1	4	46.3	4	43.7	4	46.4	4	45.2	4
03 Bronx Suburban Territory	37.6	5	40.7	5	42.1	5	44.2	5	45.7	5	46.0	5	48.1	5	45.1	5	46.7	5	45.2	5
55 Queens Suburban	28.0	6	30.6	6	32.1	6	33.7	6	34.6	6	35.2	6	36.9	6	36.4	6	38.0	6	37.2	6
94 Mount Vernon and Yonkers	21.2	7	23.2	7	24.0	7	25.1	7	26.1	7	25.8	7	26.6	7	25.9	7	26.9	7	26.7	7
82 Sullivan County Central	17.7	8	19.9	8	20.4	8	21.3	8	21.7	8	21.2	8	23.2	8	22.1	8	20.4	8	18.8	8
05 Staten Island	14.5	11	15.5	11	15.8	11	16.1	11	16.6	9	17.3	9	18.9	9	18.3	9	19.5	9	18.6	9
95 White Plains	13.2	15	14.3	14	14.6	14	14.8	14	13.1	24	10.8	33	9.2	47	9.1	40	14.1	16	16.9	10
76 Suffolk County East	15.4	9	16.1	9	16.1	10	15.9	13	15.7	13	15.8	11	15.6	15	14.6	15	16.1	10	16.6	11
75 Suffolk County West	15.1	10	16.0	10	16.1	9	16.1	12	16.0	11	15.8	10	15.7	14	14.6	14	15.4	13	15.8	12
20 Hempstead	13.0	16	14.1	16	14.4	16	14.5	16	14.5	14	14.9	15	15.6	16	15.2	11	15.9	11	15.8	13
81 Monticello-Liberty	13.8	12	15.0	13	15.7	13	16.1	11	14.5	15	13.6	20	15.2	17	14.4	16	15.7	12	14.8	14
07 Buffalo	13.4	14	14.3	15	14.0	17	14.1	19	14.5	17	15.3	13	15.9	12	14.4	17	14.2	15	13.7	15
83 Sullivan County (Balance)	12.9	17	14.1	17	14.5	15	15.1	14	16.0	12	15.3	12	16.3	10	15.2	10	14.8	14	13.5	16
97 New York City Suburban	11.2	23	12.2	24	12.5	25	13.2	23	14.4	18	15.0	14	15.7	13	14.6	13	13.9	17	13.0	17
29 Gloversville	10.4	29	11.9	26	13.4	22	14.2	17	14.5	16	14.0	18	14.0	19	12.9	19	12.6	21	13.0	18
64 Middletown	12.2	18	13.1	19	13.5	21	13.6	21	13.9	20	14.1	17	16.1	11	15.2	12	13.8	18	12.7	19
62 Highland, Kingston	12.0	19	13.3	18	13.9	18	14.1	18	14.4	19	13.8	19	14.2	18	13.8	18	13.6	19	12.5	20
21 North Hempstead	10.4	27	11.3	33	11.3	33	11.3	33	11.5	32	11.9	27	12.5	23	12.0	21	12.2	22	12.0	21
34 Troy	11.0	24	12.4	22	13.4	23	13.3	22	13.5	22	13.0	22	13.2	21	12.9	20	13.0	20	11.9	22
37 Oswego	13.4	13	15.0	12	16.0	11	16.2	9	16.5	10	14.7	16	13.4	20	12.0	22	12.1	23	11.9	23
22 Oyster Bay	11.3	22	11.6	29	11.3	34	11.0	34	10.9	35	11.0	32	11.3	32	10.5	32	11.0	25	10.9	24
36 Glens Falls	9.5	33	12.0	25	13.7	19	13.9	20	13.7	21	13.1	21	12.7	22	11.0	26	10.9	26	10.9	25
68 Rockland County	11.6	20	12.3	23	12.4	26	12.3	28	12.1	30	12.0	25	12.3	25	11.6	23	11.2	24	10.1	26
58 Dutchess County (Balance)	10.2	30	11.6	30	12.1	30	12.4	27	12.4	28	11.8	28	12.0	28	11.0	28	10.6	29	10.0	27
33 Poughkeepsie	11.6	21	12.7	20	13.1	24	13.2	24	13.4	23	12.8	23	12.5	24	11.3	25	10.7	28	9.9	28
46 Putnam County	10.8	25	11.7	28	11.9	31	12.1	31	12.3	29	11.9	26	12.2	26	11.5	24	10.8	27	9.9	29
67 Clinton County, etc.	10.4	28	11.8	27	12.3	28	12.7	25	12.8	25	12.4	24	12.0	29	11.0	29	10.4	30	9.7	30
32 Newburgh	10.1	31	11.5	31	12.1	29	12.6	26	12.7	26	10.7	34	9.4	43	8.8	45	9.7	34	9.6	31
61 Delaware County, etc.	7.8	49	8.9	46	9.6	45	9.7	45	9.9	42	10.5	36	11.2	33	10.7	31	10.3	31	9.5	32
74 Jefferson County	10.0	32	11.5	32	12.4	27	12.1	30	12.4	27	11.8	29	12.0	27	11.0	27	10.1	32	9.3	33
65 Ossining	9.4	35	10.2	37	10.7	37	10.8	36	11.1	34	11.2	30	12.0	30	10.8	30	9.9	33	9.2	34
59 Columbia County, etc.	9.1	36	9.9	39	9.8	44	9.7	44	9.8	45	9.3	42	9.7	39	9.4	36	9.2	37	9.0	35

Territory	1986	#	1987	#	1988	#	1989	#	1990	#	1991	#	1992	#	1993	#	1994	#	1995	#
13 Albany	8.4	42	9.7	41	10.3	39	10.5	39	10.7	36	10.6	35	10.4	34	9.6	34	9.7	35	9.0	36
31 Chautauque County	6.7	57	8.1	53	8.6	53	9.0	49	9.0	48	8.7	48	9.1	50	8.6	46	8.8	42	8.9	37
52 Fort Plain, Herkimer	7.4	50	8.5	50	8.6	52	8.8	52	9.0	49	8.8	46	9.5	42	9.3	38	9.2	38	8.9	38
14 Niagara Falls	9.0	39	10.6	36	11.1	35	10.8	35	10.7	37	11.0	31	11.7	31	10.4	33	9.3	36	8.8	39
56 Saratoga County (Balance)	10.8	26	12.6	21	13.5	20	12.2	29	10.4	39	9.0	44	9.4	44	8.9	41	9.1	39	8.4	40
83 Allegany County, etc.	8.3	43	9.3	43	9.9	43	9.9	43	9.9	43	9.7	39	10.1	36	9.3	37	8.8	41	8.4	41
54 Cortland County, etc.	8.6	41	10.0	38	10.6	38	10.7	37	10.5	38	9.9	38	10.0	37	8.9	43	8.5	43	8.2	42
47 Orleans County	9.0	37	10.7	35	11.5	32	11.4	32	11.1	33	10.4	37	10.1	35	9.1	39	8.8	40	8.1	43
51 Ontario County, etc.	8.9	40	9.8	40	10.0	41	10.1	41	9.8	44	9.5	40	9.9	38	8.9	42	8.1	47	7.7	44
43 Niagara Falls Suburban	9.0	38	9.1	45	9.4	46	9.5	46	9.3	46	9.1	43	9.5	41	9.4	35	8.4	44	7.7	45
73 Rensselaer County (Balance)	6.9	53	8.2	52	9.0	48	9.1	48	8.9	50	8.8	47	9.4	45	8.9	44	8.1	48	7.5	46
12 Syracuse	8.0	46	8.8	47	8.9	50	8.9	50	9.2	47	9.3	41	9.3	46	8.3	49	8.2	45	7.4	47
11 Rochester	6.3	62	7.4	62	8.0	58	8.2	55	8.5	55	8.7	49	8.9	51	8.0	51	7.6	53	7.1	48
09 Schenectady County	8.0	48	8.7	49	8.9	51	8.8	51	8.8	51	8.7	50	8.9	52	8.2	50	7.7	49	7.0	49
41 Erie County (Balance)	9.5	34	11.0	34	10.9	36	10.5	38	10.3	41	8.5	53	6.4	65	5.5	65	7.7	50	7.0	50
24 Rome	7.0	52	7.9	55	8.1	55	7.9	60	5.9	67	5.0	69	5.3	69	5.9	62	7.6	52	7.0	51
35 Amsterdam	6.7	56	7.8	56	8.1	57	7.7	62	7.9	59	7.7	60	8.3	55	7.7	53	8.1	46	6.9	52
28 Binghamton	6.0	64	6.8	63	7.2	63	7.5	63	7.7	62	7.5	62	7.8	56	7.4	56	7.3	54	6.8	53
30 Saratoga Springs	8.1	45	9.6	42	10.0	42	10.0	42	10.4	40	8.9	45	7.2	61	6.4	60	7.7	51	6.7	54
25 Auburn	6.7	55	7.5	61	7.8	62	8.0	58	8.6	53	7.9	58	7.3	60	6.5	59	6.9	59	6.7	55
48 Monroe County Balance	8.0	47	9.2	44	10.1	40	10.3	40	11.8	31	7.9	56	4.1	70	3.1	70	7.1	58	6.6	56
16 Saratoga Springs Suburban	6.5	60	7.8	57	7.9	59	7.7	61	7.9	60	8.5	51	9.7	40	8.5	47	7.2	55	6.5	57
86 Oneida	7.4	51	7.9	54	8.3	54	8.2	54	8.5	54	8.5	52	8.7	53	7.5	54	7.1	57	6.3	58
44 Broome County (Balance)	8.1	44	8.8	48	9.0	49	8.6	53	8.8	52	8.1	54	9.1	48	8.4	48	7.2	56	6.2	59
72 Albany County (Balance)	6.7	58	8.4	51	9.2	47	9.1	47	8.5	56	8.0	55	9.1	49	7.7	52	6.4	62	6.1	60
42 Buffalo Suburban	6.9	54	7.6	60	7.8	60	7.9	59	7.8	61	7.8	59	8.3	54	7.5	55	6.6	61	5.8	61
49 Niagara County (Balance)	6.4	61	7.6	59	7.8	61	8.0	57	8.1	58	7.7	61	6.7	62	5.6	64	6.2	63	5.6	62
60 Genesee County	6.6	59	7.8	58	8.1	56	8.1	56	8.3	57	7.9	57	7.7	57	7.0	57	6.6	60	5.6	63
08 Buffalo Semi-Suburban	6.1	63	6.7	64	6.8	65	6.7	66	6.5	64	6.7	64	7.3	59	6.7	58	6.0	64	5.4	64
27 Elmira	4.2	70	4.8	70	4.8	70	4.8	70	5.3	70	5.3	68	5.7	68	5.4	67	5.6	65	5.3	65
15 Utica	4.6	69	5.2	69	5.5	69	5.5	69	6.4	66	7.4	63	7.6	58	6.4	61	5.3	66	4.6	66
71 Saratoga County South	5.2	68	6.2	66	6.8	64	6.7	65	6.5	65	4.4	70	6.7	63	5.9	63	4.9	68	4.3	67
40 Corning	5.9	65	6.4	65	6.7	66	6.7	64	6.7	63	6.5	65	6.5	64	5.4	68	5.0	67	4.0	68
39 Rochester Suburban	5.3	67	5.7	68	5.8	68	5.6	68	5.5	69	5.7	67	6.2	66	5.5	66	4.7	69	4.0	69
38 Syracuse Suburban	5.6	66	6.1	67	6.0	67	5.9	67	5.8	68	5.8	66	6.0	67	5.4	69	4.7	70	3.9	70
Entire State	14.5		15.8		16.3		16.7		17.0		16.7		17.1		16.1		16.4		16.0	

Source: Derived from data provided by the Automobile Insurance Plans Service Office.  
# = Rank from highest to lowest concentration

### 3. Workers' Compensation Insurance

#### a. Rate Revision Effective October 1, 1996

On October 1, 1996, the annual workers' compensation rate revision became effective, producing an average decrease of 18.0%. Including the change in the New York State Assessment, the overall decrease was 18.2%. In addition to the overall rate change, there was a change in the rate multiplier from 90 to 100.

This revision marked the first time that the New York Compensation Insurance Rating Board (NYCIRB) used a combination of policy-year and accident-year loss data in the experience factor that supports the rate level. The replacement of calendar-year data with accident-year data is a direct result of a recommendation made by Milliman & Robertson in its examination of the ratemaking procedures of the NYCIRB. Accident-year data is a bit less current than calendar-year data but is considered to be more accurate as an indicator of future experience.

The revision also reflects cost savings that will result from the provision in the 1996 workers' compensation reform legislation that limits third-party liability cases to incidents of "grave" injury. These so-called *Dole vs. Dow* cases have increased in cost in recent years.

#### b. 1996 Workers' Compensation Reform Legislation (Chapter 635 of the Laws of 1996 as Amended in Chapter 648 of the Laws of 1996)

Among the many other provisions of the legislation are two that directly involve actuarial work. The Superintendent, along with the Commissioner of Labor and the Chair of the Workers' Compensation Board, is to study the role of rating organizations in establishing workers' compensation rates, the nature and number of rating classifications, territorial rating and the feasibility of open rating. The Superintendent is also to conduct a study of the ratemaking process, which covers an analysis and explanation of workers' compensation losses, assessments, expenses and investment income.

In order to conduct these studies, the Department has issued a Request for Proposals. As of the end of the year, the Department had received bids from three independent actuarial consulting firms.

Table 45

**WORKERS' COMPENSATION****DIVIDEND PLANS APPROVED IN 1996**

**Plan Types:**      **A = Flat**                      **B = Sliding Scale/Loss Ratio**  
                                  **C = Safety Group**                      **D = Retention**

<b>Company Name</b>	<b>Plan Type</b>	<b>Filing Date</b>	<b>Effective Date</b>
Agricultural Insurance Company	A,B	06/12/96	10/04/96
	C	09/30/96	10/04/96
All America Insurance Company	B	01/16/96	03/01/96
All City Insurance Company	B	11/20/96	12/31/96
American & Foreign Insurance Company	A,B,D	08/03/95	01/24/96
American Employers Insurance Company	A,B	04/22/96	05/01/96
American Guarantee & Liability Insurance Company	A	06/25/96	09/11/96
	C	05/31/96	09/16/96
Atlantic Specialty Insurance Company	B	02/05/96	03/01/96
Bankers Standard Insurance Company	D	03/08/96	04/01/96
Blue Ridge Insurance Company	D	05/17/96	10/16/96
Camden Fire Insurance Association	D	11/28/95	12/01/96
Charter Oak Fire Insurance Company	B	03/28/96	08/12/96
CIGNA Insurance Company	D	03/08/96	04/01/96
CIGNA Property & Casualty Insurance Company	D	03/08/96	04/01/96
Employers Insurance of Wausau	C	08/15/96	09/10/96
Florists Mutual Insurance Company	B	08/31/95	02/15/96
General Assurance Company	D	11/28/95	12/01/96
Great American Insurance Company	B	06/12/96	10/04/96
Hartford Casualty Insurance Company	A,B,D	09/19/94	01/30/96
Hartford Fire Insurance Company	B	09/19/94	01/30/96
Hartford Insurance Company of the Midwest	A,B,C	09/19/94	01/30/96
Houston General Insurance Company	B	10/01/96	12/19/96
Insurance Company of Greater New York	A,B	02/27/96	09/16/96
Legion Insurance Company	B	06/05/96	08/08/96
	C	05/06/96	08/08/96
Manufacturers Alliance Insurance Company	B,D	09/10/96	01/01/97
North River Insurance Company	B	10/17/96	11/20/96

## WORKERS' COMPENSATION

### DIVIDEND PLANS APPROVED IN 1996

Plan Types:           A = Flat   B = Sliding Scale/Loss Ratio  
                           C = Safety Group                               D = Retention

Company Name	Plan Type	Filing Date	Effective Date
Northbrook Indemnity Company	D	06/03/96	11/01/96
Northbrook National Insurance Company	D	06/03/96	11/01/96
Pacific Employers Insurance Company	D	03/08/96	04/01/96
Paramount Insurance Company	B	05/24/96	08/09/96
Peerless Insurance Company	B	11/30/95	03/01/96
Pennsylvania General Insurance Company	D	11/28/95	12/01/96
Pennsylvania Manufacturers Indemnity Company	B,D	09/10/96	01/01/97
Pennsylvania Manufacturers Insurance Company	B,D	09/10/96	01/01/97
Potomac Insurance Company of Illinois	D	11/28/95	12/01/96
Public Service Mutual Insurance Company	B	05/24/96	08/09/96
Regent Insurance Company	B,D	11/13/95	12/01/96
Reliance Insurance Company	B	06/07/96	10/30/96
	C	08/05/96	10/16/96
Reliance National Indemnity Company	C	08/05/96	10/16/96
Royal Indemnity Company	A,B,D	08/03/95	01/24/96
Safeguard Insurance Company	A,B,D	08/03/95	01/24/96
Travelers Indemnity Company of America	B	03/28/96	08/12/96
	D	08/13/96	10/04/96
Twin City Fire Insurance Company	A,B	09/19/94	01/30/96
United Pacific Insurance Company	B	06/07/96	10/30/96
	C	08/05/96	10/16/96
Utica National Insurance Company of Texas	C	04/19/96	09/05/96
Wausau Business Insurance Company	C	08/15/96	09/10/96
Wausau General Insurance Company	C	08/15/96	09/10/96
Wausau Underwriters Insurance Company	C	08/15/96	09/10/96

Table 46

**WORKERS' COMPENSATION RATE HISTORY**

Effective Date	Policy Year		Cal. Year	Medical & Hospital Agreements		Wage & L/R Trend Factors		Ex-penses	Effect on Rate Level	Assessments			Appr'vd	Cum. Approved
	Year	Year		Indemn.	Medical	Factors	Trend			WCB	SDF&RCF	Filed		
July 1980	-4.5%	-7.1%	-7.1%	0.0%		1.0133		-4.1%		-0.1%	-2.5%	-3.1%	-10.1%	-10.1%
Oct. 1990														
July 1981	-11.5%	-11.5%	-11.5%	7.7%		0.8600		-3.1%		-0.4%	0.3%	14.3%	-20.4%	-26.4%
July 1982	-4.6%	-11.6%	-11.6%	4.3%		0.9895		0.3%		0.1%	1.2%	-2.1%	-3.4%	-28.9%
July 1983	-0.3%	-7.8%	-7.8%	19.5%		0.8807		-0.1%		0.1%	-4.1%	5.4%	-2.0%	-30.3%
July 1984	6.6%	3.5%	3.5%	7.8%		0.8979		3.8%		0.1%	2.6%	9.4%	8.1%	-24.6%
July 1985	7.7%	0.9%	0.9%	8.3%		0.9725		2.2%		-0.3%	-1.5%	14.2%	10.2%	-17.0%
July 1986	-1.3%	-8.4%	-8.4%	3.8%		0.9257		3.0%		0.2%	1.0%	1.5%	-4.7%	-20.9%
July 1987	7.5%	12.8%	12.8%	2.2%		0.9134		0.4%		0.3%	0.5%	6.5%	5.1%	-16.9%
July 1988	9.2%	12.2%	12.2%	7.2%		0.9470		0.7%		-0.4%	-1.4%	28.3%	11.1%	-7.7%
July 1989	17.6%	22.5%	22.5%	2.0%		0.9254		0.7%		-0.3%	1.5%	28.5%	15.5%	6.6%
July 1990	12.8%	13.5%	13.5%	18.0%	3.4%	0.9478		0.4%		-0.4%	-0.7%	39.1%	29.4%	38.1%
July 1991	23.4%	20.9%	20.9%	3.7%	2.1%	0.9012		-4.2%		0.3%	4.1%	25.1%	15.3%	59.2%
July 1992	20.5%	13.1%	13.1%	4.2%	1.2%	0.9500		-0.3%		-0.4%	4.1%	18.4%	15.6%	84.1%
July 1993	12.0%	17.1%	17.1%	1.0%		1.0010		0.0%		-0.3%	-1.0%	18.7%	14.4%	110.6%
Apr 1994	-4.9%	-0.1%	-0.1%	-1.9%		1.0010		0.0%			13.5%	-5.0%	-5.0%	100.1%
Oct. 1994	8.0%	1.9%	1.9%	0.8%		0.9640		-1.2%			-3.1%	-1.6%	-1.7%	96.7%
Oct. 1995	-17.1%	-15.3%	-15.3%	0.05%		1.0960		0.8%			3.7%	-2.8%	-5.0%	86.9%
	Pol.	Acc. Yr.												
Oct. 1996	-14.9%	-16.5%	-16.5%	-3.2%		1.0430		0.0%			-0.2%	-15.1%	-18.2%	52.9%

<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 47

## WORKERS' COMPENSATION

## LARGE DEDUCTIBLE PROGRAMS APPROVED IN 1996

Company Name	Filing Date	Approval Date
American Guarantee & Liability Insurance Company *	03/19/96	04/01/96
American Manufacturers Mutual Insurance Company *	07/17/96	12/13/96
American Motors Insurance Company *	07/17/96	12/13/96
American Protection Insurance Company *	07/17/96	12/13/96
American Zurich Insurance Company	03/19/96	04/01/96
Fairmont Insurance Company *	03/22/96	04/01/96
General Accident Insurance Company of America	04/14/93	12/18/96
Industrial Indemnity Company	09/22/95	07/16/96
Industrial Indemnity Company of the Northwest	10/16/96	12/05/96
Lumbermens Mutual Casualty Company *	07/17/96	12/13/96
Merchants Mutual Insurance Company *	11/25/95	04/04/96
Old Republic Insurance Company	10/20/92	07/02/96
St. Paul Fire & Marine Insurance Company *	05/09/96	07/25/96
St. Paul Guardian Insurance Company *	05/09/96	07/25/96
St. Paul Mercury Insurance Company	05/09/96	07/25/96
Tokio Marine & Fire Insurance Company, Ltd.	10/14/93	04/17/96
Ulico Casualty Company	05/29/96	12/05/96
Utilities Mutual Insurance Company *	04/22/96	05/07/96
Zurich Insurance Company *	03/19/96	04/01/96

\* Approval of modifications to an existing program.

#### 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 many 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, consisting primarily of members from Casualty Actuarial, 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. Therefore, 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, and 1996 fund years. Table \_\_\_ displays the amount of the estimated PCISF contributions per quarter since the 1988 fund year. The variations from year to year in the magnitude of the estimated quarterly contributions reflect, 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.

Table 48  
PCISF Contributions  
1988-1996

<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
1993-96	-0-

*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, 1994, 1995 and 1996 fund years' net value and contributions described herein reflect the impact of the settlement.*

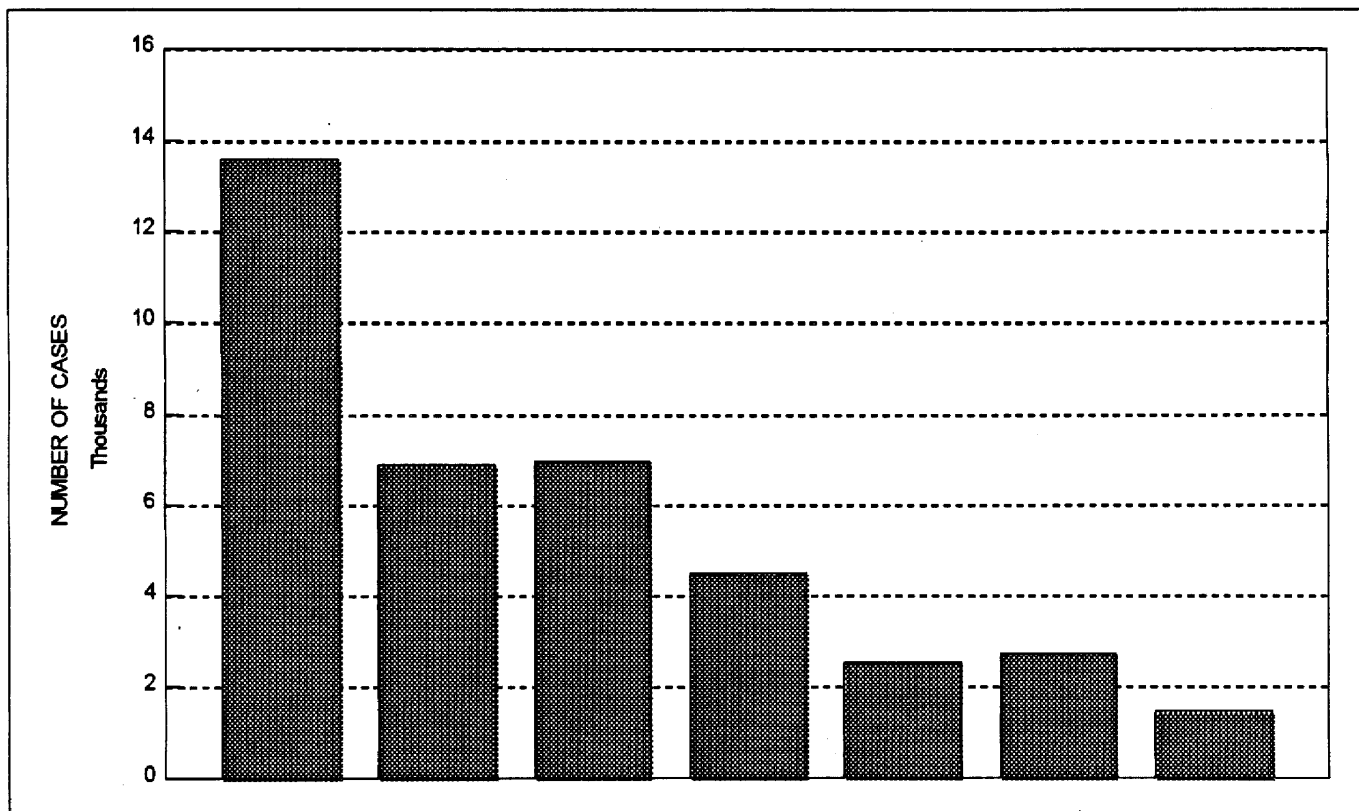


### E. CONSUMER SERVICES BUREAU

The Consumer Services Bureau is the arm of the Department that has as its primary function the responsibility to respond to consumer complaints and inquiries and to investigate the actions of licensed producers. The Bureau closed a total of 38,858 cases in 1996. Of these, 27,612 involved loss settlements or policy provisions, of which 49% were automobile complaints, 25% were accident and health complaints, 16% were property and liability complaints and 9% were life and annuity complaints. Another 6,953 cases involved complaints against agents, brokers and adjusters. Written inquiries and miscellaneous complaints accounted for 2,829 and referrals accounted for an additional 1,464 cases. All told, the Bureau *received* 41,520 cases during 1996.

## TOTAL COMPLAINTS & INVESTIGATIONS CLOSED

### CONSUMER SERVICES BUREAU 1996



Auto	A & H	Agents, Brokers, Adjusters	Property/Casualty	Life & Annuity	Inquiries Misc.	Referrals
13,566	6,888	6,953	4,497	2,546	2,829	1,464

The Bureau responded to approximately 450,000 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 insurance information specialist. 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 16,868 calls from consumers on issues relating to the New York State Partnership for Long Term Care. The Partnership was established under a grant by the Robert Wood Johnson Foundation and was authorized by the Governor and the State Legislature in 1989. Private insurers began offering Partnership contracts in March of 1993.

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

**N.Y.S. Partnership for Long Term Care  
Consumer Calls  
January - December 1996**

January	620
February	3,266
March	2,418
April	777
May	845
June	1,055
July	1,314
August	1,431
September	1,292
October	1,152
November	537
December	<u>2,161</u>
<b>Total</b>	<b>16,868</b>

**1. Disaster Preparedness/Emergency Management**

The Bureau continues to participate in the activities of the State Emergency Management Office (SEMO). In 1996, the Bureau provided assistance to consumers in a number of disaster situations.

a. The Department activated its Disaster Response Plan on January 20, 1996 to assist New York residents who had suffered property losses as a result of the mudslides and flooding caused by melting snow and rains. Delaware and Schoharie counties incurred the heaviest damages. Examiners were sent to assist and advise consumers on how to file their claims with insurers. Over 11,000 claims totaling \$25,000,000 in property damage were filed with insurers for all of New York. Examiners remained on site in Delhi, Delaware County and the town of Schoharie, Schoharie County, for over a week.

b. An extremely heavy and intense rainstorm occurred on July 31, 1996, causing sewers to back up and extensive flooding in several areas of New York City. SEMO set up several Disaster Assistance Centers to help homeowners and residents with problems they were experiencing as a result of the flooding. The Bureau sent examiners to the Centers to advise and assist residents with insurance issues. Department experts staffed a toll-free telephone line established to provide assistance to consumers unable to reach their insurers.

c. The Bureau participated in the staffing of Disaster Assistance Centers established by SEMO following the October 19 and 20 floods that hit the New York City area. Bureau staff advised residents who suffered property losses as a result of the flooding and provided information about insurance matters.

d. In November, seven counties (Clinton, Delaware, Essex, Franklin, Montgomery, Schuyler and Steuben) were declared disaster areas due to flooding. Examiners contacted insurers for claim figures and provided consumers with advice on their coverages. As part of the State's Disaster Response Plan, the Department activated a special toll-free telephone line on November 18 to help residents who suffered property losses as a result of the flooding.

e. Bureau representatives participated in the New York State Disaster Preparedness Conferences on Long Island and in Albany. Examiners also attended conferences and training sessions at the NAIC's headquarters in Kansas City, Mo.

## **2. Insurance Departments Coastal Action Plan**

A comprehensive program was jointly developed by the New York Insurance Department and U.S. Senator Alfonse D'Amato in response to the growing concerns of coastal residents that affordable homeowners insurance coverage continue to be available in coastal communities so that residents can protect their homes and property from storm damage.

This Coastal Action Plan commenced with the establishment of two toll-free telephone lines--one for consumers and the other for agents and brokers--to handle inquiries about homeowners insurance on Long Island.

In July 1996, the New York State Insurance Department opened a Long Island Consumer Services office in an effort to provide better service to coastal residents seeking homeowners insurance. The new office provides Long Island residents with an opportunity to meet with Department representatives to discuss any difficulties they are experiencing in obtaining homeowners coverage and to work toward resolving their problems. The staff at this office also answers the two toll-free hotlines. The office, which is located at 3886 Merrick Road in Seaford, is open from 9 AM to 5 PM Monday through Friday.

## **3. Other Bureau Activities**

Bureau examiners staffed the Department's information booth at the State Fair held in Syracuse from August 21 through September 3, 1996. The examiners answered consumer questions, took complaints and distributed various Department consumer guides and booklets. The booth was well attended and over 13,000 publications were distributed to the public. The Bureau also staffed information stations at the Black and Puerto Rican Legislative Caucus, Somos El Futuro and the Black Arts Festival.

The Bureau continued to provide speakers as part of its program of assistance to senior citizens 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 citizen representatives. As an example, the Bureau participated in the Health Insurance Information Counseling and Assistance Program (HIICAP) consortium, providing education for thousands of Medicare beneficiaries and their family members. Bureau staff assisted in developing the training video and training manual. Bureau staff also participated in Regional Training Sessions of HIICAP Counselors and Volunteers in order to supplement the training manual and respond to technical questions on Medigap and long-term care insurance.

Although the Bureau no longer meets with representatives of insurance companies to review complaint data used to formulate the annual automobile and health rankings, we continue to meet with insurers to assist them in understanding the complaint handling process, and to inform them of ways to improve claims-handling and underwriting practices. In addition, the Bureau is closely monitoring the response time of insurers to consumer complaints filed with the Bureau.

The Bureau also responded to inquiries concerning Prudential Insurance Company's Remediation Program. As a member of the Multi-State Task Force, this Department signed on to the Remediation Program for Prudential policyholders who purchased life insurance policies between 1982 and 1995. The judge hearing the class action lawsuit against Prudential merged the Remediation Program with the class action lawsuit. This created confusion for consumers who received voluminous written material, first explaining the Remediation Program, and later explaining the ramifications of the Proposed Class Action Settlement. Further, the Bureau has initiated an extensive review of the market conduct practices of the Prudential sales force licensed to do business within this State.

The Bureau also responded to questions concerning the standardization of HMO and Point of Service contracts which became effective on January 1, 1996. The Bureau provided consumers with information concerning standardization, rating, and availability of coverage.

The Bureau is continually called upon by both our licensees and the general public to verify that health plans are licensed and legitimate. However, certain self-funded multiple employer programs may be exempt from the licensing provisions of New York State law (e.g., programs established pursuant to collective bargaining agreements). Bureau staff continues to investigate the activities of unlicensed health plans and third-party administrators--such as multiple employer welfare arrangements (MEWAs), unions, associations and other self-funded mechanisms--that operate as alternatives to traditional health insurance plans.

This Bureau continues to develop relationships with outside agencies on the state and federal level. It has developed a working relationship with the U. S. Department of Labor to aid in the regulation of these alternative plans. Meetings have been held to determine ways to formalize communications to better protect the public. In addition to the U.S. Department Of Labor, the Bureau has worked on several significant criminal and civil cases in cooperation with the Insurance Frauds Bureau and other law enforcement agencies. One such cooperative effort has resulted in an indictment of a MEWA operator, the shut down of that plan, and restitution to the participants who expected benefits from this health plan.

The Bureau conducted an investigation into the activities of a licensee that was the promoter of a multiple employer welfare arrangement. This individual used funds for other than the intended purpose of remittance of premiums to the health insurance carrier. The Department discovered after an extensive audit that the funds were converted to personal use and further laid the ground work for intensive negotiations with the insurance carrier to provide coverage and return overpayments of premiums. The Department's findings served as a basis for a grand jury indictment of grand larceny in County Court and a civil case in federal court to seek recovery. Through the Department's intervention, approximately 2,000 participants recovered their benefits, claims and return premiums.

These cooperative efforts have not been limited to the health area; there are cases in process that involve all lines of insurance. The Bureau effected the termination of a pension, deferred and disability income plan run by a commercial business. The monies to secure the benefits of the plan have been placed in trust for the participants. The Bureau has several investigations involving life and property/casualty agents which in cooperation with the Insurance Frauds Bureau have resulted in arrests or indictments.

The New York State Insurance Department is committed to the full imaging and automating processes for the complaints, investigations, inquiries and correspondence of its Consumer Services Bureau. A major goal is to improve customer service. The combined processes of redesigning the Bureau's business procedures and workflow, while automating all tasks, will benefit our customers. Rapid document retrieval will decrease the time needed to resolve problems. Consistent, reliable data will be immediately available from any of our locations. Within the Bureau, there will be more efficient document processing and routing. This will shorten processing cycles, reduce paper and storage space.

To accomplish these goals, the Department has purchased document imaging and workflow automation software. The Department has also contracted the services of Adaptive Information Systems and Integrated Solutions, Inc., to rewrite the Department's current mainframe application in the client/server environment. This will allow the Department to take full advantage of new technologies, efficiencies and imaging software. The contractor, with the assistance of Department staff, is participating in the review to expedite and streamline Bureau's business procedures. The project has been named CIIMS or the Consumers' Information and Imaging Management System. This system, which has been in development since April 1996, is expected to be functional by April 1997.

The Bureau is 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 nonprofit organizations. The Committee meets to share program initiatives with peers in an effort to keep abreast of consumer concerns.

Table 49  
 CONSUMER SERVICES BUREAU CASES  
 Involving Loss Settlements or Policy Provisions  
 Closed in 1996

<u>Line of Business</u>	<u>Total Processed</u>	<u>Upheld</u>	<u>Adjusted in Consumer's Favor</u>	<u>Not Upheld</u>	<u>Other Action Taken<sup>a</sup></u>
Life and Annuities, Total	2,546	619	191	1,191	545
Individual Life	2,260	574	171	1,011	504
Individual Annuity	143	23	11	87	22
Group Life & Annuity	142	22	9	92	19
Viatical Settlements	1	0	0	1	0
Accident & Health, Total	6,888	1,474	741	3,356	1,317
Individual Accident & Health	631	85	58	349	139
Group Accident & Health	2,054	319	184	869	682
Article IX-C Corps.	4,022	1,032	482	2,046	462
Medicare	20	9	2	6	3
Medigap	131	26	14	71	20
Long-Term Care	22	1	1	14	6
Health Alliance	0	0	0	0	0
Medicaid	8	2	0	1	5
Auto, Total	13,566	2,247	1,121	7,118	3,080
Auto, Liability (B.I.)	1,536	236	86	1,059	155
Auto, Liability (P.D.)	3,650	491	335	1,767	1,057
Auto, Physical damage	3,878	365	326	2,428	759
No Fault	4,502	1,155	374	1,864	1,109
NYIAP Taxicab/Limo Pool	0	0	0	0	0
Other Property & Liability, Total	4,497	688	332	2,581	896
Liability Other Than Auto	436	52	23	243	118
Professional Malpractice	21	5	1	9	6
Fire & Extended Coverage	113	8	7	65	33
Homeowners	2,259	255	170	1,435	399
Inland Marine/Ocean Marine	68	4	5	39	20
Workers' Compensation	992	288	84	472	148
Commercial Multiple Peril	465	57	28	253	127
Burglary & Theft	8	1	3	2	2
Fidelity & Surety	69	11	4	25	29
Flood	8	0	2	4	2
Title	58	7	5	34	12
Gap	0	0	0	0	0
Miscellaneous	115	16	7	67	25
<b>Total</b>	<b>27,612</b>	<b>5,044</b>	<b>2,392</b>	<b>14,313</b>	<b>5,863</b>

<sup>a</sup> Includes closed cases with the disposition of questions of fact and action suspended due to litigation and/or arbitration.

Table 50  
**CONSUMER SERVICES BUREAU CASES**  
 Not Involving Loss Settlements or Policy Provisions  
 1996

Subject of Cases or Investigations	Total Processed	Fines Revocations & Other Actions <sup>a</sup>	Upheld	Not Upheld
Misleading Advertising	45	20	7	18
Application for License	1,325	1,277	29	19
Acting Without License	61	43	6	12
Aiding Unauthorized Company	169	95	5	69
Misappropriation of Premium	254	175	25	54
Issuing Bad Checks	733	630	36	67
Commingling	2	0	0	2
Rebating	5	1	0	4
Misrepresentation of Coverage	343	163	35	145
Excess Comp. Without Contract	81	25	2	54
Twisting	316	90	98	128
Public Adjusters, Prohibited Practice	18	8	0	10
Violation of NYAIP/NYPIUA Rules	327	225	26	76
Commission Disputes	29	14	5	10
Return Premium, Producer	125	53	5	67
Other Violations of Insurance Law	393	216	26	151
Violations of Other Law	55	32	1	22
Fraudulent NYAIP Application	311	197	0	114
Incorporators and/or Directors	1,924	1,924	0	0
Discrimination/Redlining	1	1	0	0
Illegal Insurance Enterprise	23	20	0	3
Ending of Agency/Broker Acct.	123	81	7	35
Miscellaneous Complaints	101	34	1	66
Delay in Issuing Policy	7	3	2	2
Policy Status	14	4	1	9
License Status, Company	0	0	0	0
Voluntary Surrender of License	61	60	1	0
Misleading Sales, Life	8	3	0	5
Other	99	66	6	27
<b>Total</b>	<b>6,953</b>	<b>5,460</b>	<b>324</b>	<b>1,169</b>

<sup>a</sup> Including license and incorporators and/or directors approvals.

## F. INSURANCE FRAUDS BUREAU

The Insurance Frauds Bureau (IFB) was established by an act of the Legislature in 1981, as a law enforcement agency within the New York State Department of Insurance. Its primary mission is the detection, investigation and referral for prosecution of individuals and groups who commit insurance fraud. IFB staff consists of 28 investigators, organized in five units--Automobile, General, Medical, Arson and Upstate--each of which is headed by a Supervising Investigator. Investigative oversight is performed by the Chief Investigator with the assistance of one Principal Investigator. Members of the investigative staff are designated by the Superintendent as peace officers. IFB also has a staff of five insurance examiners and five clericals. The Bureau has its headquarters in New York City and offices in Albany, Buffalo, Oneonta, Rochester and Syracuse.

Section 405 of the 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 Frauds Bureau's efforts. Among the highlights of the *Insurance Frauds Bureau 1996 Report* are:

- \* Arrests for insurance fraud and related crimes totaled 154 in 1996, a year-to-year increase of 10%;
- \* New investigations went up by 34% to 1,934 over the same period;
- \* Under the Civil Enforcement Program, individuals who committed fraudulent insurance acts paid over \$265,000 in civil penalties in 1996;
- \* A new Joint Task Force on Health Care Insurance Fraud, co-chaired by the Attorney General's Office and the Insurance Department, is up and running, currently pursuing ten significant investigations; and
- \* An Arson Unit was established in 1996 to assist local law enforcement agencies and the State Office of Fire Prevention and Control in investigating fraud committed in connection with arson.

In addition, pursuant to the mandates of recent legislation, which made sweeping changes in the Workers' Compensation System, IFB is working to establish a Workers' Compensation Fraud Unit, staffed by at least ten investigators. While Budget approval to hire these investigators was not received until the beginning of 1997, two investigators already on staff were detailed to the State Insurance Fund in November 1996 to assist in the development of the Fund's anti-fraud efforts.

The Report also detailed some of the Bureau's most notable 1996 achievements including:

- A sentence of two-to-six years in prison for a Rochester pharmacist and an order to pay \$200,000 to Rochester Blue Cross/Blue Shield. The pharmacist and her partner, both co-owners of the Hilton Apothecary in Hilton, NY, misappropriated over \$400,000 from the health plan between January 1, 1991 and January 12, 1994, by submitting claims to Blue Cross/Blue Shield of Rochester for prescriptions that were never dispensed and for brand-name drugs when less expensive generic drugs were issued. The second pharmacist was sentenced on 1 ½-to-4 ½ years in prison and ordered to pay \$200,000 restitution to the insurer.
- The arrest of a Brooklyn woman charged with collecting total more than \$58,000 in disability benefits from Liberty Mutual Insurance while she was working for the United States Postal Service under an assumed name and false date of birth.

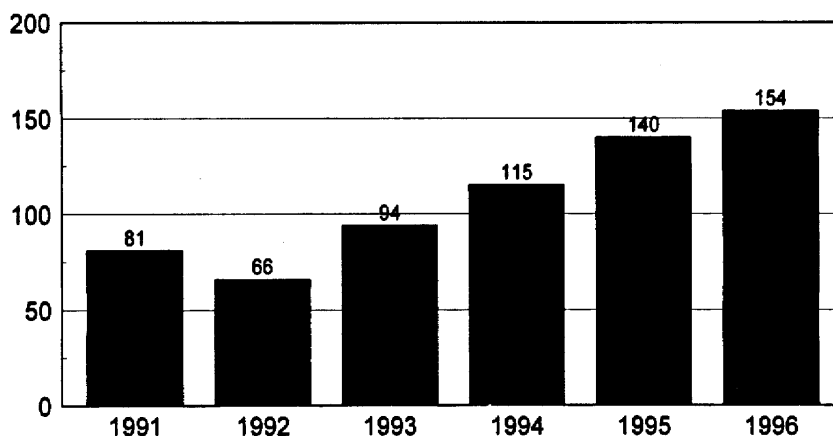


- The arrest of a Rochester man on charges of misappropriating \$27,000 from a client's life insurance policy. The defendant allegedly withdrew the proceeds from his bank account to pay personal debts.
- A 365-count indictment against the operators of seven medical clinics on charges of defrauding 17 major insurance carriers of more than \$2 million. The indictment alleges that the defendants ran a network of "medical mills" in Brighton Beach, East New York, Gravesend, Sheepshead Bay, and Sunset Park (all in Brooklyn) and in Pittsburgh, PA. The defendants are accused of staging phony auto accidents and filing false or inflated personal injury claims between 1991 and January 1996.
- The arrest of 24 New York City area auto repair shop owners for inflating automobile damage estimates for repairs. The owners of the repair shops, which are located in Manhattan, Queens, Brooklyn and Long Island, are charged with bribing an undercover Insurance Frauds Bureau Investigator, posing as an independent insurance adjuster to inflate his estimates to insurers.
- The arraignment of a Buffalo man in connection with a fire that occurred at his home, causing approximately \$90,000 in damage. The defendant filed a claim with the Utica First Insurance Company, and in February of 1996 received a payment of \$113,089 in insurance proceeds. Subsequently, it was determined that the defendant had allegedly hired an individual to burn his residence so he could collect proceeds from his homeowners insurance policy.

The Bureau's goals for 1997 as outlined in the Report include a strong emphasis on undercover and "sting" operations; continuation of a vertical prosecution pilot involving the assignment of Assistant Attorneys General to a three-month tour of duty in the IFB on a rotating basis in order to involve prosecutors in the development of insurance fraud cases from their inception and to develop close working relationships between prosecutors and investigators.

Copies of the complete *Insurance Frauds Bureau 1996 Report* are available through the Research Bureau at the Department's New York City office.

**Frauds Bureau Arrests**  
1991-1996



## **G. SYSTEMS BUREAU**

The Systems Bureau (Systems) supports the Insurance Department's technical infrastructure, while providing information technology services to its nearly 900 employees. Clients include insurers, the public, federal, state and local agencies, actuaries, clerks, examiners, frauds investigators, real estate appraisers, lawyers, researchers and statisticians.

Systems provides support services such as troubleshooting, training, consulting, maintenance and research and development. Help and Info Centers have been created in the Albany and New York City offices to support office automation, including 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 telecommunications, bar code scanning, imaging, optical character recognition and electronic data interchange (EDI).

The Bureau has two offices, one located in New York City and the other in Albany. Due to a major re-engineering initiative, the Bureau has developed a flexible organizational structure based on function, not geographic location. Using this method, the Bureau has eliminated duplication of effort and redundant management structures, as well as recognizing the Department's common, not geographically isolated, needs.

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

The Financial Services Unit (FSU) works with applications specific to the handling, processing and analysis of thousands of insurer financial statements. FSU is responsible for the automation, verification, troubleshooting, updating and maintenance of the annual statement, supplement and other diskette data capture projects, which form the Department's integrated financial database. The Data Entry, Forms Production and Help Center functions reside with this unit. The FSU assists users with all NAIC and in-house developed automated financial tools for monitoring insurer solvency, liquidity and profitability. The Unit also is responsible for managing the integrated financial general ledger and accounts receivable systems, supporting over \$270 million in revenue accounts.

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

The Technical Services Unit (TSU) maintains advanced platforms in the mainframe, minicomputer, LAN and microcomputer categories. TSU is responsible for database administration, network installation and maintenance, mainframe and minicomputer maintenance, all third-party software installation and maintenance, operational aspects of all systems, as well as site administration for office automation.

Systems currently maintains an IBM ES9000/260 and several powerful servers which run such LAN-based products as Lotus Notes, MS-Word for Windows, Sybase, imaging and document management software.

A major Systems' initiative has been to migrate all computer hardware and software to one, unified platform. The traditional networks are being converted to LANs. Systems now maintains two Novell NetWare Token Ring (16 megabit) networks. TSU also supports a wide-area network (WAN), connecting Albany, New York City and Buffalo to the LANs.

A data communications endeavor impacting all Department clients has been in the area of wide-area networking. Our routers were upgraded in 1996. These network management devices find the best path through which data can be sent. Systems uses them to forward traffic between Albany, New York City, the NAIC offices and remote locations. These devices allow resources, both in the mainframe and local area network environments, to be shared.

Systems implemented frame relay service. In client/server technology, frame relay transports data across a wide-area network (WAN) in a far more reliable and efficient manner than dedicated circuits. The conversion to MS Word for Windows 6.0 and the installation of Lotus Notes 4.0 was completed in 1996.

A highly productive Department project has been the installation of the LAN Faxgate. This service allows clients to send faxes directly from PCs without leaving their desks. The facility has been integrated with major applications, such as NYIMAIL and the Frauds System. It has been installed in the New York City Systems and Frauds Bureaus, in OGC, and in all Albany bureaus. Upgrades to the network operating system, as well as communications software and hardware have provided a more reliable, faster network.

A major initiative during 1996 was the re-engineering of the Consumer Services Bureau's (CSB's) complaint and investigation system. The primary goal was to be more responsive to New York State's consumers. The Consumers Imaging and Information Management System (CIIMS) will achieve this through shortened processing cycles, faster record look-up and more efficient document processing and routing. It will also reduce paper, free up physical storage areas and provide access to information at all remote locations.

Systems' approach uses a blend of excellent consulting expertise, assisting in-house specialists, along with reliable software. In this way, the project could be implemented quickly, while keeping the Department self-sufficient.

The finished system will be based on a Sybase 11 database engine, using PowerBuilder 5 application code, VisiFLOW management system and AdaptFile 2.0 software. VisiFLOW management is a Datamax Technologies, Inc. product, while AdaptFile 2.0 are products of Adaptive Information Systems. It is a totally client/server-based system, residing on two Novell NetWare LANs. These are connected by a frame relay WAN. The Department took this opportunity to replace its existing mainframe-based complaint handling system. This additional benefit will ultimately save the Department a significant amount of time and money. The combination of these products will provide us with a powerful, flexible Windows-based environment.

The completed system was available in prototype late in September, will be in partial New York City production in late January, 1997 and in total production by April 1, 1997. Complete production includes support of several remote offices.

The system will handle approximately a half million pages annually. Some of these data have a retention of 20 years. The Department will use existing ATS/Signet 12" optical jukeboxes to handle this large storage requirement. Image enablement for other areas of the Department is planned. The combination of flexible, sophisticated technology along with streamlining the document and workflow processes of the CSB will make the Department more efficient and responsive to our customers.

In late 1996, another major project was started to migrate the entire Licensing, Corporate Affairs and Continuing Education business functions to a state-of-the-art client/server system. In addition to all the existing functionality, the Licensing Information Online Network (LION) will have processing enhancements as an integral part of the system. This entire project is slated for completion in the later part of 1997 and will take a tremendous amount of coordinated work among the three parties--Licensing, Systems and the contractor.

Work in the strategic Department task of promoting the availability, accessibility and usability of data as a Department resource continued during 1996. TSU installed CD-ROM versions of NILS, West and Shepards for all attorneys and other clients. There has been a continuous program of installation and client demonstrations by the FSU staff. Other CD-ROM products were also provided to client bureaus. In addition, Systems added 70 more drives (for a total of 168) to support these many services.

The FSU provides in-house support and training on the use of the Department's query tool, Questo, and the NAIC's financial subsystems. During 1996, the remaining Albany and New York City users were migrated to intelligent hub technology. Cable and communications hardware and software were also upgraded.

Systems increased the size of the laptop computer fleet to 278, while replacing many of the oldest laptops with new IBM Thinkpads. The Bureau upgraded the standard platform due to power demands made by new software. During 1996, much of the PC fleet was upgraded to a Pentium 133 MHz platform and this effort will continue into 1997.

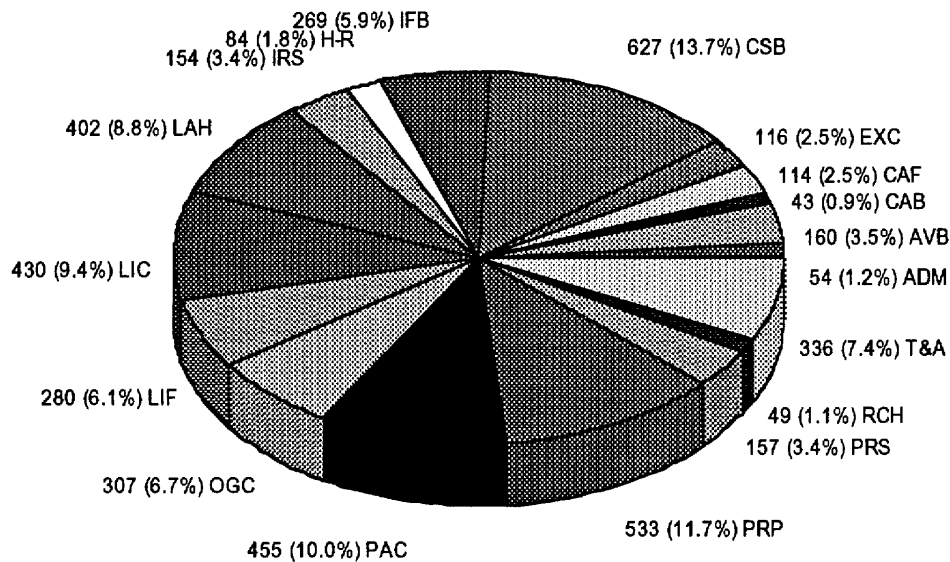
A messaging and Department-wide library system was added to the LAN to allow paperless distribution of important documents. Among the documents currently available on-line are an Applications Catalogue from Systems, Department Regulations, NAIC Model Laws, the Employees' Handbook and a variety of manuals and forms.

During 1996, the FSU produced over 25 statistical tables for the Annual Report of the Superintendent. They also produced the Directory of Regulated Insurance Companies, the Annual Ranking of Auto Insurance Complaints and the Annual Ranking of Health Insurance Complaints. FOIL requests generated a total of \$ 28,000, and \$ 2,800 was generated from company certifications.

During 1996, conversion of the two optical imaging storage and retrieval projects for the Life and Health Bureau and Office of General Counsel to the LAN, client/server environment was completed.

To aid in managing and improving support for the Help Center, a Windows-based Help Center software product is used. It provides the ability to efficiently and quickly route, track and resolve inquiries, questions and problems. The Help Center responded to over 4,500 calls during 1996.

### 1996 HELP DESK CALLS



New initiatives and major modifications were completed in several application areas, incorporating changes in the New York State Insurance Law, rules and regulations. Manual tasks were automated and system performance for all applications was improved or maintained.

The Systems Bureau represented the Department on various NAIC task forces and working groups during 1996, for example:

- Financial Data Policy Subgroup of the Executive (EX) Committee (reviewing and recommending policy issues regarding the Annual Statement Re-engineering initiative.)
- (EX) Special Committee on Information Systems and the following working groups thereunder:
  - Systems Strategic Planning Working Group (determining the best short- and long-term technology initiatives to benefit the NAIC, the states and industry);
  - Producer Database Working Group (developing a national producer database, exploring the viability of national licensing, and creating a Producer Information Network (PIN) to facilitate dissemination of information between regulators and the industry); and

- **Financial Data Working Group** (overseeing the Arthur Andersen review of the NAIC financial database during its three phases--surveying users of the NAIC database; performing a data quality audit of the NAIC database; and recommending a logical data model to support the needs of the re-engineering initiative).

During 1996, New York was Chair of the following working group under the Blanks (EX4) Task Force:

- **Standard Reporting Formats Working Group** (reviewing all state-specific financial filing requirements with the goal of eliminating forms no longer necessary, or creating uniform forms that could be used by multiple states. This would benefit both regulators and the industry. The group is reviewing the feasibility of collecting certain annual statement data electronically without hard copy.)

During 1996, New York was Chair of the following working group under the (EX) Special Committee on Information Systems:

- **Data Capture and Quality Working Group** (recommending what data should be collected by the NAIC and how to ensure and improve the quality of the data collected. This working group directed the NAIC staff to develop a pilot electronic filing procedure which was demonstrated at the Winter meeting).

## H. 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 been changed.

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

In June of 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, \$50,000 per accident. These limits are equally applicable to uninsured claims submitted to MVAIC. This law was to take effect for accidents occurring after January 1, 1996.

During 1996, MVAIC opened 5,291 new files. A total of 3,623 cases were settled with payment in 1996 at an average cost per claim of \$6,598. In 1994 and 1995, the average settlement per claim was \$6,474 and \$6,223 respectively. An additional 2,038 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 1996 was 10,050, up from 10,026 in 1995.

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 not 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 will save the Corporation approximately \$400,000 in legal fees yearly.

The law provided that the Board of Directors submit no later than October 1, 1977 a Plan of Operation to the Superintendent of Insurance for approval. The Plan was filed and approved. The Plan of Operation has since been revised. The new Plan was approved by the New York State Insurance Department and became effective July 18, 1989.

Effective November 13, 1991, the no-fault law was amended to increase the maximum monthly loss earnings from \$1,000 to \$2,000. This will definitely have an impact on the yearly no-fault payments.

Effective January 1, 1982, Section 5221(b)2 and 4 of the Insurance Law was amended so that qualified persons who are in compliance with the requirements are deemed to be covered persons. No payment for noneconomic loss shall be made to covered persons unless such persons have incurred a serious injury as defined by Section 510(d) of the Insurance Law.

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 51  
SOURCE OF FUNDS  
Motor Vehicle Accident Indemnification Corporation  
1994-1996

Source	1996	1995	1994
Net assessments	\$28,000,000 <sup>a</sup>	\$17,500,000 <sup>b</sup>	\$30,000,000 <sup>c</sup>
Self-insurers' fees	100,277	108,270	105,525
Investment income & profit	3,998,494 <sup>c</sup>	4,089,739 <sup>c</sup>	2,675,300 <sup>c</sup>
Subrogation recoveries	<u>3,350,199</u>	<u>3,155,021</u>	<u>4,208,133</u>
Total	<u>\$35,448,970</u>	<u>\$24,853,030</u>	<u>\$36,988,958</u>

<sup>a</sup> originally assessed for \$32,000,000; waived 50% of 4th assessment of \$4,000,000

<sup>b</sup> originally assessed for \$23,500,000; waived 4th quarter assessment of \$5,875,000

<sup>c</sup> profit or loss on sales



Table 52  
TRANSACTIONS  
Motor Vehicle Accident Indemnification Corporation  
1994-1996

Transaction	1996	1995	1994
	<u>Number of Cases</u>		
Pending at beginning of year	10,026	11,791	12,010
Total opened cases	5,685	4,515	4,845
Reported qualified	-0-	-0-	-0-
Reported tort and no-fault <sup>a</sup>	5,291	4,251	4,471
Reopened <sup>a</sup>	394	264	374
Total closed cases <sup>a</sup>	5,661	6,280	5,064
Cases closed without payment	2,038	2,369	1,476
Settled cases with payment	3,623	3,911	3,588
Qualified persons	-0-	-0-	-0-
No-fault and tort	3,623	3,911	3,588
Pending at end of year <sup>a</sup>	10,050	10,026	11,791

Payments of Settled Claims (Before Subrogation)

Payments to claimants	\$24,169,705	\$23,073,118	\$24,167,020
Qualified persons	-0-	-0-	-0-
No-fault tort	24,169,705	23,073,118	24,167,020
Allocated claims expense <sup>b</sup>	\$ 3,736,370	\$ 3,313,345	\$ 3,901,816

Reserves Year End (in 000s)

Total reserves <sup>c</sup>	\$48,201	\$48,814	\$53,028
On pending Claims	28,657	29,230	35,294
On claims (IBNR)	16,500	16,500	14,355
Special expense reserve	2,709	2,744	3,026
On unallocated claim expense	335	340	353

<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 \$4,389,998 in 1996, \$4,102,230 in 1995 and \$3,632,543 in 1994 for operations and maintenance (unallocated expenses)

<sup>c</sup> Surplus was \$13,186,354 at year-end 1996, \$9,202,781 at year-end 1995 and \$10,709,312 at year-end 1994. In 1995, the Corporation established a reserve of \$326,000 in accordance with the FASB 106 (Insurance Benefits for Retirees), reduced to \$226,000 in 1996.

Source: Motor Vehicle Accident Indemnification Corporation

The following table distributes, by type of case, the 5,291 claims newly reported during 1996. The uninsured New York automobile driver represents 59.61% of the total reported cases compared with 60.27% for the previous year, a decrease of 0.66% percentage points.

Table 53  
NEWLY REPORTED CASES BY TYPE  
Motor Vehicle Accident Indemnification Corporation  
1996

Type of Case <sup>a</sup>	Number of Claimants	Percent of Total
Total qualified <sup>b</sup> , no-fault PIP	5,291	100.00%
Uninsured out-of-state automobiles	346	6.54
Uninsured hit-and-run drivers	1,595	30.15
Uninsured New York automobiles	3,154	59.61
Stolen automobiles	31	0.59
Automobiles operated without consent of owners	2	0.04
Insured automobiles where the insurance is inapplicable to the accident	91	1.72
Unregistered automobiles	72	1.36

<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; consequently no such cases were reported in 1996. However, payments to claimants from previously reported cases continued. As of December 1, 1977, 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 1996 and provides the amount paid. Unidentified hit-and run drivers while representing only 37.57% of all cases, accounted for 45.25% 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 54  
SETTLED CASES WITH PAYMENT BY TYPE  
Motor Vehicle Accident Indemnification Corporation  
1996  
(dollar amounts in thousands)

<u>Types of Case</u>	<u>Number of Claimants</u>	<u>Percent of Total</u>	<u>Amount Paid *</u>	<u>Percent of Total</u>
Total	3,623	100.00%	\$ 24,170	100.00%
Uninsured out-of-state autos	184	5.08	1,053	4.36
Unidentified hit/run drivers	1,361	37.57	10,938	45.25
Uninsured New York automobiles	1,993	55.01	11,430	47.29
Stolen automobiles	20	0.55	180	0.74
Automobiles operated without consent of the owner	1	0.03	1	-
Insured automobiles where the insurance is inapplicable to the accident	27	0.75	141	0.58
Unregistered automobiles	37	1.02	427	1.77

\* Includes PIP partial payments. Excludes subrogation received on cases previously settled and allocated loss adjustment expense.

Source: Motor Vehicle Accident Indemnification Corporation

#### IV. LEGISLATION ENACTED, REGULATIONS PROMULGATED, CIRCULAR LETTERS ISSUED AND IMPORTANT DEVELOPMENTS IN MAJOR LITIGATION AND REGULATORY LICENSE HEARINGS AND STIPULATIONS EXECUTED - 1996

##### A. INSURANCE LEGISLATION ENACTED

This is a summary of bills amending the Insurance Law that were enacted at the 1996 Regular Session. *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.* A more detailed Legislative Summary is available through the Department's Research Bureau. Part I covers bills amending the Insurance Law; Part II covers bills amending laws other than the Insurance Law that are of general interest to the insurance community.

1. Chapter 474 of the Laws of 1996 amends Section 210 of the Insurance Law regarding changes in the annual consumer guide of health insurers and entities certified pursuant to Article 44 of the Public Health Law; makes technical conforming amendments to Section 3217(a) of the Insurance Law; and amends Article 49 of the Public Health Law and new Article 49 of the Insurance Law ( added by Chapter 705) to clarify that the utilization review provisions do not apply to utilization review conducted by, or on behalf of, a self-insured employee welfare benefit plan.

2. Chapters 635 and 648 effect a comprehensive reform of the workers' compensation system and enact important insurance fraud prevention measures including the following:

- amends the Workers' Compensation Law, the Civil Practice Law and Rules and the General Obligations Law by clarifying and restoring the force of exclusive remedy provisions. Specifically, the amendments would protect employers and their employees from other than contract-based suits for contribution or indemnity by third parties. The doctrine of *Dole v. Dow Chemical Co.*, 30 NY 2d 143 has been altered so that third-party liability cases have been limited to incidents of "grave" injury. Employers would remain responsible for contribution and indemnity arising from employees' narrowly defined "grave injury." The definition of "grave injury" is set forth in Section 11 of the Workers' Compensation Law as "one or more of the following: death, permanent and total loss of use or amputation of an arm, leg, hand or foot, loss of multiple fingers, loss of multiple toes, paraplegia or quadriplegia, total and permanent blindness, total and permanent deafness, loss of nose, loss of ear, permanent and severe facial disfigurement, loss of an index finger or an acquired injury to the brain caused by an external physical force resulting in permanent total disability";
- adds a new Section 134 to the Workers' Compensation Law to establish a compulsory workplace safety and loss prevention program and a new Section 135 that may provide employers with a credit against their workers' compensation insurance premiums--up to 5% annually for three years--for investments resulting in a safer work environment;
- amends the Workers' Compensation Law to provide for a new Workers' Compensation Fraud Inspector General and to increase criminal penalties for workers' compensation fraud;
- adds a new Section 114-b to the Workers' Compensation Law to provide for a disqualification of benefits attributable to false statements. Experience modifications are to be recalculated to remove any claim found to be fraudulent;
- repeals Section 408 of the Insurance Law making the Insurance Frauds Bureau permanent and amends Section 406 to expand the class of persons granted statutory immunity from civil causes of action arising from statements in reports of suspected insurance fraud made to the Insurance Frauds Bureau;

- adds a new Section 176.35 of the Penal Law to create the crime of aggravated insurance fraud in the fourth degree which is a class D felony;
- amends Section 405(a) of the Insurance Law to provide that the Insurance Frauds Bureau shall accept reports of suspected fraudulent insurance transactions from any self insurer, including self insurers providing health insurance coverage or those defined in Section 50 of the Workers' Compensation Law, and shall treat the reports as any other received pursuant to Section 405;
- Amends Section 402 of the Insurance Law to add a new paragraph to authorize the Superintendent to create units within the Insurance Frauds Bureau for the purpose of investigating and preventing fraud in certain specified areas of the business of insurance including workers' compensation. The Superintendent shall establish such a unit for workers' compensation;
- adds a new Section 407-a to the Insurance law to authorize the Superintendent to "undertake a study of trends in the incidence of frauds and in the methodologies of fraud detection and prevention in the area of workers' compensation insurance." The Superintendent shall also conduct a review and assessment of utilization review practices and protocols in the investigation of fraudulent activities and report to the Governor and the Legislature by August 1, 1997;
- amends Section 176.05 of the Penal Law, relating to the definition of a fraudulent insurance act. The amendment adds to the definition references to self insurer, purported self insurer, certificate or evidence of self insurance, commercial self insurance, and self insurance program. Also amends subdivision 5 of Section 176.00 of the Penal Law to amend the definition of "commercial insurance."
- adds a new Section 409 to the Insurance Law to require certain types of insurers to file with the Superintendent and to implement a formal plan for the detection, investigation and prevention of fraudulent insurance activities;
- adds a new sentence to the end of Section 304(b) of the Insurance Law to enable the Superintendent of Insurance to enter certain determinations of liability as judgments and enforce them without court proceedings, in the same manner as the enforcement of money judgments in civil actions;
- makes various amendments to Section 126 of the Workers' Compensation Law to expand the Managed Care Pilot Program established under Chapter 729 of the Laws of 1993 and adds a new Article 10-A to allow for the use of preferred provider organizations by employers to deliver medical services to injured workers;
- amends Section 591 of the Labor Law to limit an individual's eligibility to receive unemployment insurance benefits during a period in which that individual is entitled to receive, or has received, workers' compensation benefits;
- Amends Article 6 of the Workers' Compensation Law and Section 4 of the State Finance Law to overhaul provisions pertaining to administrative and financial oversight of the State Insurance Fund;
- directs the Superintendent of Insurance, with the consultation of the Commissioner of Labor and the Chair of the Workers' Compensation Board, to study the role of the rating organizations in establishing Workers' Compensation rates, and to evaluate the nature and number of rating classifications, territorial rating, and the feasibility of open rating. The study will also evaluate the feasibility of an appeal process for insureds to redress concerns of misclassification. This report is due 180 days after the effective date of the statute;

- directs the Superintendent of Insurance to study the workers' compensation insurance rate-making process. A preliminary report is due May 1, 1997, and a final report is due December 1, 1997. The study is to cover an analysis and explanation of workers' compensation losses, assessments, expenses, and investment income;
- amends Section 2313 of the Insurance Law to authorize the Superintendent of Insurance to audit rate service organizations such as the Compensation Insurance Rating Board no less than once every three years and to make recommendations based on his or her findings. In addition, the Superintendent is directed to submit the report of such audit to the Governor and the Legislature;
- provides for the Superintendent of Insurance to establish a special assessment of all workers' compensation carriers in an aggregate total of \$98,000,000 because of anticipated savings from the modification of *Dole v. Dow* and directs the Superintendent of Insurance to audit all workers' compensation insurance carriers' loss reserves in connection with the special assessment.

**(A Governor's Program Bill)**

3. Chapter 488 amends the Insurance Law in relation to requiring insurance companies to notify the Department of Social Services when certain claims are filed that may result in a monetary award and also provides that no person making any report pursuant to Section 340 shall be compelled to provide such information, or any report thereof, to the Superintendent of Insurance.

4. Chapters 253, 639 and 640:

- amend the Public Health Law to allow payors for inpatient hospital services to negotiate the reimbursement rates they pay to hospitals rather than pay the rate set by the NYPHRM methodology as of January 1, 1997. Establish procedures for negotiating rates as well as conditions payors must meet to be eligible for negotiating rates;
- create an uncompensated care allowance for general hospitals. A state-wide pool, the General Hospital Indigent Care Pool, to replace the Bad Debt and Charity Care Pool, is created for this allowance;
- create health care financing pools to fund graduate medical education and other health programs. The graduate medical education pool is funded on a covered-lives basis through an assessment on all third-party payors choosing to negotiate inpatient hospital rates. Third-party payors may "opt out" of paying the assessment. However, hospitals must add surcharges to bills for patients whose coverage is provided by such payors;
- expand the Child Health Insurance Plan (CHIP) to cover children through the age of 18 and to include coverage of inpatient health care services. The small business health insurance partnership program is restructured to include sole proprietors and employers of between 1 and 50 full-time employees. Also create a voucher insurance program, on a demonstration basis, to assist individuals and families residing in urban, rural or suburban areas in purchasing health care coverage through contractual arrangements with approved organizations including, but not limited to, insurers and health maintenance organizations;
- Establish a certification process for integrated delivery systems in order to facilitate their ability to assume a larger role in delivering a full array of health care services. The integrated delivery systems must be composed of or controlled by one or more affiliated providers or affiliated groups of providers and must deliver comprehensive services to defined populations;
- amend Section 5502 of the Insurance Law to extend until June 30, 1997 the Medical Malpractice Insurance Association's (MMIA's) authority to provide a market for medical malpractice insurance;

- amend Section 40 of Chapter 266 of the Laws of 1986 to extend until June 30, 1999 the Superintendent of Insurance's authority to establish rates for policies providing coverage for physicians and surgeons medical malpractice insurance;
- amend subdivision 1(a) of Section 18 of Chapter 266 of the Laws of 1986 to permit the Superintendent of Insurance and the Commissioner of Health to purchase from funds available in the hospital excess liability pool policies of excess medical malpractice insurance covering occurrences between July 1, 1996 and June 30, 1997;
- amend various provisions of Section 18 of Chapter 266 of the Laws of 1986 to extend the excess medical malpractice insurance demonstration program to July 1, 1997. Eliminate the provision in the demonstration program that requires a participating insurer to designate a single rating territory in which it will (with certain exceptions) provide coverage. Expand the limit on the participating insurer's aggregate premiums so written from 3% to 4.5% of the participating insurer's total primary coverage premium; and
- amend Section 2343(c) of the Insurance Law (relating to rehabilitation and liquidation of a domestic insurer whose primary liability arises from the business of medical malpractice insurance) to extend its provisions to June 30, 1999.

5. Chapter 540 permits health maintenance organizations licensed pursuant to Article 44 of the Public Health Law to appoint and pay commissions to agents licensed pursuant to Article 21 of the Insurance Law to solicit their contracts. Also amends Section 1109(a) of the Insurance Law to modify the limited exemption for health maintenance organizations to require compliance with those sections of the Insurance Law dealing with licensed agents appointed to represent them.

6. Chapter 23 adds a new subparagraph (G) to Section 1113(a)(16) of the Insurance Law to include a new type of surety product within the "surety" kind of insurance. This product permits an insurer to become surety on, or guarantee the performance of, a bond, which shall not exceed a period greater than five years, that guarantees the payment of a premium, deductible, or self-insured retention to an insurer issuing a workers' compensation or liability policy.

7. Chapter 165 amends Section 1116(a) and (c) to continue authorization for certain experimental plans for prepaid legal services and permits insurers to issue, until April 1, 1997 instead of December 31, 1995, contracts in connection with experimental plans providing for benefits for legal services. In addition, permits the duration of such contracts to extend until April 1, 2002.

8. Chapter 446 amends the Insurance Law to update the authority of fraternal benefit societies to offer products to their members and modernize the regulation of fraternal benefit societies by the New York Department of Insurance.

9. Chapter 552 amends Section 1201(a)(5)(B)(v) to provide that a life insurance company with admitted assets of less than \$1.5 billion (rather than the current \$500 million) may have not less than nine directors. Continues the present requirement that of the nine directors, at least four must not be officers or employees of the company or any entity controlling, controlled by, or under common control with the company and who are not beneficial owners of a controlling interest in the voting stock of the company or any such entity. Also provides that the charter of the life insurance company with less than 13 directors shall require that the number of directors be increased to not less than 13 within one year following the end of the calendar year in which the company exceeded \$1.5 billion (rather than the current \$500 million) in admitted assets.

10. Chapter 551 amends Section 1209(b) of the Insurance Law to provide that at least one of the regular meetings of the board of directors of a domestic mutual insurer shall be held in New York and the other meetings may be held elsewhere in the United States or Canada, in a jurisdiction where the insurer is authorized to do business.

11. Chapter 300 enacts a new Section 1323 of the Insurance Law to authorize domestic life insurance companies to issue capital notes with the approval of the Superintendent. The net proceeds from the sale of capital notes would be includable in the insurer's total adjusted capital (TAC) but would not be included in its statutory surplus. Issuance of capital notes are subject to limits based on the insurer's TAC and taking into account advances or borrowings (*i.e.*, surplus notes) made pursuant to Section 1307 of the Insurance Law. The insurer generally cannot use capital notes, surplus notes and comparable financing to raise more than 25% of its total adjusted capital.

- requires the insurer to start eliminating the effect of the capital notes on its capital either five or ten years prior to maturity, depending on the term of the capital note;
- amends Section 7435(a)(7) of the Insurance Law to provide that in a proceeding to which Section 7435 applies, claims against the estate of a life insurance company by holders of capital notes would have the same priority as those of surplus note holders and other Class 7 creditors;
- amends Section 4219(a)(1) of the Insurance Law to change the calculation for measuring the maximum surplus authorized to be held by domestic mutual life insurance companies and to provide that maximum surplus cannot be less than the minimum capital and surplus requirements of another state, and
- repeals Section 4229 of the Insurance Law relating to limitations of expenses for debit life insurance.

***(A Governor's Program Bill)***

12. Chapter 498 amends Section 2118 of the Insurance Law which pertains to the duties of excess line brokers in the placement of coverage with insurers not licensed to do business in New York and Section 2130 of the Insurance Law pertaining to the Excess Line Association.

13. Chapter 556 amends Section 2129(a) of the Insurance Law to provide that the headquarters location of a holder of an agent and/or broker license must be under the supervision of one or more persons licensed to do all the kinds of business for which the licensee is authorized and that any satellite office established by the licensee must be supervised by one or more persons licensed to do the kinds of business to be transacted in that office. Also amends Section 2129(b) to require that the Superintendent of Insurance be given written notice of the location of each satellite office and the person or persons responsible for each satellite office.

***(A Department Bill)***

14. Chapter 86 amends Section 2337 of the Insurance Law to provide that the maximum discount on theft and comprehensive motor vehicle insurance coverage for all anti-theft devices provided for in Article 23 shall be an appropriate discount based solely on sound actuarial practices and limited only by sound actuarial determinations.

15. Chapter 42 amends various provisions of the Insurance Law to increase the availability and affordability of homeowners' insurance in New York's coastal areas and to help stabilize the homeowners' insurance market throughout the State.



16. Chapter 497 adds a new Section 2612 to the Insurance Law entitled "Genetic testing written informed consent." The section provides that no authorized insurer or person acting on behalf of an authorized insurer shall "request or require an individual proposed for insurance coverage to be the subject of a genetic test without receiving the written informed consent of such individual prior to such testing, in advance of the test." Also adds a new Section 79-1 to the Civil Rights Law to provide for the confidentiality of records of genetic tests.

This Chapter also provides that in the event that an insurer's adverse underwriting decision is based in whole or in part on the results of a genetic test, the authorized insurer shall notify the individual of the adverse underwriting decision and ask the individual to elect in writing, unless the individual has already done so, whether to have the specific test results disclosed directly to the individual or to the individual's physician, at the discretion of the individual; and authorizes the Superintendent to impose a penalty of up to \$5,000, after notice and hearing, upon any insurer or its agent that violates the confidentiality requirements of the section.

17. Chapter 174 adds a new Section 2612 to the Insurance Law entitled "Discrimination Based on Being a Victim of Domestic Violence" which among other provisions sets forth a prohibition against certain specified actions by individuals, insurers or entities subject to the supervision of the Superintendent of Insurance "solely" because a person is or has been a victim of domestic violence. Further provides that the fact that a person is or has been a victim of domestic violence is "not a permitted underwriting criterion."

18. Chapter 510 amends Section 3205 of the Insurance Law to allow certain charitable, educational and religious organizations to procure insurance on the lives of their donors and to be named as beneficiaries of such policies.

19. Chapter 491 amends Sections 3205, 3220 and 4216 of the Insurance Law in order to facilitate the purchase of life insurance by employers on the lives of employees and retirees. Also adds a new subsection (d) to Section 3205 of the Insurance Law and sets forth the conditions under which employers have an insurable interest in the lives of their employees.

20. Chapter 705 amends the Public Health Law and the Insurance Law to require HMOs and insurers with managed care programs to provide a grievance procedure, due process protection for health care providers, and better access to specialty care and to prohibit the use of "gag clauses." Also requires insurers and HMOs to provide enhanced disclosure and establishes standards for utilization review under HMO and health insurance products;

- repeals Section 4408 of the Public Health Law and replaces it with a new Section 4408, which sets forth detailed requirements concerning the disclosure of information by HMOs to enrollees and prospective enrollees concerning the benefits, exclusions and limitations of the HMOs' products, as well as information concerning the HMOs' operations;
- adds a new Section 4408-a to the Public Health Law which establishes minimum standards for HMO grievance procedures, including time frames, reviewer qualifications and appeal rights;
- adds a new Section 4406-d to the Public Health Law which establishes various protections for providers who are members of an HMO's network. Requires HMOs to inform providers of requisite qualifications for participation in the HMO network and to inform providers of the reasons for certain provider contract terminations along with an opportunity for a hearing. Also prohibits HMOs from terminating or refusing to renew a provider contract because the provider advocated on behalf of a patient;

- adds a new Section 4406-c to the Public Health Law which prohibits HMOs, independent practice associations and medical groups from including "gag clauses" in contracts with providers. These entities are prohibited from having contracts or written policies or procedures that prohibit or restrict providers from disclosing information to enrollees regarding a course of treatment;
- adds a new subdivision 4 to Section 4410 of the Public Health Law to clarify the Health Commissioner's authority to obtain patient-specific data from HMOs and a new subdivision 2 to Section 4403 of the Public Health Law to clarify the Health Commissioner's authority to promulgate rules and regulations concerning the delivery of certain emergency services, including the transportation of patients between health facilities;
- adds a new Section 4405-b to the Public Health Law which requires an HMO to report to the appropriate State disciplinary agency certain quality-related information regarding its providers or applicants to its provider networks;
- adds a new Section 18-A to the Public Health Law to require that all health care professionals licensed, registered or certified under Article 8 of the Education Law must, upon request, disclose to their patients or prospective patients information including their educational background, experience, training and hospital affiliations;
- adds a new Article 49 to the Public Health Law to establish detailed standards for the performance of utilization review activities by HMOs and independent utilization review agents. Additionally, this section establishes a "prudent layperson" standard to determine if an emergency condition exists and prohibits prior-authorization requirements for emergency care;
- adds new Sections 3217-a and 4324 to the Insurance Law which provide that certain insurance policies must also be accompanied by disclosure of consumer information comparable to that required of HMOs and new Sections 3217-b and 4325 to prohibit commercial and not-for-profit insurance companies from including "gag clauses" in their provider contracts;
- adds a new Article 48 to the Insurance Law which subjects certain health insurance products with managed care features to the same grievance, due process, and specialist care access requirements applicable to HMOs and a new Article 49 to require that all health insurers performing utilization review comply with standards identical to those established for HMOs and independent utilization review agents.

#### 21. Chapter 56:

- amends the existing maternity care mandate of Section 3216 of the Insurance Law to require that every policy of individual insurance issued by a commercial insurer that provides hospital coverage include inpatient hospital coverage for a mother and her newborn for at least 48 hours after childbirth for any delivery other than a caesarean section, and for at least 96 hours after a caesarean section. Also requires that maternity care coverage include, at a minimum, parent education, assistance and training in breast or bottle feeding, and the performance of any necessary maternal and newborn clinical assessments;
- specifies that a mother shall have the option to be discharged earlier than 48 hours after childbirth for a normal delivery and earlier than 96 hours after a caesarean section. In such event, requires that inpatient hospital coverage include at least one home care visit, which shall be in addition to, rather than in lieu of, any home care coverage otherwise available under the policy;

- amends Section 3221 of the Insurance Law to impose the same requirements on policies of group insurance issued by commercial insurers imposed on individual policies issued by commercial insurers. Amends Section 4303 of the Insurance Law to impose the same requirements on individual and group policies issued by HMOs and not-for-profit insurers imposed on policies of individual insurance issued by commercial insurers;
- adds a new Section 2803-n to the Public Health Law to require that a general hospital that provides maternity care must offer care for mothers and newborns for not less than 48 hours for any delivery other than a caesarean section and not less than 96 hours following a caesarean section. Also requires the hospital to provide care for parent education, assistance and training in breast or bottle feeding, and the performance of any necessary maternal and newborn clinical assessments; and
- amends Section 2803-j of the Public Health Law to require that the informational leaflet provided by hospitals to maternity patients include an explanation of the special provisions relating to maternity coverage and care and a suggestion that expectant parents review their insurance policies for the details of their maternity coverage.

## 22. Chapter 161:

- amends the Insurance Law and the Vehicle and Traffic Law to enact the Airbag Safety and Anti-theft Act;
- amends Section 3411(i) of the Insurance Law to provide an exception to the general rule that payment of a physical damage claim shall not be conditioned upon the repair of the automobile. The exception provides that the insured shall replace any inflatable restraint system (airbag), as defined in federal regulations, that inflated and deployed, or that was stolen, which is included in a physical damage or theft claim;
- amends Section 3412(b) of the Insurance Law to provide that an insurer shall have the right, where a claim is filed for the replacement of an inflated and deployed or stolen inflatable restraint system (airbag), as defined in federal regulations, to inspect the vehicle for which the claim is being filed to verify that the airbag did inflate and deploy or was stolen. The insurer is also given the right to take possession of a deployed airbag.
- amends the Vehicle and Traffic Law to require notice of the airbag system's readiness on the safety inspection. Failure of the indicator to work properly will not be grounds for failure of the safety inspection, but gives the consumer notice of a potential malfunction. Also allows for the inspection of warranty and exchange parts in the case of airbag replacement;
- provides that, after March 1, 1998, only salvage systems that have been certified as safe and appropriate for reinstallation may be sold according to the requirements set forth in the statute; and
- requires repair shops to keep a record of airbag installations, and sets forth the information to be recorded in the case of both new replacement systems and salvaged replacement systems.

## 23. Chapter 309:

- extends the provisions of Section 3425 of the Insurance Law regarding the cancellation and nonrenewal of private passenger automobile policies through August 1, 1998;
- adds Sections 5516-e and 9111-a to require the Medical Malpractice Insurance Association to transfer up to \$481 million to the General Fund;

- extends to July 1, 2000 provisions due to expire on July 1, 1997 which direct that the motor vehicle law enforcement fees received by the Superintendent of Insurance from commercial vehicle policies are to be paid to the Motor Vehicle Theft and Insurance Fraud Prevention Fund and extends for three years the New York Motor Vehicle Theft and Insurance Fraud Prevention Demonstration Program otherwise due to expire on 7/1/97;
- requires the Superintendent of the Division of State Police to prepare and submit by March 15, a report that details anti-auto theft activities which shall include, but not be limited to, a summary of anti-auto theft activities and an analysis of the incidence of automobile theft; and
- extends through January 31, 2002, the compulsory insurance and financial security provisions of the Vehicle and Traffic Law.

#### 24. Chapter 529:

- amends Section 3426(1)(2) of the Insurance Law to add financial guaranty insurance to the list of types of insurance that are exempt from the cancellation and nonrenewal provisions of that section, and makes numerous amendments to Section 6901 of the Insurance Law including the following:
  - clarifies that (i) guaranties of obligations or securities having an investment grade payment source are not speculative guaranties of interest rates, exchange rates or other market values and are not prohibited under Section 6904(b) and (ii) guaranties of specified payments on pass-through certificates and other equity securities are not prohibited by Section 6904(b), even though such payments are not technically obligations of the issuer of the securities;
- amends Section 6901(a)(2)(F) to limit the mortgage guaranty insurance exclusion to products permitted to be written by mortgage guaranty insurers under Article 65 of the New York Insurance Law, consistent with the purpose of restricting financial guaranty insurers from guarantying mortgage loans that may be insured by New York-licensed mortgage guaranty insurers;
- amends the definition of "affiliate" in Section 6901(c) and the definition of "collateral" in Section 6901(g)(2);
- updates the references in Section 6901 to the Uniform Customs and Practices for Documentary Credits of the International Chamber of Commerce, and clarifies that custodial arrangements as well as trust arrangements qualify and to clarify that servicing, paying agent, fiscal agent, custodial and other administrative fees may have the same priority as trustee fees in respect to collateral;
- amends the definition of "consumer debt obligations" in Section 6901(l)(1) and expands the definition of "governmental unit" to include Organization of Economic Cooperation and Development (OECD) countries rated in the "double-A" generic rating category or better;
- amends Section 6901 to add, as a new subsection (k-1), a definition of "excess spread";
- amends Section 6901(1) to include as investment grade obligations parity obligations (*i.e.*, issues that are not actually rated but have the same credit elements as a rated issued); Section 6901(p) to expand the definition of "municipal obligation bond"; Section 6901(s) to clarify that the term "utility first mortgage obligation" includes obligations issued by a utility that are secured by a first lien on utility property in which the utility has a lease ownership interest or a fee ownership interest;

- amends Section 6901(e) to amend the definition of "asset-backed securities" to update the reference to the "Federal Deposit Insurance Corporation" to the "Bank Insurance Fund" and the reference to the "Federal Savings and Loan Corporation" to the "Savings Insurance Fund," and to exclude qualifying government and full faith and credit agency securities from the 20% size restriction for an asset-based pool; and
- also makes several amendments to Sections 6902, 6903, 6904, 6905 and 6906.  
**(Part of a Department Bill)**

25. Chapter 549 amends Section 3426(1)(2) of the Insurance Law to add policies providing mortgage guaranty or credit insurance to the list of types of insurance that are exempt from the provisions of the statute.

**(Part of a Department Bill)**

26. Chapter 416 amends Section 3435 of the Insurance Law to add the prohibition that an applicant demonstrating a continuous, valid out-of-state or out-of-country driver's license during the prior 39-month period due to active service in the United States Army, Navy, Air Force or Marines shall be treated as if continuous licensing had been maintained in New York, and that such applicant for a motor vehicle liability policy may not be rejected solely because he or she served in the military.

27. Chapter 136 amends Section 3435-a of the Insurance Law to provide that insurers shall be prohibited from refusing to renew an existing motor vehicle liability insurance policy solely upon the basis of the age of the motor vehicle to be insured unless such decision is based on sound underwriting and actuarial principles reasonably related to actual or anticipated loss experience.

28. Chapter 520 amends Section 4228(h)(1)(B) of the Insurance Law in relation to the limitations on the expenses of life insurers. Also increases the compensation limit on renewal premiums received upon any life insurance policy issued on and after January 1, 1996 from 2 3/4% to 3 1/4% of the premium annually for the first 14 years after the first year of insurance. This increases the portion of the specific limit reserved for security benefits from 1 1/4% to 1 3/4% of the premiums received in the first 14 renewal years, with respect to life insurance policies issued on and after January 1, 1996. Of the 1 3/4% of such premium, 0.5% of such premium shall only be used for medical, dental, and/or vision benefits. All plans of agents' compensation that provide security benefits must continue to be submitted to the Superintendent of Insurance and approved by him before becoming effective.

29. Chapter 22 amends Section 4304 of the Insurance Law to prohibit a not-for-profit insurer organized under Article 43 of the Insurance Law from terminating, as part of a class discontinuance, subscribers to direct pay major medical or similar comprehensive coverage who are ineligible to purchase policies offered by HMOs pursuant to Sections 4321 and 4322 of the Insurance law due to requirements of federal law.

30. Chapter 18 amends the Insurance law in relation to the application of a preexisting condition waiting period under standardized health maintenance organization (HMO) direct payment contracts from the February 1, 1996 date to April 1, 1996.

31. Chapter 20 amends the Insurance Law in relation to extending the expiration date for Article 54 of the Insurance Law relating to the New York Property Insurance Underwriting Association (NYPUA) to March 18, 1996.

32. Chapter 487 repeals existing Section 6101 of the Insurance Law and adds a new Section 6101 to set forth definitions relevant to the regulation of reciprocal insurers.

## B. REGULATIONS PROMULGATED OR REPEALED

The following is a summary of Insurance Department Regulations promulgated or repealed in 1996. *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.*

*Repeal of Regulation 4 (11 NYCRR 77): Forms for Annual Statements (Proposed September 1995; Effective 3/1/96)*

Regulation 4 listed the types of forms for annual statements that insurers were required to file pursuant to Section 307 of the Insurance Law.

Repeal of the Regulation was purely technical, since filing requirements have been enacted statutorily and the form requirements contained in the Regulation were no longer in effect.

*Repeal of Regulation 15 (11 NYCRR 46): Cooperative Life and Accident Insurance Companies; Forms of Policies of Life, Accident or Health Insurance (Proposed September 1995; Effective 3/1/96)*

Regulation 15 governed insurance policies issued by cooperative life insurance companies organized pursuant to former Article IX-B of the 1939 Insurance Law.

Article IX-B was repealed by Chapter 130 of the Laws of 1980 because there were no longer any cooperative life insurance companies. Accordingly, the rule was no longer required by statute and compliance was no longer feasible. Moreover, the delegation of rule making authority was abrogated by the repeal of the underlying statutes.

*Repeal of Regulation 16 (11 NYCRR 5): Non-Profit Medical Indemnity or Hospital Service Corporations (Proposed July 1996; Effective 12/1/96)*

Regulation 16 specified the required forms for applications for a permit to solicit members, or for a license to do business, by a prospective nonprofit medical indemnity or hospital service corporation licensee.

Section 4302 of the Insurance Law requires that the Superintendent promulgate application forms for nonprofit medical indemnity or health or hospital service corporations. However, the statute does not require that the forms must be promulgated by regulation. Nor does the State Administrative Procedure Act impose such a requirement.

Accordingly, repeal of the regulation will have no practical affect on the Insurance Department's ability to prescribe these forms, but will enable the Superintendent to revise and modernize the forms more expeditiously.

*Repeal of Regulation 24 (11 NYCRR 170): Investment in Mortgage Loans (Proposed April 1996; Effective 9/1/96)*

Regulation 24 established standards and limitations for investments in mortgage loans by insurers investing pursuant to Sections 1404 and 1405 of the Insurance Law. Section 1405 was amended in 1983 and Section 1404 was amended in 1992. The statutory changes eliminated the automatic favorable treatment of such loans.

Such loans may continue to be held but must now be counted in calculating the individual and aggregate limitations found in Sections 1404(a)(4) and 1405(a)(3). Accordingly, Regulation 24 was invalid because it had been, in effect, repealed by statute.

*Seventh Amendment to Regulation 27-A (11 NYCRR 185): Credit Life Insurance and Credit Accident and Health Insurance (Promulgated 7/25/96; Effective 8/21/96)*

The Seventh Amendment to Regulation 27-A permits insurers to offer expanded credit disability benefits for revolving charge accounts based on a specified percentage maximum benefit calculation.

*First Amendment to Regulation 27-C (11 NYCRR 187): Credit Unemployment Insurance (Promulgated 7/25/96; Effective 8/21/96)*

The First Amendment to Regulation 27-C permits insurers to offer expanded unemployment benefits for revolving charge accounts based on a specified percentage maximum benefit calculation.

*Repeal of Regulation 32 (11 NYCRR 155): Minimum Premiums for Group Life Insurance (Proposed February 1996; Effective 3/1/96)*

Regulation 32 established minimum premiums for group life insurance policies.

Chapter 369 of the Laws of 1985 eliminated the statutory requirement (Section 4216(c) of the Insurance Law) that new groups must be charged minimum group life premiums for the first year. This eliminated the need for this Regulation. Accordingly, the rule was no longer required by statute and compliance was no longer feasible. Moreover, the delegation of rule making authority had been abrogated by the repeal of the underlying statutes.

*Sixth Amendment to Regulation 35-A (11 NYCRR 60-1): Minimum Provisions for Automobile Liability Insurance Policies and Supplementary Uninsured Motorists Insurance (Promulgated 1/16/96; Effective 2/7/96)*

The Sixth Amendment to Regulation 35-A reflects the increase in liability limits to \$25,000 for bodily injury to one person, \$50,000 for one accident, and \$10,000 for property damage, and increases from ten days to fifteen days the required time period for notice prior to cancellation for nonpayment of premium.

*First Amendment to Regulation 35-B (11 NYCRR 64-1): Liability Insurance Covering Snowmobiles (Promulgated 8/1/96; Effective 8/22/96)*

The First Amendment to Regulation 35-B brings the Regulation into technical conformity with the current provision of the Parks, Recreation and Historic Preservation Law.

*Second Amendment to Regulation 35-D (11 NYCRR 60-2): Supplementary Uninsured Motorists Insurance (Promulgated 8/12/96 as an emergency measure; Effective 8/15/96; Repromulgated 11/5/96 as an emergency measure; Effective 11/8/96)*

Regulation 35-D establishes a prescribed form for use in providing supplementary uninsured motorists insurance coverage (SUM). The Regulation was amended to indicate that the SUM limit of liability for each accident is also subject to the per person limit of liability and to reflect the recently enacted increase in the required minimum limits of liability of motor vehicle liability insurance.

The Amendment was promulgated as an emergency measure as a result of a June 1996 decision of the New York Court of Appeals (*Mostow v. State Farm Insurance*). This Amendment requires motor vehicle liability insurers to amend the language of their policy forms to make clear that SUM per accident coverage limits are subject to a per person limit of recovery as well.

*Repeal of Regulation 39 (11 NYCRR 48): High Cash Value - Minimum Deposit Life Insurance* (Proposed July 1996; Effective 12/1/96)

Regulation 39 established rules governing insurance policies that provide high early cash and loan values for the principal purpose of facilitating their sale on the so-called minimum deposit plan.

This Regulation was promulgated in 1959 because of a number of concerns regarding the sales of such policies. However, the product itself does not appear to be viable any longer because of restrictions on the tax deductibility of loan interest for federal income tax purposes. The Department believes that insurers are not presently writing this product. Accordingly, the Superintendent has determined that it is unnecessary to continue this Regulation.

Should insurers write these products, they remain subject to the underlying provisions of the Insurance Law.

*Second Amendment to Regulation 41 (1 NYCRR 27): Excess Line Placements, Governing Standards* (Promulgated 1/5/96; Effective 1/24/96)

The Second Amendment to Regulation 41 exempts 25 specified types of risks from provisions requiring excess line brokers to obtain declinations from three New York State-authorized insurers before placing a given risk with an insurer not authorized by New York State. Among the risks exempted are Amusement Rides and Devices, Animal Mortality, Fine Art Dealers, Lead Liability, and Warehouseman's Liability.

*Repeal of Regulation 51 (11 NYCRR 150): Required Provisions of "Umbrella" Excess Liability Policies and Conditional Suspension of Filing Requirements of Article VIII of the Insurance Law* (Proposed October 1995; Effective 3/15/96)

Regulation 51 established required provisions for "umbrella" excess liability policies and provided for conditional suspension of the filing requirements of Article VIII of the Insurance Law.

This action will modify the filing system for rates applicable to individual risks. The Department found that, since this Regulation was promulgated in 1968, subsequent changes in the insurance marketplace and the enactment of related statutory and regulatory requirements have obviated the need for Regulation 51. Accordingly, repeal of the rule is appropriate.

*Repeal of Regulation 54 (11 NYCRR 82): Stock Options Granted by Parent Corporations to Employees of Domestic Stock Insurance Companies* (Proposed July 1996; Effective 12/1/96)

Regulation 54 specified the circumstances under which a parent corporation of a domestic stock insurance company, other than a parent that itself is a domestic stock insurance company, may grant options for the purchase of shares of its stocks to officers or employees of a subsidiary domestic stock insurance company.



When this Regulation was promulgated in 1969, compensation of officers and directors of life insurers was tightly regulated. Now, compensation of officers and employees of all insurers is regulated only under Section 1207 of the Insurance Law. The Superintendent has concluded that it is unnecessary to continue regulating the narrow aspect of their compensation addressed by this Regulation.

It should be noted that the provisions of Section 1504 of the Insurance Law regarding transactions between members of a holding company system may be applicable in certain circumstances to transactions addressed by this Regulation.

*Second Amendment to Regulation 57 (11 NYCRR 160): Responsibilities in Construction and Application of Rates* (Promulgated 2/15/96; Effective 3/15/96)

The Second Amendment to Regulation 57 repeals the First Amendment ("Product Liability Rates, Rating plans, and Statistical Data," promulgated on 7/21/80). It also updates references to the Insurance Law in the original Regulation 57 (promulgated on 11/18/69) in terms of the 1984 recodification of the Law.

*Twenty-First Amendment to Regulation 62 (11 NYCRR 52): Minimum Standards for the Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure* (Promulgated 4/29/96 as an emergency measure; Effective 5/1/96; Repromulgated 7/26/96 as an emergency measure; Effective 7/26/96; Promulgated 10/1/96; Effective 10/16/96)

The Twenty-First Amendment to Regulation 62 revises the minimum standards for Medicare supplement insurance in order to continue the federal certification of New York's Medicare supplement insurance regulatory program. Certain technical corrections were necessary to bring these standards into full compliance with Public Law 103-432 (the Social Security Act Amendments of 1994).

In addition, the Twenty-First Amendment permits the sale of Medicare Select policies in this State. The Medicare Select Program permits insurers to provide Medicare supplement benefits through managed care arrangements.

*Repeal of Regulation 72 (11 NYCRR 174): Sale and Purchase of Exchange Traded Call Options* (Proposed April 1976; Effective 9/1/96)

Regulation 72 established rules governing the sale of exchange traded call options on stock that is already owned by an insurer. When the Regulation was promulgated in 1974, the Insurance Law prohibited an insurer from purchasing options on common stock, except in the limited case of a closing purchase transaction. An insurer could only sell options through a regulated option exchange.

Subsequently, Section 1403 of the Insurance Law was amended to allow insurers to engage in option trading. Since the scope of Regulation 72 was far more limited than the activity authorized by the statute, the provisions ceased to be utilized or applied by the Department. Therefore, the Regulation is invalid because it has, in effect, been repealed by statute.

*Repeal of Regulation 75 (11 NYCRR 217): Underwriting Practices Discriminating Against Females* (Proposed June 1996; Effective 12/1/96)

Regulation 75 prohibited discrimination because of sex, in regard to the issuance, cancellation, or renewal of any policy of insurance.

Subsequent to the original enactment of the Regulation in 1975, Insurance Law Section 40-e (now Section 2607) was enacted prohibiting discrimination because of sex or marital status in regard to the issuance, cancellation, or renewal of any policy of insurance.

Since the statute prohibits the identical conduct covered by the Regulation, repeal of the Regulation does not affect the continued prohibition against discrimination on account of sex. Substantively, the Regulation would have been unnecessary if the statute had been enacted first.

*First Amendment to Regulation 76 (11 NYCRR 66): Surety Bond Forms - Waiver of the Filing and Prior Approval Requirements of Article VII-A of the Insurance Law (Promulgated 11/13/96; Effective 12/4/96)*

The First Amendment to Regulation 76 is technical in nature, conforming the Insurance Law references contained in the Regulation in accordance with the 1984 recodification of the Insurance Law.

*Repeal of Regulation 81 (11 NYCRR 56): Home Health Care Insurance Supplementing Medicare (Proposed September 1995; Effective 3/1/96)*

Regulation 81 established requirements regarding the sale of Home Health Care Insurance supplementing Medicare. Chapter 166 of the Laws of 1977 required insurers issuing individual or group policies that provided coverage supplementing Part A or Part B of Title XVIII of the Social Security Act (Medicare supplement insurance) to make available, and, if requested by the policyholder, provide coverage of supplemental home visits beyond those provided by Parts A and B, sufficient to produce an aggregate coverage of 365 home-care visits per policy year.

The federal Omnibus Budget Reconciliation Act of 1990 significantly changed the regulation of Medicare supplement insurance policies. The law limits the sale of Medicare supplement insurance plans to ten standardized benefit packages. No other benefit packages may be offered for sale in any state, including New York. Accordingly, federal law has pre-empted state-mandated benefits in policies of Medicare supplement insurance and the Regulation was rendered invalid.

*Twenty-Fourth Amendment to Regulation 83 (11 NYCRR 68): Regulation Implementing and Coordinating Article 51 of the Insurance Law and the Workers' Compensation Law with Respect to Charges for the Professional Health Services Specified in Paragraph (1) of Subsection (a) of Section 5102 of the Insurance Law (Promulgated 10/1/96 as an emergency measure; Effective 10/4/96)*

The Workers' Compensation Board has established a new fee schedule effective for medical, chiropractic and psychological services rendered on and after October 1, 1996. In order to comply with Section 5108 of the Insurance Law, the Superintendent has promulgated the Twenty-Fourth Amendment to Regulation 83 adopting the new schedule for use in processing no-fault insurance claims.

*Regulation 86 (11 NYCRR 16): Special Risk Insurance (Public Notice: January 1996)*

Regulation 86, originally promulgated in 1978, implements Article 63 of the Insurance Law regarding insurance for special risks and established what has become commonly referred to as the Free Trade Zone. Special risks are certain large insureds (Class 1) or unusual, high-hazard or difficult-to-place policyholders (Class 2).

A Public Notice was issued that includes additions to the list of coverages that can be written under Article 63 of the Insurance Law and Regulation 86: Special Risk Insurance, Section 16.12(e).

The Public Notice lists 24 new statistical codes and classifications that were added to the list of coverages insurable as Class 2 Special Risks in the so-called Free Trade Zone. The risks added are the same ones exempted from excess line declinations in the Second Amendment to Regulation 41, save one. The one exception had already been listed as an insurable coverage in the Free Trade Zone.

*Repeal of Regulation 86A (11 NYCRR 56): Interface of Special Risk Insurers and the New York Insurance Exchange (Proposed September 1995; Effective 3/1/96)*

Regulation 86A established requirements regarding the placing of insurance on the New York Insurance Exchange.

This Regulation was required by Section 6201(b)(1)(D) of the Insurance Law. However, the syndicates on the Exchange were ordered in 1987 to stop writing new business and they have not written new or renewal policies since that date. The Exchange itself is in the process of being wound-up.

Since the Exchange is no longer operational and its members are not doing business, the prerequisite for a regulation is absent and the Regulation was no longer required by statute.

*Fourth Amendment to Regulation 90 (11 NYCRR 218): Prohibition of Geographical Redlining in Writing Private Passenger Automobile and Fire or Fire and Extended Coverage Insurance Policies (Promulgated 5/22/96; Effective 6/12/96)*

Regulation 90 prohibits geographical redlining and requires insurers to report relative data for private passenger automobile and fire or fire and extended coverage. The Fourth Amendment to Regulation 90 waives the filing requirement for such reports covering properties located in this State due on and after July 1, 1996 if the total direct premiums written for all such policies during the preceding calendar year is less than \$500,000.

*Repeal of Regulation 93 (11 NYCRR 30): Agency Conferences of Life Insurers (Proposed July 1995; Effective 12/1/96)*

Promulgated in 1981, this Regulation has limited the ability of life insurers to reimburse agent expenses for attendance at agency conferences. The Superintendent believes that the rules contained in the Regulation are too restrictive and hamper insurers in holding legitimate agency conferences. Although the Regulation will be repealed, agency conferences will remain subject to the requirements of Section 4228 of the Insurance Law, which restricts and limits insurer expenditures.

*Twenty-First Amendment to Regulation 101 (11 NYCRR 70): Medical Malpractice Insurance: Required Notices and Rate Modifications (Promulgated 9/19/96 as an emergency measure; Effective 9/23/96)*

The Twenty-First Amendment to Regulation 101 establishes physicians and surgeons medical malpractice rates and surcharges for the policy year July 1, 1996 to June 30, 1997, as well as rules to collect and allocate surcharges to recover deficits based on past experience.

***Second Amendment to Regulation 129 (11 NYCRR 161): Flexible Rating System; Rating Plans; Tort Reform Refiling (Promulgated 2/15/96; Effective 3/15/96)***

The Second Amendment to Regulation 129 eliminates, with some exceptions, the requirement for individual rate filings for 'a' rated risks to be made with the Superintendent. It also establishes conditions under which insurers can waive the requirement to conduct an audit to determine the final premium for policies where the initial premium was based on an estimate of the insured's exposure basis.

Several provisions relating to "tort reform savings" and to the phase-in of flex-rating in the 1980s are also deleted, and provisions covering commercial umbrella policies are incorporated into it, replacing repealed Regulation 51.

***Third Amendment to Regulation 145 (11 NYCRR 360): Rules to Assure an Orderly Implementation and Ongoing Operation of Open enrollment and Community Rating of Individual and Small Group Health Insurance (Promulgated 10/1/96; Effective 10/16/96)***

The purpose of the Third Amendment to Regulation 145 is to delete existing Section 360.10 of Regulation 145 as a result of changes made by the Twenty-First Amendment to Regulation 62 promulgated as a final measure on October 16, 1996. The Twenty-First Amendment to Regulation 62 revised the minimum standards for Medicare supplement insurance as a result of changes to the federal minimum standards for Medicare supplement insurance enacted by the Social Security Act Amendments of 1994 (Public Law 103-432).

***Regulation 152 (11 NYCRR 243): Standards of Records Retention by Insurance Companies (Promulgated 6/17/96; Effective 9/1/96)***

The purpose of Regulation 152 is to clarify and provide minimum recordkeeping requirements regarding the origin, maintenance and reproduction of information by insurers doing business in this State and certain other entities.

***Regulation 154 (11 NYCRR 19): Homeowners Insurance; Applications for Withdrawal From Marketplace (Promulgated 6/25/96 as an emergency measure; Effective 7/2/96; Repromulgated 9/30/96 as an emergency measure; Effective 10/1/06)***

In April 1996, legislation was passed requiring insurers to submit for the Superintendent's approval a plan of orderly withdrawal if they intended to materially reduce their volume of homeowners insurance policies.

In accordance with the legislation, the Department promulgated Regulation 154 to establish standards for the definition of "material reduction of volume of policies" and to establish standards by which an insurer's application for such material reduction will be approved.

**C. CIRCULAR LETTERS ISSUED\***

<b>NO.</b>	<b>DATE</b>	<b>ADDRESSED TO</b>	<b>SUBJECT</b>
1	1/18/96	All Authorized Life Insurance Companies	Additional Filing Required by Section 4233(b)(11) of the New York Insurance Law
3	3/11/96	All Licensed Life Insurers	Group Life Continuation and Portability
(Supp. #1 CL #15 (1995)	4/4/96	All Insurers Licensed to Write Motor Vehicle Liability Insurance in New York State and Endorsements on Behalf of Motor Vehicle Liability Insurers	Implementation of Chapter 305 of the Laws of 1995 Increasing the Required Minimum Limits of Liability for Motor Vehicle Insurance
4	4/24/96	All Authorized Property/Casualty Insurers, Insurance Producer Organizations and Advisory Rate Service Organizations	Individual Risk Reporting Forms
5	4/4/96	All Authorized Property Insurers Writing Business in New York State	Assisting the Insurance Department in Disaster Situations in Order to Determine Aggregate Amount and Number of Insured Losses in a Specific Geographic Area
7	4/11/96	All Life Insurance Companies Authorized to Write Life Insurance and Annuities	Filing of Fund Based Compensation Plans
Supp #6 CL#3 (1986)	4/24/96	All Licensed Property/Casualty Insurance Companies and Insurance Producer Organizations	1996 Insurance Availability Survey
Supp #2 CL#15 (1995)	6/5/96	All Insurers Licensed to Write Motor Vehicle Liability Insurance in New York State and All Rate Service Organizations Which File Policy Forms and Endorsements on Behalf of Motor Vehicle Liability Insurers	Implementation of Chapter 305 of the Laws of 1995 Increasing the Required Minimum Limits of Liability for Motor Vehicle Insurance - Revised Endorsement on Behalf of Motor Vehicle Liability Insurers
8	6/13/96	All Licensed Automobile Physical Damage Carriers	5th Amendment to Regulation 64
9	6/21/96	All Automobile Self- Insurers, and Insurers Licensed to Write Automobile Insurance in New York State and All Workers' Compensation Insurers Licensed to Write Workers' Compensation Insurance in New York State	Revision of the NYS Workers' Compensation Board Schedule of Medical Fees

10	7/16/96	All Licensed Property/Casualty Insurers	Homeowners Insurance: Reporting and Other Requirements Pursuant to (11 NYCRR) Regulation 154
11	8/1/96	All Authorized Life Insurance Companies, Accredited Life Reinsurers, Fraternal Benefit Societies and Charitable Annuity Societies	Maximum Reserve Valuation and Maximum Life Policy Non-Forfeiture Interest Rates
Supp # 9 CL # 9 1988	8/5/96	All Property/Casualty Insurance Companies; Co-operative Fire Insurance Companies; Lloyd's Underwriters and Reciprocal Insurers; Financial Guaranty Insurance Corporations; and the Medical Malpractice Insurance Association	Property/Casualty Insurance Security Fund
12	8/12/96	All Insurers Licensed to Write Fire Insurance in New York State	Tax District Claims Against Fire Insurance Proceeds
13	9/9/96	All Authorized Motor Vehicle Insurers and Insurance Producer Organizations	Circular Letter No. 1 (1980) with Supplement Nos. 1 & 2, Circular Letter No. 1 (1990), Circular Letter No. 7 (1992) With Supplement, and Circular Letter No. 14 (1994) With Supplement: Motor Vehicle Liability and Collision Insurance Premium Reduction for Completion of an Accident Prevention Course Pursuant to Sections 2336(a) & (d) of the Insurance Law
14	9/4/96	All Insurers Licensed to Write Motor Vehicle Liability Insurance in New York State	Section 5103(g) of the New York State Insurance Law: Substitution of a Policyholder's Health Insurance Coverage for No-Fault Health Care Coverage
15	10/16/96	All Authorized Property Insurers Writing Business in New York State	National Flood Insurance Program
16	11/22/96	All Automobile Self-Insurers, and Insurers Licensed to Write Automobile Insurance in York State	Chapter 639 of the Laws of 1996, The New York Health Care Reform Act and its Effects on No-Fault Insurance

17	12/9/96	All Insurers Licensed to Write Private Passenger Automobile, Fire, or Fire and Extended Coverage Insurance Policies Which Are Subject to the Reporting Requirements of Insurance Department Regulation No. 90 (11 NYCRR 218) "Prohibition of Geographical Redlining"	Reports and Data Specifications
18	12/20/96	All Insurers Licensed to Write Accident and Health Insurance in New York State and All Health Maintenance Organizations ("HMOs")	New York State Small Business Health Insurance Partnership Program (NYSHIPP)
19	12/20/96	All Domestic Life Insurance Companies Licensed to Write Life Insurance in New York State	Life Insurer Commitment Agreements

\* Circulars Letters No. 2 and No. 6 were not issued in 1996.

#### D. IMPORTANT DEVELOPMENTS OF 1996 IN MAJOR LITIGATION INVOLVING THE INSURANCE DEPARTMENT

*United States Automobile Association v. Curiale, as Superintendent of the State of New York Insurance Department*, New York Court of Appeals.

Plaintiff in this action (USAA), a Texas insurer authorized to do business in New York State, sought a declaratory judgment ruling that Section 1505-a(c) of the New York Tax Law was unconstitutional.

The challenged Tax Law provision imposes a temporary Metropolitan Transportation Authority business tax surcharge (MTA surcharge) on insurance corporations. The statute goes on to specify those circumstances where an insurer may take a credit, for the amount paid in MTA surcharges, against the retaliatory tax owed pursuant to Insurance Law Section 1112. Plaintiff asserted that the statute was unconstitutional in that it treated domestic and foreign insurers differently with regard to entitlement to such credit.

In October 1993 Justice Seymour Schwartz (Supreme Court, New York County) ruled that the credit provision of the challenged statute violated the equal protection clause of the United States Constitution. Justice Schwartz ruled that the state had failed to advance any justification for treating domestic and foreign insurers differently other than the promotion of domestic insurers. He found that the rationale stated did not "bear a rational relationship to a legitimate state purpose" for constitutional purposes.

Accordingly, Plaintiff's motion for summary judgment was granted in March 1994. The Department appealed to the Appellate Division, First Department. In a decision entered on June 22, 1995 the Appellate Division affirmed Justice Schwartz's decision. In a decision dated April 30, 1996, the Court of Appeals affirmed the decision of the Appellate Division.

*Preferred Physicians Mutual Risk Retention Group and U.S. Physicians Mutual Risk Retention Group v. Pataki, Muhl, et al.*, United States Court of Appeals, Second Circuit.

Plaintiffs in this action are risk retention groups organized under the Laws of the state of Missouri and are authorized to carry on the business of medical malpractice insurance in New York pursuant to the federal Liability Risk Retention Act of 1986 (LRRRA).

This underlying action was commenced in 1991. Plaintiffs alleged that New York's legislation concerning excess medical malpractice insurance coverage (the excess liability law) was preempted by the LRRRA and in violation of the Commerce Clause of the United States Constitution.

Specifically, plaintiffs argued that the excess liability law regulated the operation of risk retention groups and therefore violated the LRRRA. The State argued that the excess liability law did not regulate the activities of risk retention groups but applied to all unlicensed insurers equally.

The excess liability law provides that hospitals, through a pooling mechanism, will provide excess liability insurance to affiliated physicians and dentists at no cost to those practitioners who obtain their primary coverage through a New York-licensed insurer.

In November 1994, Judge Peter Leisure, United States District Court, Southern District of New York, issued an order granting partial summary judgment to plaintiffs and enjoining the State defendants from enforcing the excess liability law in a manner treating risk retention groups any differently from New York-licensed medical malpractice insurers. Accordingly, excess medical malpractice coverage was made available to eligible physicians and dentists who were covered for primary insurance from a risk retention group registered in New York.

In May 1996, the United States Court of Appeals for the Second Circuit vacated Judge Leisure's order and remanded the matter for further fact finding. The Court of Appeals failed to find evidence on the record that the excess liability law violated the LRRRA. Specifically, the Court found insufficient evidence that the excess liability law (1) resulted in substantial negative economic impact upon the ability of risk retention groups to do business in New York or (2) unfairly discriminated against risk retention groups.

*Insurance Premium Finance Corporation of New York State, et al., v. New York State Department of Insurance, et al.*, New York Court of Appeals.

Petitioners brought this Article 78 proceeding in December 1992, to challenge the approval by the Superintendent of an amendment to the rules of the New York Automobile Insurance Plan (Plan) authorizing a six-payment plan for assigned risk insureds.



Petitioners, representing entities in the business of providing automobile premium financing in New York State, alleged that the Superintendent's action was violative of the State Administrative Procedure Act (SAPA), constituting adoption of a rule without compliance with the SAPA requirements relating thereto.

The Department argued that, since the Plan is not a State Agency, the SAPA rules were not applicable to the amendment of a Plan rule and, in any case, the institution of the six-payment plan was not rulemaking within the meaning of SAPA.

On July 27, 1993, Justice Kristin Booth Glen, Supreme Court, New York County, ruled that the Superintendent's actions were violative of SAPA and declared the six-payment plan null and void. The decision was made without prejudice to the Superintendent's right to adopt such a rule pursuant to SAPA requirements. The Supreme Court, Appellate Division, First Department, affirmed Justice Glen's decision and the Department appealed to the New York Court of Appeals.

In a decision issued on June 6, 1996, the Court of Appeals concluded that the Plan is not a state agency within the definition given under SAPA and the Insurance Department's status as an agency may not be imputed to the Plan by virtue of the fact that the Superintendent must approve amendments to the Plan's rules. Therefore, the Court concluded that the Superintendent's actions did not constitute SAPA rulemaking because the amendment related to the operations of a private entity rather than the Insurance Department. Furthermore, the Court concluded that the Superintendent did not exercise such extensive supervision and control over the Plan that it may be considered an instrumentality of the State. The Superintendent's approval of the six-payment plan was no more a rule, in the Court's opinion, than the approval of policy rates for individual insurers.

The Court of Appeals concluded, based upon the foregoing, that the six-payment plan was not an agency rule and that SAPA requirements concerning notice and opportunity to comment were inapplicable. The petition was therefore dismissed.

*John Paterno, Inc., et al., v. Curiale, as Superintendent of Insurance of the State of New York*, New York Court of Appeals.

Petitioners brought this Article 78 proceeding in February 1993, to challenge a determination of the Superintendent that petitioners had violated Insurance Department Regulation 121 (11 NYCRR Part 73) by placing claims-made liquor liability policies in New York through an excess line broker. Claims-made policies provide liability coverage only when a claim is made against an insured within the policy period, whereas occurrence policies provide coverage for injury or damage that occurs within the policy period without regard to when the claim is asserted. During the period in question, Regulation 121 provided that, subject to certain specific exceptions, claims-made coverage could not be provided in any policy issued or renewed in the State.

Petitioner was licensed by this Department as an insurance agent, broker and consultant. Among other things, petitioner sold liquor liability policies to restaurant, bar and tavern owners. During the period beginning in 1985 it became difficult to secure such coverage from New York-licensed insurers. Petitioner made numerous placements through an excess line broker with insurers not licensed in New York.

In 1992, the Insurance Department found that many of the placements made through the excess line broker were claims-made policies. Liquor liability policies were not excepted from the prohibition of Regulation 121. Accordingly, the Department charged petitioner with acting in an untrustworthy manner within the meaning of Section 2110(a) of the Insurance Law and imposed a fine of \$67,365 upon petitioners. Petitioner defended that its actions were dictated by market conditions and the absolute necessity of its clients to procure insurance coverage. Furthermore, it maintained that the prohibitions of Regulation 121 were not applicable to policies placed through an excess line broker.

In July of 1995 the Appellate Division, First Department, ordered the matter remanded for a new determination with the fine not to exceed \$14,970. The Appellate Division stated that, in light of the market conditions, the Superintendent's finding that the petitioner acted in an untrustworthy manner was without foundation. In June 1996, the Court of Appeals issued a decision modifying the Appellate Division decision. First, the Court of Appeals found that Regulation 121 was applicable to policies placed through an excess line broker. While the unauthorized insurer issuing the policy might not be subject to the Regulation, the petitioner as a licensee of the Insurance Department undoubtedly was. Furthermore, the Court of Appeals found that the Superintendent's conclusion that petitioner acted in an untrustworthy manner was rationally supported by the evidence and reinstated the fine as originally imposed by the Superintendent. The Court of Appeals directed that petitioners' petition be dismissed in its entirety.

*Lawrence & Company, Inc. and Lawrence v. State of New York Insurance Department and Muhl, as Superintendent*, New York Supreme Court, Appellate Division, Third Department.

Petitioners brought this Article 78 proceeding in September 1996, to challenge a determination of the Superintendent denying petitioners' request that an administrative proceeding before the Department be closed to the press and public. Petitioners are licensed as insurance agents, brokers and adjusters by the Department. On August 8, 1996, a citation was issued by the Department alleging misconduct and violations of the Insurance Law and seeking revocation of all licenses held. Petitioners were ordered to appear at a Departmental hearing on September 16, 1996.

Petitioners requested that the administrative hearing be closed to the press and public. On September 16, Hearing Officer Alan Rachlin ruled that the hearing should remain open to the press and public, in keeping with past Department policy and as required by Section 304(c) of the Insurance Law. Petitioners brought an Order to Show Cause in Supreme Court, Albany County. Their petition further sought a temporary restraining order closing the hearing. On September 25, Justice James B. Canfield issued a judgment granting the injunction closing the hearing to the press and public.

The Department served a Notice of Appeal from Justice Canfield's decision to the Appellate Division, Third Department. When the administrative hearing resumed on September 26, Hearing Officer Rachlin determined that, in light of the Department's filing of a Notice of Appeal, enforcement of the decision of Justice Canfield was automatically stayed. Accordingly, the hearing was to remain open to the press and public.

Petitioners brought an Order to Show Cause in the Appellate Division, Third Department. On September 23, Judge Casey ordered the administrative hearing stayed pending a hearing and decision on the motion to close the hearing to the press and public. On October 30, 1996, the Appellate Division, Third Department, determined that the filing of a Notice of Appeal did not stay Judge Canfield's order and itself stayed the order. The hearing resumed with the public and press present.

*American Transit Insurance Company v. New York State Department of Insurance*, New York Supreme Court, Appellate Division, Third Department.

Plaintiff, an insurer licensed by this Department, brought this action in October 1989, in the Court of Claims, seeking to recover alleged overpayments it made to the Property/Casualty Insurance Security Fund (the Fund) in 1988, 1989 and 1990 totaling approximately \$629,000 including interest. American Transit alleged that its rate of contribution to the Fund could not exceed the rate of  $\frac{1}{2}$  of 1% of net direct written premiums, as specified in §7603(b)(2) of the Insurance Law. The Department took the position that §7603(b)(2) was inapplicable and that the rates applied to American Transit were correct since they conformed to the methodology described in §§7603(c)(1) and (c)(2) of the Insurance Law.

American Transit's claim also included a challenge to the constitutionality of two provisions of law by which funds were transferred from the Fund to the State's General Fund in 1979 and 1982. In a July 21, 1995, decision Judge Louis C. Benza of the Court of Claims granted the Insurance Department's Cross-Motion for Summary Judgment and dismissed American Transit's claim. Judge Benza found that §7603(c)(2) of the Insurance Law did not require an insurer's resumed contributions to the Fund to be capped at a certain percentage of its net written premiums. The Court of Claims also left the door open for American Transit to reinstitute its claim for damages caused by the 1979 and 1982 transfer of funds to the State should the Fund ever become contributory again and should American Transit be able to establish such damages.

By Opinion and Order dated October 24, 1996, the Appellate Division for the Third Department affirmed the judgment of the Court of Claims. On January 14, 1997, the Appellate Division, Third Department, denied American Transit's motion for Leave to Appeal to the Court of Appeals.

#### **E. REGULATORY LICENSE HEARINGS AND STIPULATIONS EXECUTED IN 1996**

After hearings in the Insurance Department, 52 licensees suffered revocations, 9 had their license applications denied, 8 had charges against them dismissed and 89 were fined a total of approximately \$337,000.

Pursuant to stipulation, 17 licensees agreed to surrender their licenses and 210 agreed to pay fines totaling approximately \$6,800,000.

## V. 1997 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 1997

#### 1. Formation of Captive Insurance Companies: Program Bill No. 32

To facilitate and permit the formation of wholly owned pure and group captive insurance companies in New York State. Captive insurance companies ("captives") 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."

This bill would limit captives to the formation of pure captives (those owned by one parent or by affiliated parents) and industrial captives (those owned by a small number of substantially sized unaffiliated entities with similar risks).

The owner(s) of such captives would have to maintain a net worth equivalent to that of a Fortune 500 Company. This requirement ensures that the owner(s) have the financial strength and business acumen to self-fund their risks.

The bill would not permit captives to provide on a direct basis insurance necessary to meet the minimum requirements of financial responsibility laws (*i.e.*, Motor Vehicle or Workers' Compensation Laws). These captives would be permitted to use licensed "fronting" carriers to meet these requirements. In such a situation, a captive generally reinsures all or most of the risk and, through the posting of collateral, protects the fronting carrier from the credit risk associated with fronting arrangements. In addition, captives would be permitted to provide direct indemnity coverage to parents and affiliates of pure captive insurance companies that already have qualifying insurance or self-insurance plans and would be permitted to provide any direct coverage in excess of the minimum amount required by such financial responsibility laws.

Captives formed in other jurisdictions account for approximately \$12 billion of the estimated \$177 billion commercial lines market in the United States. Other alternative insurance mechanisms, including self-insurance, wherein an organization either totally funds its own losses internally or maintains a significant deductible, and the large capacity off-shore insurers that write large excess policies on a direct basis (for self-insureds) or on a reinsurance basis (for captives and conventional insurers) account for another approximately \$46 billion.

This bill would only provide for the organization of wholly owned captives or industrial captives so that owners and insureds of these captives are comprised of sophisticated insureds that do not require the regulatory protection afforded other insureds. These sophisticated financial entities look for the most efficient, cost-effective means to finance their risks. Captives are already licensed (and will continue to organize) in other jurisdictions, and they do (and will continue to) insure New York risks, with or without a New York law.

This bill provides for the relaxed regulatory environment similar to that offered by other jurisdictions to which captives are attracted. This bill can begin development of an appropriate regulatory environment in New York for this already evolved market. To be a successful domicile for captive insurers, New York must:

- \* create a fair, competitive taxing environment;
- \* have a consistent, responsive, regulatory framework; and
- \* have a demonstrated commitment from the Legislature.

In order to provide the necessary regulatory framework within the Insurance Department, a separate unit will be established to administer the implementation of the law and monitor captive insurers licensed in New York. The establishment of this unit is intended to demonstrate and to recognize the different regulatory environment necessary to address the sophisticated commercial insureds using captives to manage their business risk.

As a result of the enactment of this legislation, New York will gain enhanced economic development, an opportunity to serve as one of the global centers of captive insurance, experience in regulating the alternative insurance market, and continued recognition as an effective and responsive insurance regulator.

Senate Bill 5258 (Sen. Velella); Assembly Bill 7776 (Mr. Grannis)

## **2. Homeowners Insurance/Catastrophe Coverage/New York Property Insurance Underwriting Association: Program Bill No. 20**

To enact legislation necessary to implement recommendations 3, 5 and 9 of "A Report to Governor Pataki and Members of the New York State Legislature," submitted on October 1, 1996 by the Temporary Panel on Homeowners' Insurance Coverage, a special advisory panel that the Superintendent of Insurance was directed to convene pursuant to Section 12 of Chapter 42 of the Laws of 1996. The recommendations are as follows

- Amend subsection (e) of Section 3425 of the Insurance law to facilitate the prompt use of mandatory hurricane deductibles by insurers;
- Amend Section 5404 of the Insurance law to allow the New York Property Insurance Underwriting Association (NYPIUA) to use hurricane deductibles similar to any that are approved in the voluntary market;
- Amend Section 5405 of the Insurance Law to provide for the establishment of a hurricane exposure-related Take Out/Keep Out credit by NYPIUA;
- Repeal Sections 5411 and 5412(g) of the Insurance law, thereby making NYPIUA permanent.

The bill also extends for two years (to April 30, 1999) certain provisions that were included in Chapter 42 of the Laws of 1996 and that currently have an April 30, 1997 expiration date (Section 2351 and Section 3425(o) and (n)).

Senate Bill 4119 (Sen. Velella); Assembly Bill 7047 (Mr. Grannis)

## **3. Risk-Based Capital for P/C Insurers; Authorization for P/C Insurers to Issue Capital Notes; "Commercially Domiciled" P/C Insurers: Program Bill No. 21**

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.

To create a new Section 1325 of the Insurance Law to authorize domestic property/casualty insurance companies to issue capital notes with the approval of the Superintendent of Insurance within certain statutory limits.

To extend the provisions of Article 15 of the Insurance Law ("Holding Companies") to certain licensed foreign property/casualty insurers that exceed parameters based upon the amount of premiums written in New York.

Senate Bill 4417 (Sen. Velella, et al.); Assembly Bill 7777 (Mr. Grannis)

## B. INSURANCE DEPARTMENT BILLS FOR 1997

### 1. Liquidation Proceeding Reforms

To streamline the activities of the Liquidation Bureau and expedite its operations, by accomplishing the following objectives:

- To rectify inequities in current law regarding reinsurers and the creditors of an insolvent ceding insurer, and to enable the Superintendent of Insurance, as the receiver of an insurer placed into receivership pursuant to Article 74 of the Insurance Law, to fulfill the fiduciary duty to investigate fraud or other misconduct.
- To facilitate the closing of insolvent property/casualty companies in liquidation by establishing classes of claims in insurance liquidation proceedings and to provide for a priority for claim distributions among the classes.
- To facilitate the closing of insolvent companies in liquidation by eliminating consideration of claims under \$200 in liquidation proceedings unless such claims are covered by a security fund, since the costs incurred to examine and adjudicate *de minimis* claims far exceed the ultimate distribution to most claimants.
- To afford policyholders notice by publication of the cancellation of their insurance policies within 30 days of entry of an order of liquidation of an insolvent insurer, thereby enabling policyholders to obtain replacement coverage; and to fix, upon entry of the liquidation order, the rights and liabilities of the insurer, its creditors, policyholders, shareholders, members and any other persons interested in the estate.
- To expedite payments to New York residents who have made claims covered by the security funds and to eliminate unnecessary delay and onerous administrative expenses relating to allowance of claims.
- To grant the Superintendent of Insurance, as receiver, greater discretion in the investment of assets of companies in liquidation, rehabilitation, conservation or ancillary receivership in order to garner greater investment income for companies subject to Article 74, fulfilling the fiduciary duty of maximizing the assets of such companies.
- To maintain the solvency of the Workers' Compensation Security Fund, and similar funds in other states, which pay workers' compensation claims covered by policies issued by insolvent insurers in liquidation in New York, by permitting the Workers' Compensation Security Fund and similar funds to participate in "early access" distributions made available to the Property/Casualty Insurance Security Fund, Public Motor Vehicle Liability Fund and their equivalents in other states.
- To extend, to July 1, 2000, the provisions in Section 7403 of the Insurance Law authorizing the Superintendent of Insurance (with court approval) to borrow from the Property/Casualty Insurance Security Fund, for the purpose of rehabilitation of a domestic property/casualty insurer, an amount up to \$40 million or 20% of the insurer's net direct premium writings. Also to delay, until July 1, 2000, the effectiveness of the provision in Section 7403.

- To permit the Superintendent of Insurance, as liquidator, to deliver immediately to the State Comptroller all unclaimed assets following the termination of an insurance company's liquidation proceeding.

Senate Bill 4229 (Sen. Velella); Assembly Bill 7737 (Rules at request of Mr. Grannis)

## 2. Anti-Fraud Provisions

To create 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;

To subject unlicensed activity to civil penalties after notice and hearing before the Insurance Department;

To modify certain reporting requirements concerning insurance fraud;

To create a civil cause of action in favor of the Attorney General or the Insurance Department on behalf of insurers that have been defrauded; and creating a "*qui tam*" action for the insurers who have been defrauded;

To provide for automatic revocation of licenses under Article 21 of the Insurance Law for conviction of the licensee for felony larceny or felony insurance fraud;

To require a periodic certification of continued eligibility by benefit recipients for workers' compensation or disability benefits;

To require that life insurance policy applications include a permanent record of identification of the insured.

The bill would create a class E felony for unlicensed activity by previously licensed insurance agents, insurance brokers, reinsurance intermediaries or insurance consultants that are no longer licensed at the time of the violation due to the surrender, suspension or revocation of, or refusal of the Superintendent to renew, the license. Unlicensed activity currently falls into the catch-all misdemeanor category in Section 109(a), which makes it very difficult for the Insurance Department to convince prosecutors to accept these cases for prosecution. The most serious component of this problem involves licensees whose licenses have been revoked for misconduct, yet they continue to do business.

The bill amends Section 2102 of the Insurance Law to make it a violation of law to act as an insurance consultant or viatical settlement broker without a license issued by the Insurance Department. With this amendment, all persons engaged in the various types of activities for which licenses are required pursuant to Article 21 of the Insurance Law would now be subject to the section. The bill also amends Section 2102 to authorize the Insurance Department to conduct administrative hearings regarding the liability for civil penalties of persons who act as reinsurance intermediaries without a license issued by the Insurance Department. By providing for notice and hearing before the Insurance Department, liability for the civil penalty for unlicensed reinsurance intermediary activity will be determined by the administrative agency charged with enforcement of the Insurance Law.

The bill also amends Section 2102 by adding a new paragraph that establishes a civil penalty of not more than \$2,500 for each transaction by persons who act as insurance agents, insurance brokers, insurance consultants, viatical settlement brokers or insurance adjusters without a license issued by the Insurance Department. Liability for the new civil penalty would be determined after notice and hearing before the Insurance Department, thereby providing an efficient administrative remedy to address unlicensed activity.

The bill would also amend Section 405 to permit the Superintendent to have a more reasonable period of time in which to prepare the required report on insurance fraud activities.

The bill contains additional deterrents to the commission of fraud, including the bill's provision requiring recipients to certify at least semi-annually to their continued eligibility for workers' compensation or disability benefits. Legislation enacted in 1996 amended Section 132 of the Workers' Compensation Law to require certifications on the backs of all benefit checks and checks issued to health care providers. However, it did not include a requirement for filling out a periodic recertification questionnaire as a condition for receiving benefits.

Since the enactment of the new law, concern has been expressed that it may be difficult to prove criminal intent based on a check certification alone. Periodic recertification is required by the U. S. Department of Labor with respect to federal workers' compensation claims, and such recertification serves as the basis for the vast majority of their successful prosecutions. A periodic recertification form would be a far superior basis on which to establish fraudulent intent.

Another deterrent to fraud is the provision requiring that life insurance policy applications include a permanent record of identification. The most common fraud in the field of life insurance involves individuals who insure their lives, and then fake their deaths by using a fraudulent foreign death certificate. The "decedent" is usually alive and well, using another name. When this person is found, the prosecutor's problem is to prove that the living person is in fact the insured. In other cases, it may be necessary to prove that the actual decedent was not the person insured. If the application for life insurance contained a photograph of the insured and a thumb print, it would be much more difficult for scam artists to get away with this common form of insurance fraud. There is inexpensive technology readily available that would allow the capturing of the applicant's image in the life agent's laptop computer. A thumb print can also be obtained with minimal training and no significant additional cost. Therefore, this proposal will be cost-effective.

The civil action and "*qui tam*" provisions provide alternative means for attacking insurance fraud. The "*qui tam*" provisions enable insurers to bring civil actions against defrauding parties to obtain damages, expenses and a portion of the treble damages if the insurer maintains the suit. All complaints brought by insurers under this section will be reviewed by the Attorney General and the Insurance Department who may either take over the action, allow the insurance company to go forward, or obtain dismissal of the action if necessary. This section provides a supplement to state fraud investigation and prosecution resources by allowing the insurers to sue for fraud. Both the public and the insurer benefit from the proceeds.

The bill also provides for the revocation of certain licenses by operation of law upon conviction of felony larceny or felony insurance fraud pursuant to Article 155 or Article 176 of the Penal Law. The revocation by operation of law is similar to the disqualification of attorneys upon conviction of certain felonies pursuant to Section 90 of the Judiciary Law. The bill also makes the automatic 30-day stay provision inapplicable to orders of summary license suspension and revocations by operation of law, so that the automatic authority to continue as a licensee of the Insurance Department will not be available in cases of the most serious violations of law.  
Senate Bill 4158 (Sens. Velella, Hannon, et al.); Assembly Bill 7738 (Rules at request of Mr. Grannis)

### **3. Repeal Section 4227 Re: Limitations on New Business of Life Insurers**

To repeal Section 4227 relating to limitations of new business of life insurance companies.

The bill, which repeals Section 4227 relating to limitation of new business for life insurance companies, recognizes that New York now has more effective means of regulating the financial condition of life insurers than by putting a cap on new business. Section 4227 was originally enacted in 1906 as a result of a recommendation by the Armstrong Commission. At that time it was believed that new business limits were required because uncontrolled growth was detrimental to a company's policyholders.



Today, such a limit on new business is no longer needed by the Department given the institution of modern solvency regulatory methods including Risk-Based Capital (RBC) pursuant to Section 1322 of the New York Insurance Law.

Section 4227 currently provides an impediment to competition for New York life insurance companies and contains a cumbersome procedure for obtaining a waiver from its provisions without delivering any corresponding regulatory benefit. Its repeal was first recommended by the "Report of the Executive Advisory Commission (also known as the 'Heimann Commission,' established by an Executive Order of Governor Hugh L. Carey on 10/29/81) on Insurance Industry Regulatory Reform." Section 4227 is no longer useful as a regulatory solvency tool and its repeal will enhance competitive forces in the life insurance industry.

Senate Bill 3883 (Sen. Velella); Assembly Bill 7739 (Rules at request of Mr. Grannis)

#### **4. Technical Corrections Bill**

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.

The bill 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.

Due to changes to Article 14 enacted in Chapter 324 of the Laws of 1992, the cross-references to provisions of Article 14 that are set forth in Section 6507 require a technical conforming revision.

The remaining sections of this 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.

All of the ambiguities in Section 2335 that Section 15 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 that conflict with the rest of the section, and therefore should be replaced.

Senate Bill 4012 (Sen. Alesi); Assembly Bill 7740 (Rules at request of Mr. Grannis)

## **5. Repeal Section 334 Re: Annual Commercial P/C Report**

To repeal Section 334 of the Insurance Law in order to eliminate the requirement for the Annual Commercial Property/Casualty Report.

Section 334 of the Insurance Law was enacted as part of the legislative reforms addressing the liability insurance crisis of the mid-1980s. The report is costly, burdensome and without significant benefit to consumers, the Department and industry. In recent years, the Office of the Comptroller, in connection with an audit, has twice expressed its support for the repeal of Section 334. Senate Bill 4055 (Sen. Salant); Assembly Bill 7745 (Rules at request of Mr. Grannis)

## **6. Aviation Insurance**

To amend Section 3426(l)(2) of the Insurance Law to specify that aviation policies are exempt from the cancellation and nonrenewal provisions of the statute.

Section 3426 of the Insurance Law was enacted in 1986 as a means of combating the liability insurance crisis of the mid-1980s. The legislative intent of the statute is specifically geared toward commercial property and liability insurance purchased by insureds needing the protections afforded under Section 3426. The types of coverage afforded under aviation policies clearly do not fall within that concept. Insureds under aviation policies are usually large sophisticated risks and not in need of these protections.

By not requiring insurers to make filings that include language specifically conforming with Section 3426, the rate and form process will be streamlined for the Department and the industry, and availability and product development will be enhanced in New York. Senate Bill 4181 (Sen. Salant); Assembly Bill 7741 (Rules at request of Mr. Grannis)

## **7. Group Insurance for Motor Clubs**

To permit the continued provision of certain types of group property/casualty insurance for members of motor clubs, by enacting statutory authority for the purchase of insurance coverage that provides specified benefits on a group policy basis to club members.

Motor clubs, such as the American Automobile Association, typically provide emergency road services to their members. These services usually include towing, battery recharging, tire changing and other trip interruption services. These clubs also provide bail and arrest bonds.

Insurance Department Circular Letter #2(1979) stated that motor clubs could purchase insurance coverage that provides the above listed benefits on a group policy basis. However, specific group property/casualty insurance sections such as Sections 3435 and 3442 were enacted subsequent to the Circular Letter and are the exclusive vehicles for group property/casualty insurance in New York. Accordingly, this bill is necessary to allow motor clubs to continue to provide this type of group property/casualty insurance to their members. The coverages in this bill are not a substitute for a regular motor vehicle physical damage and liability insurance policy. The coverages are limited to providing additional protection in emergency road service situations.

Because these policies are issued on a group basis and the premium is typically small, the normal cancellation and nonrenewal provisions of Sections 3425 and 3426 are not appropriate. Accordingly, the bill contains provisions tailored to the unique nature of the coverages. Under the bill, only an authorized insurer may provide the coverage.

The bill provides that these policies will not be subject to the flex-rating provisions of Sections 2344 and 2350. They will instead be subject to the provisions applicable to file and use under Section 2305 of the Insurance Law. The forms will be subject to prior approval, as are other policy forms, under Article 23. However, since bail and arrest bonds are types of surety, they are exempt from policy form filing requirements, as provided in 11 NYCRR 66 (Regulation 76).

The bill does not expand the current programs, but merely updates the current law to take cognizance of the developments in the Insurance Law on the subject of group property/casualty insurance since the 1979 Circular Letter.

Senate Bill 4272 (Sen. Larkin); Assembly Bill 7742 (Rules at request of Mr. Grannis)

## **8. Aircraft as Admitted Asset**

To delete an existing requirement in Section 1301(a)(19) of the Insurance Law that the Superintendent of Insurance promulgate a regulation concerning aircraft as an admitted asset of insurers.

Existing Regulation 80 has become outdated in that aircraft are at this time generally not owned by insurance companies, but instead are leased by them because of changes in the federal tax law. Under existing Section 1301(a)(19) of the Insurance Law, insurers could not obtain credit for aircraft as an admitted asset unless the Superintendent first promulgated a regulation on the subject. The changes to the statute made by this bill will obviate the need for the regulation. At the same time, the revised statute does not preclude the promulgation of a regulation if one is considered to be necessary.

There have not been any abuses in this area, and the provisions of Section 1301(a)(19), as revised by this bill, would adequately address this issue.

Senate Bill 5167 (Rules); Assembly Bill 7743 (Rules at request of Mr. Grannis)

## **9. Obsolete Provisions Re: Lloyds New York; Update Provisions Re: Financial Guaranty**

(a) 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 Lloyds underwriters;

(b) To amend Section 6116 of the Insurance Law to delete subsections (a), (b) and (d), which grandfathered any Lloyds 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;

(c) To delete numerous references in the Insurance Law to "Lloyds underwriters" to reflect the fact that the only Lloyds underwriter grandfathered under Section 6116 has since converted to a property/casualty insurance company and that the formation of other Lloyds underwriters is prohibited, making these references 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 that 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.

Section 1104(c) is currently applicable to Lloyds 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 Lloyds underwriters. Accordingly, the reference to Lloyds underwriters in Section 1104(c) is obsolete.

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 Lloyds 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 62. The provision contained in Section 6116(c) prohibiting any other Lloyds 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 the Insurance Law to "Lloyds underwriters," where such references are meant to include a Lloyds underwriter in the same standing as other types of authorized insurers, are no longer relevant and should be deleted.

Senate Bill 4062 (Sen. Velella); Assembly Bill 7744 (Rules at request of Mr. Grannis)

VI. REGULATORY ACTIVITIES  
A. OPERATING STATISTICS

Table 55  
SUMMARY OF STATISTICAL TABLES AS OF DECEMBER 31, 1995 – PRIOR TO AUDIT  
(dollar amounts in millions)

Company Type (1)	As of Dec. 31				For the year			
	Number of Insurers(2)	Admitted Assets	Liabilities	Surplus & Capital Funds	Total Business (Net of reinsurance)		New York State Business (Direct)	
					Premiums Written(3)	Losses Paid(4)	Premiums Written(5)	Losses Paid(6)
--- All NYS-Licensed Companies (all domiciles) ---								
Total	1,004	\$1,889,298	\$1,637,551	\$251,745	\$394,581	\$300,962	\$62,290	\$46,639
Property and Casualty	695	589,622	414,836	174,786	189,428	116,754	21,894	13,003
Life(7)	142	1,223,634	1,161,169	62,465	176,856	164,109	23,924	19,472
Accident and Health	16	5,114	3,126	1,988	3,356	2,313	555	294
Fraternal	51	44,364	40,853	3,511	5,009	2,986	118	57
Health Service and								
Medical and Dental Indemnity(8)	17	4,076	3,228	848	7,275	6,622	7,275	6,622
Health Maintenance Organizations(8)	34	2,041	1,346	695	8,094	7,261	7,920	7,082
Title	19	1,897	1,256	641	2,098	155	278	18
Mortgage Guaranty	18	7,292	5,049	2,242	1,735	724	121	75
Financial Guaranty	12	11,257	6,687	4,569	729	38	206	16
--- New York State Domiciled Companies ---								
Total	380	523,432	476,924	46,508	94,381	79,641	33,591	29,274
Property and Casualty	207	72,182	54,542	17,641	18,752	10,487	6,651	3,835
Stock	133	52,309	37,459	14,850	14,694	8,049	3,072	1,710
Mutual	19	18,113	15,736	2,378	3,467	2,149	2,764	1,737
Advance Premium Co-op.	20	755	505	250	366	192	541	270
Reciprocal	4	840	773	68	161	66	189	72
Assessment Co-op.(9)	31	165	69	95	64	31	85	46
Life(7)	87	436,302	412,597	23,705	58,929 a	54,995 b	11,036	11,537
Accident and Health	10	322	157	164	463 a	221 b	390	167
Fraternal	8	98	87	10	8	8	6 c	4 d
Health Service and								
Medical and Dental Indemnity(8)	17	4,076	3,228	848	7,275 e	6,622 f	7,275	6,622
Health Maintenance Organizations(8)	34	2,041	1,346	695	8,094 g	7,261 h	7,920 g	7,082 h
Title	9	203	115	89	229	16	152	11
Mortgage Guaranty	2	157	34	123	18	*	0	0
Financial Guaranty	6	8,051	4,818	3,233	613	30	161	16
--- Other States' Domiciled Companies ---								
Total	603	1,355,464	1,152,794	202,669	297,819	220,113	28,424	17,223
Property and Casualty	468	509,529	354,706	154,823	168,580	105,275	14,969	9,027
Stock	416	378,072	272,973	105,098	119,561	71,840	12,062	7,229
Mutual	48	121,762	76,870	44,892	45,240	30,943	2,784	1,740
Reciprocal	4	9,695	4,863	4,833	3,779	2,492	123	58
Life(7)	55	787,332	748,572	38,760	117,927 a	109,114 b	12,888	7,935
Accident and Health	6	4,793	2,969	1,823	2,893 a	2,092 b	165	127
Fraternal	42	41,775	38,521	3,254	4,716	2,762	110 c	51 d
Title	10	1,694	1,141	553	1,869	139	126	8
Mortgage Guaranty	16	7,135	5,015	2,120	1,717	724	121	75
Financial Guaranty	6	3,206	1,870	1,336	117	7	45	0
--- Alien Domiciled Companies ---								
Total	21	10,402	7,833	2,568	2,381	1,209	275	142
Property and Casualty	20	7,911	5,589	2,322	2,097	993	273	140
Fraternal	1	2,491	2,244	246	284	216	2	2

\* less than 0.5

NOTE: Detail may not add to totals due to rounding  
See notes next page.

### ***Notes to Table 55***

- 1 Excludes 13 pension funds, 8 variable supplements funds, 99 charitable annuity societies and 12 viatical settlement companies.
  - 2 Insurers licensed in New York State as of 12/31/95, some of which did no business in 1995
  - 3 "Net Premium Written" except where noted
  - 4 "Net Losses Paid" except where noted
  - 5 "Direct Premium Written" except where noted
  - 6 "Direct Losses Paid" except where noted
  - 7 Includes A&H insurance. Also includes transactions of savings bank life insurance departments, which are counted as one insurer.
  - 8 Five health service corporations contain health maintenance organizations as lines of business. These do not segregate balance sheet data (assets, liabilities, and surplus) of their HMOs. Such data are included in the health service category. Premium and loss data for the line-of-business HMOs were removed from health service totals and are included with the HMOs.
  - 9 Includes nine assessment cooperatives that do not file electronic statements.
- 
- a Gross Premium (less reinsurance), plus considerations for supplementary contracts
  - b Includes all benefits except dividends to policyholders. Excludes changes in reserves.
  - c Payments Received from Members
  - d Insurance Benefits Paid to Members
  - e Premiums Earned
  - f Claims Incurred
  - g Includes revenue from premiums, Medicare, and Medicaid. Excludes fee-for-service and miscellaneous revenues.
  - h Medical and Hospital Expenses

**2. Results of Examinations for Licenses**

Table 56  
**RESULTS OF EXAMINATIONS FOR LICENSES**  
 Adjusters, Agents, Brokers and Consultants  
 1995 and 1996

<u>Type of Examination</u>	<u>1996</u>		<u>1995</u>	
	<u>Number Taking Examination</u>	<u>Percent Passing</u>	<u>Number Taking Examination</u>	<u>Percent Passing</u>
Total	34,823	57%	31,983	57%
Public Adjusters.....	100	39	83	39
Independent Adjusters - Total.....	2,628	81	1,165	62
Accident & Health.....	26	43	34	41
Automobile.....	327	61	204	57
Aviation.....	2	100	0	0
Casualty.....	472	77	275	61
Fidelity and Surety.....	2	100	1	0
Fire.....	129	48	115	47
General (All Lines).....	318	55	271	52
Health Service Charges.....	2	100	3	67
Inland Marine.....	10	40	16	13
Limited Auto (Damage or Theft Appraisals only).....	1,340	98	246	91
Agents - Total.....	29,012	54	27,954	56
Accident & Health.....	12,528	53	11,822	55
Life and SBLI.....	15,165	54	14,953	56
Mortgage Guaranty.....	5	60	3	67
General Agent (P&C).....	1,281	66	1,167	69
Bail Bond.....	33	64	9	67
Credit.....	0	0	0	0
Brokers.....	3,082	61	2,780	61
Consultants - Total.....	1	100	1	100
General.....	0	0	1	100
Life.....	1	100	0	0

Table 57  
**LICENSES ISSUED DURING YEAR**  
 1995 and 1996

	<u>1996</u>	<u>1995</u>
<b>Total</b>	79,901	120,066
<b>Adjusters<sup>a</sup></b>		
Independent	2,992	1,723
Public	255	277
<b>Agents<sup>b</sup></b>		
Life and Accident & Health	15,424	89,450
Savings Banks Life Certificate Holders	517	3,416
Property and Casualty	20,652	2,370
Rental Vehicle	51	9
Mortgage Guaranty Insurance	3	6
Bail Bond	29	25
Limited Lines	50	0
<b>Brokers<sup>c</sup></b>		
Regular	38,746	22,008
Excess Line (Regular)	512	235
Excess Line (Limited)	16	19
Viatical Settlement	12	3
<b>Consultants<sup>d</sup></b>		
Life	20	230
General	364	45
<b>Reinsurance Intermediaries<sup>e</sup></b>	258	250

<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 are renewable biennially as of July 1 of odd numbered years.  
 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> 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. Regulation 148, effective July 27, 1994, provides that those who filed applications for these licenses by October 4, 1994 may act as Viatical Settlement Brokers until the licenses are issued or denied.

<sup>d</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>e</sup> Reinsurance Intermediary licenses issued pursuant to Section 2106 are renewable biennially as of September 1 of even numbered years.

**3. Changes in Status of Authorized Insurers During 1996**

**a. Life Insurance Companies**

**Domestic Companies Incorporated**

First Great-West Life & Annuity Insurance Company, Albany County, NY.....	Apr. 9
National Income Life Insurance Company, Westchester County, NY.....	May 14
First Golden American Life Insurance Company of New York, Westchester County, NY.....	May 24
Trans-General Life Insurance Company of New York, New York, NY.....	Oct. 16
TIAA Life Insurance Company, County of New York, NY.....	Nov. 20

**Domestic Companies Licensed**

First Jackson National Life Insurance Company, Bronxville, NY.....	Aug. 16
Lincoln Life & Annuity Company of New York, Syracuse, NY.....	Sept. 27
TIAA Life Insurance Company, New York, NY.....	Dec. 18

**Restated Charters Filed**

The Maximum Life Insurance Company, New York, NY.....	Apr. 9
Church Life Insurance Corporation, New York, NY.....	May 9
Columbian Mutual Life Insurance Company, Binghamton, NY.....	June 5
Bankers Security Life Insurance Company, Woodbury, NY.....	July 1
Washington National Life Insurance Company of New York, Binghamton, NY.....	July 9
AUSA Life Insurance Company, Inc., Purchase, NY.....	July 1
Metropolitan Life Insurance Company, New York, NY.....	Aug. 16

**Amendments to Charter Filed**

First GNA Life Insurance Company of New York, Purchase, NY.....	Feb. 1
American Centurion Life Assurance Company, New York, NY.....	Feb. 6
First Sunamerica Life Insurance Company, New York, NY.....	Feb. 27
First Home Life Financial Assurance Corporation, Staten Island, NY.....	Apr. 1
American Progressive Life and Health Insurance Company of New York, Brewster, NY.....	Apr. 1
Golden Eagle Mutual Life Insurance Corporation, Brooklyn, NY.....	Sept. 20

First Golden American Life Insurance Company of New York, Westchester County, NY.....	Nov. 14
First Transamerica Life Insurance Company, New York, NY.....	Dec. 27

**Name Changes**

"First GNA Life Insurance Company of New York" to "GE Capital Life Assurance Company of New York," Purchase, NY.....	Feb. 1
"State Mutual Life Assurance Company of America" to "First Allmerica Financial Life Insurance Company," Worcester, MA.....	Feb. 7
"MML Pension Insurance Company" to "Mirus Insurance Company," Wilmington, DE.....	Feb. 16
"The Colonial Life Insurance Company of America" to "Chubb Colonial Life Insurance Company," Parsippany, NJ.....	Mar. 1
"First Home Life Financial Assurance Corporation" to "Anthem Health & Life Insurance Company of New York," Staten Island, NY.....	Apr. 1
"The Maximum Life Insurance Company" to "Phoenix Life and Reassurance Company of New York," East Greenbush, NY.....	Apr. 9
"Mirus Insurance Company" to "Unicare Life & Health Insurance Company," Wilmington, DE.....	Apr. 11
"Bankers Security Life Insurance Society" to "Reliastar Bankers Security Life Insurance Company," Woodbury, NY.....	July 11
"New England Variable Life Insurance Company" to "New England Life Insurance Company," Boston, MA.....	Aug. 30
"Century Life of America" to "CUNA Mutual Life Insurance Company," Waverly, IA.....	Dec. 31

**Merger Agreements Filed**

Connecticut Mutual Life Insurance Company, of Hartford, CT into Massachusetts Mutual Life Insurance Company, Springfield, MA.....	Feb. 29
International Life Investors Insurance Company, of New York, NY into AUSA Life Insurance Company, Inc., Purchase, NY.....	July 1
New England Mutual Life Insurance Company, of Boston, MA into Metropolitan Life Insurance Company, New York, NY.....	Aug. 16
Golden Eagle Mutual Life Insurance Company, of Brooklyn, NY into Columbian Mutual Life Insurance Company, Binghamton, NY.....	Dec. 27

**Redomestication Filed**

New England Variable Life Insurance Company, Wilmington, DE from Delaware to Massachusetts.....	Aug. 30
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**b. Accident and Health Insurance Companies**

**Domestic Company Incorporated**

Dental Benefit Providers Insurance Corporation, Albany County, NY.....	Sept. 5
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**Domestic Company Licensed**

Family Health Assurance Company, New York, NY.....	Mar. 1
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**Amendments to Charter Filed**

American Accident and Health Insurance Company, East Norwich, NY.....	Feb. 14
American Accident and Health Insurance Company, East Norwich, NY.....	Apr. 2
Family Health Assurance Company, New York, NY.....	May 6
American Travellers Insurance Company of New York, New York, NY.....	Aug. 30
CCLI Health Services Corporation Melville, NY.....	Nov. 27
MetraHealth Insurance Company of New York, Hauppauge, NY.....	Dec. 31

**Name Changes**

"American Accident and Health Insurance Company" to "American Travellers Insurance Company of New York," Valhalla, NY.....	Apr. 2
"Family Health Assurance Company" to "Empire Healthchoice Assurance, Inc.," New York, NY.....	May 6
"MetraHealth Insurance Company of New York" to "United Healthcare Insurance Company of New York," Hauppauge, NY.....	Dec. 31

**c. Not-For-Profit Corporations**

**Name Changes**

"Blue Cross and Blue Shield of Central New York, Inc." to "Excellus Health Plan, Inc.," Syracuse, NY.....	Jan. 31
"Blue Cross and Blue Shield of Utica Watertown" to "Utica-Watertown Health Insurance Company, Inc.," Utica, NY.....	Feb. 13

“Blue Cross and Blue Shield of Western New York, Inc.” to “New York Care Plus Insurance Co., Inc.” Buffalo, NY.....	May 15
“Capital Area Community Health Plan, Inc.” to “Community Health Plan,” Albany, NY.....	June 6
“CCLI Health Services Corporation” to “Vytra Health Services, Inc.,” Melville, NY.....	Nov. 27

**Consent Filed**

CDPHP Universal Benefits, Inc., Albany, NY.....	Dec. 12
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**Conversion Filed**

Finger Lakes Medical Insurance Company, Inc., Rochester, NY from a medical expense corporation to a health service corporation.....	July 2
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**In Liquidation**

Southern Tier Dental Service Corporation, Binghamton, NY.....	May 1
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**d. Savings Bank (Life Insurance Department)**

**Name Change**

“Middletown Savings Bank” to “MSB Bank,” Middletown, NY.....	June 5
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**Converted to a Federal Charter**

Catskill Savings Bank Catskill, NY.....	Jan. 23
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**e. Property and Casualty Insurance Companies**

**Domestic Companies Incorporated**

Goldstreet Insurance Company, New York County, NY.....	Mar. 5
American Agents Insurance Company, Nassau County, NY.....	July 11
Financial Structures Insurance Company, New York County, NY.....	Oct. 15
General Security Insurance Company of New York, New York County, NY.....	Oct. 15

**Domestic Companies Licensed**

Canadian Union Insurance Company of America, Woodbury, NY.....	Mar. 29
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Spirit Insurance Company, East Meadow, NY.....	May 6
Farm Family Casualty Insurance Company, Bethlehem, NY.....	July 26
Graphic Arts Insurance Company, New Hartford, NY.....	July 29
Goldstreet Insurance Company, New York, NY.....	Oct. 1
General Security Insurance Company of New York, New York, NY.....	Nov. 20

**Foreign Companies Licensed**

Zenith Insurance Company, Woodland Hills, CA.....	Jan. 5
Infinity Insurance Company, Tampa, FL.....	Jan. 23
Safety National Casualty Corporation, St. Louis, MO.....	Mar. 4
Credit General Insurance Company, Brooklyn Heights, OH.....	Mar. 5
The Connecticut Surety Company, Hartford, CT.....	Mar. 7
Commercial Underwriters Insurance Company, Culver City, CA.....	Mar. 11
Underwriters Insurance Company, Lincoln, NE.....	Mar. 11
Vesta Fire Insurance Corporation, Birmingham, AL.....	Mar. 13
Chubb National Insurance Company, Indianapolis, IN.....	Mar. 15
Phico Insurance Company, Mechanicsburg, PA.....	Mar. 21
The Midwestern Indemnity Company, Milford, OH.....	Apr. 3
Victoria Select Insurance Company, Cleveland, OH.....	Apr. 3
Fairfield Insurance Company Stamford, CT.....	Apr. 11
National General Insurance Company, Hazelwood, MO.....	May 2
Far West Insurance Company, Woodland Hills, CA.....	May 6
Universal Surety of America, Houston, TX.....	May 30
Stratford Insurance Company, Keene, NH.....	June 10
Agency Insurance Company of Maryland, Inc. Linthicum, Maryland.....	June 27
Property and Casualty Insurance Company of Hartford, Indianapolis, IN.....	June 28
USPlate Glass Insurance company, Westchester, IL.....	July 3
The Travco Insurance Company, Indianapolis, IN.....	July 18
The Travelers Home and Marine Insurance Company, Indianapolis, IN.....	July 18

MEDMARC Mutual Insurance Company, Vergennes, VT.....	July 23
Princeton Insurance Company, Princeton, NJ .....	July 26
Illinois Insurance Company, Oak Brook, IL.....	July 30
Verlan Fire Insurance Company, Silver Spring, MD.....	Aug. 7
Infinity Select Insurance Company, Indianapolis, IN.....	Aug. 14
Toyota Motor Insurance Company, Cedar Rapids, IA.....	Aug. 16
The Cincinnati Casualty Company, Fairfield, OH.....	Aug. 22
The Cincinnati Indemnity Company, Fairfield, OH.....	Aug. 22
Security Indemnity Insurance Company, Manasquan, NJ.....	Sept. 5
Reliance Reinsurance Company, Wilmington, DE.....	Sept. 9
Viking Insurance Company of Wisconsin, Madison, WI.....	Sept. 9
Acadia Insurance Company, Westbrook, ME.....	Sept. 30
Blue Ridge Indemnity Company, Simsbury, CT.....	Oct. 2
Industrial Indemnity Company of Northwest, Seattle, WA.....	Oct. 2
Fremont Compensation Insurance Company, Glendale, CA.....	Oct. 7
Fremont Indemnity Company, Glendale, CA.....	Oct. 9
Casualty Insurance Company, Chicago, IL.....	Oct. 9
American Safety Casualty Insurance Company, Wilmington, DE.....	Nov. 13
The Fire and Casualty Insurance Company of Connecticut, Farmington, CT.....	Dec. 17
Signet Star Reinsurance Company, Wilmington, DE.....	Dec. 24
New Hampshire Indemnity Company, Inc., Philadelphia, PA.....	Dec. 31

**Amendments to Charter Filed**

Tokio Marine and Fire Insurance Company of America, New York, New York.....	Jan. 1
Nova Casualty Company, Buffalo, NY.....	Jan. 19
Albany Insurance Company, New York, NY.....	Feb. 27
Medical Liability Mutual Insurance Company, New York, NY.....	Apr. 8
Citicorp International Trade Insurance, Inc., New York, NY.....	Apr. 10
Exchange Insurance Company, Buffalo, NY.....	May 31

Hanys Insurance Company, Inc., Albany, NY.....	May 31
First Community Insurance Company, Bedford, NY.....	June 10
Tri-State Consumer Insurance Company, Syosset, NY.....	June 14
The Baloise Insurance Company of America, New York, NY.....	July 1
The Insurance Corporation of New York, New York, NY.....	July 1
Caledonian Insurance Company of America, New York, NY.....	July 9
Erie Insurance Company of New York, Jamestown, NY.....	Aug. 8
Fulcrum Insurance Company, New York, NY.....	Aug. 19
Guilderland Reinsurance Company, Delmar, NY.....	Aug. 19
U.S. Capital Insurance Company White Plains, NY.....	Aug. 19
Hanys Insurance Company, Albany.....	Aug. 23
The North Sea Insurance Company, Valley Stream, NY.....	Aug. 27
The Insurance Corporation of New York, New York, NY.....	Sept. 3
First Community Insurance Company, New York, NY.....	Sept. 30
Christiania General Insurance Corporation of New York, Tarrytown, NY.....	Nov. 18
Utilities Mutual Insurance Company, New York, NY.....	Dec. 2
Country-Wide Insurance Company, New York, NY.....	Dec. 23
The Baloise Insurance Company of America, New York, NY.....	Dec. 24

**Restated Charters**

Allcity Insurance Company, New York, NY.....	Feb. 6
Transatlantic Reinsurance Company, New York, NY.....	July 19
Farm Family Mutual Insurance Company, Bethlehem, NY.....	July 26
U.S. Capital Insurance Company, White Plains, NY.....	Aug. 19
Capital Mutual Insurance Company, Sand Lake, NY.....	Sept. 6
General Security Insurance Company of New York, New York, NY.....	Nov. 20

**Name Changes**

"Abeille Reassurances" to "AXA Reassurance" (U.S. Branch), France (U.S. Branch-NY, NY).....	Jan. 1
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"Prudential National Insurance Company" to "Everest National Insurance Company," Phoenix, AZ.....	June 17
"Prudential Reinsurance Company" to "Everest Reinsurance Company," Dover, DE.....	Apr. 2
"The Unity Fire and General Insurance Company" to "General Security Property and Casualty Company," New York, NY.....	Apr. 8
"Citicorp International Trade Insurance, Inc." to "Physicians Health Services Insurance of New York, Inc.," New York, NY.....	Apr. 10
"Simcoe & Erie Insurance Company" (U.S. Branch) to "Gan General Insurance Company," Williamsville, NY.....	May 15
"Bankers and Shippers Indemnity Company" to "Integon Casualty Insurance Company," Burlington, NC.....	May 28
"The Reinsurance Corporation of New York" to "The Insurance Corporation of New York," New York, NY.....	July 1
"Bankers and Shippers Insurance Company," to "Integon National Insurance Company," Winston-Salem, NC.....	July 1
"Western Atlantic Reinsurance Corporation" to "European Reinsurance Corporation of America," Manchester, NH.....	July 18
"Farm Family Mutual Insurance Company" to "Farm Family Casualty Insurance Company," Bethlehem, NY.....	July 26
"Skandia America Reinsurance Corporation" to "Odyssey Reinsurance Corporation," Wilmington, DE.....	Aug. 14
"Underwriter for the Professions Incorporated" to "Underwriter for the Professions Insurance Company," Napa, CA.....	Aug. 19
"Lloyds New York Insurance Company" to "Realm National Insurance Company," New York, NY.....	Sept. 26
"General Security Insurance Company of New York" to "General Security Insurance Company," New York, NY.....	Nov. 20
"National Assurance Underwriters, Inc." to "Berkley Regional Insurance Company," St. Peters, MO.....	Dec. 3
"Gerling Global Reinsurance Corporation of America" to "American Global Reinsurance Corporation," New York, NY.....	Dec. 20
"Folksamerica National Reinsurance Company" to "Gerling Global Reinsurance Corporation of America," New York, NY.....	Dec. 23
"Abington Mutual Insurance Company" to "Proselect Insurance Company," Brockton, MA.....	Dec. 27

**Changes in Capital**

Exchange Insurance Company, Buffalo, NY (from \$4,270,739 to \$3,303,647).....	May 31
First Community Insurance Company, Bedford, NY (from \$3,004,464 to \$3,404,190).....	June 10
Caledonian Insurance Company of America, New York, NY (from \$1,500,000 to \$2,500,000).....	July 9
Fulcrum Insurance Company, New York, NY (from \$3,000,000 to \$4,500,000).....	Aug. 19
The North Sea Insurance Company, Valley Stream, NY (from \$1,200,000 to \$1,600,000).....	Aug. 27
First Community Insurance Company, Bedford, NY (from \$3,404,190 to \$3,465,564).....	Sept. 30
Country-Wide Insurance Company, New York, NY (from \$1,124,216 to \$1,059,306).....	Dec. 9
Erie Insurance Company of New York, Spencerport, NY (from \$1,500,000 to \$2,350,000).....	Dec. 24

**Conversion**

Farm Family Mutual Insurance Company Bethlehem, NY from a mutual property/casualty company to a stock property/casualty company.....	July 26
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**Domestication Agreements Approved**

Canadian Union Insurance Company (US Branch), Canada into Canadian Union Insurance Company of America, Woodbury, NY.....	Mar. 29
AXA Reassurance Company (U.S. Branch), of France, (U.S. Branch - New York, NY) into AXA Reinsurance Company, Wilmington, DE.....	Jan. 1

**Redomestications Filed**

Republic Insurance Company, Wilmington, DE Delaware to Texas.....	Mar. 11
Medmarc Casualty Insurance Company, Jacksonville, FL Florida to Vermont.....	June 3
Blue Ridge Insurance Company, Columbia, MD Maryland to Connecticut.....	July 3
National Liability & Fire Insurance Company, Chicago, IL Illinois to Connecticut.....	June 27

Bankers Standard Insurance Company, Tampa, FL Florida to Pennsylvania.....	Aug. 12
Cigna Reinsurance Company, Wilmington, DE Delaware to Pennsylvania.....	Aug. 14
Cigna Indemnity Insurance Company, West Des Moines, IA Iowa to Pennsylvania.....	Aug. 14
The Home Insurance Company of Illinois, Chicago, IL Illinois to New Hampshire.....	Oct. 2
MGIC Assurance Corporation, Milwaukee, WI Oklahoma to Wisconsin.....	Nov. 25
Pacific Employers Insurance Company, Los Angeles, CA California to Pennsylvania.....	Dec. 31

**Merger Agreements Filed**

Frankona America Reinsurance Corporation, Kansas City, MO into First Excess and Reinsurance Corporation, Jefferson City, MO.....	Jan. 2
The Home Insurance Company of Illinois, Chicago, IL into The Home Insurance Company, Manchester, NH .....	Oct. 2
General Security Insurance Company, of Rockville, MD into General Security Insurance Company of New York, New York, NY.....	Nov. 20

**In Liquidation**

Interamerica Reinsurance Corporation, New York, NY.....	Feb. 2
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**f. Co-operative Property and Casualty Insurance Companies**

**Restated Charter Filed**

Otsego County Patrons Co-operative Fire Relief Association, Schenevus, NY.....	June 13
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**Conversion**

Capital Mutual Insurance Company, Sand Lake, NY from an advance premium company to a mutual property/casualty company.....	Sept. 9
North Country Insurance Company, Watertown, NY from an assessment cooperative property/casualty company to an advance premium cooperative property/casualty company.....	Sept. 1

**g. Title Insurance Companies**

**Domestic Companies Licensed**

Washington Title Insurance Company, Floral Park, NY.....	Feb. 6
Capital Title Reinsurance Company, New York, NY.....	Mar. 6

**Amendment to Charter**

First American Title Insurance Company of New York, Garden City, NY.....	Aug. 8
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**Merger Agreement**

American Title Insurance Company, of Miami, FL into Fidelity National Title Insurance Company of Pennsylvania Reading, PA.....	Dec. 31
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**h. Mortgage Guaranty Companies**

**Foreign Companies Licensed**

Forestview Mortgage Insurance Co., San Francisco, CA.....	Feb. 20
MGIC Reinsurance Corporation, Milwaukee, WI.....	Sept. 16

**Amendment to Charter**

Capital Mortgage Reinsurance Company, New York, NY.....	Apr. 12
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**Change in Authorized Capital**

Capital Mortgage Reinsurance Company, New York, NY (from \$2,000,000 to \$2,500,000).....	Apr. 12
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**i. Financial Guaranty Companies**

**Foreign Company Licensed**

Financial Security Assurance of Oklahoma, Inc., Oklahoma City, OK.....	Aug. 14
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**Restated Charter Filed**

Financial Security Assurance Inc., New York, NY.....	Aug. 16
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**Name Change**

"Capital Guaranty Insurance Company" to "Financial Security Assurance of Maryland Inc.," Baltimore, MD.....	Mar. 22
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**j. Charitable Annuity Societies**

**Charitable Annuity Society Permits Issued**

The American Society for the Prevention of Cruelty to Animals, New York, NY.....	Mar. 5
The American Institute for Cancer Research, Inc., Washington, DC.....	Mar. 7
International Bible Society Foundation, Colorado Springs, CO.....	June 28
The American Jewish Committee New York, NY.....	July 11
The City of Hope, Los Angeles, CA.....	Oct. 8
St. Anthony's Guild, Paterson, NJ.....	Nov. 18
Long Island University, Brookville, NY.....	Dec. 5
American Committee for the Weizmann Institute of Science, Inc. New York, NY.....	Dec. 6
National Spiritual Assembly of the Baha'is of the United States, Wilmett, IL.....	Dec. 16

**k. Accredited Reinsurers**

**Recognized**

Berkshire Hathaway Life Insurance Company of Nebraska, Omaha, NE.....	Feb. 27
Integrity Life Insurance Company, Worthington, OH .....	Mar. 6
MetLife Security Insurance Company of Louisiana, Baton Rouge, LA.....	Mar. 22
Integon General Insurance Corporation Winston-Salem, NC.....	Apr. 9
Integon Indemnity Corporation, Winston-Salem, NC.....	Apr. 9
Integon Specialty Insurance Company, Winston-Salem, NC.....	Apr. 9
New South Insurance Company, Winston-Salem, NC.....	Apr. 9
Terra Nova Insurance Company Limited, London, England.....	Mar. 29
Medical Life Insurance Company, Cleveland, OH.....	July 18
Nationwide Indemnity Company, Columbus, OH.....	July 22
Inner Harbor Reinsurance, Inc., Baltimore, MD.....	July 19
Executive Risk Specialty Insurance Company, Simsbury, CT.....	Aug. 1
Potomac Insurance Company, Philadelphia, PA.....	Oct. 9
St. Paul Reinsurance Company Limited, London, England.....	Nov. 29
Penn National Security Insurance Company, Harrisburg, PA.....	Dec. 23

**Name Changes**

"Providers Fidelity Life Insurance Company" to "London Life Reinsurance Company," Blue Bell, PA.....	Feb. 12
"Frankona America Life Reassurance Company" to "ERC Life Reinsurance Corporation," Jefferson City, MO.....	Mar. 25
"Principal National Life Insurance Company" to "Fidelity Life Insurance Company," Des Moines, IA.....	Dec. 31
"Aetna Life Insurance Company of Illinois" to "Aetna Health and Life Insurance Company," Hartford, CT.....	July 11
"Colonial Penn Heritage Insurance Company" to "Bay Colony Insurance Company," Norristown, PA.....	July 24
"Northwestern National Life Insurance Company" to "ReliaStar Life Insurance Company," Minneapolis, MN.....	Nov. 21

**Withdrawn**

Zenith Insurance Company, Woodland Hills, CA.....	Jan. 5
Vesta Fire Insurance Corporation, Birmingham, AL.....	Mar. 13
First of Georgia Insurance Company, Atlanta, GA.....	Sept. 27
Fremont Indemnity Company, Glendale, CA.....	Oct. 9
Signet Star Reinsurance Company, Wilmington, DE.....	Dec. 24

**Merger Agreement Filed**

The Mutual Assurance Company, of Philadelphia, PA into National Grange Mutual Insurance, Keene, NH.....	Aug. 19
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**I. Fraternal Benefit Societies**

**Licensed**

Assured Life Association, Littleton, CO.....	Sept. 12
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**Name Change**

"The Mutual Beneficial Association of Rail Transportation Employees, Inc." to "The Mutual Beneficial Association, Inc.," Wilmington, DE.....	Dec. 16
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**m. Viatical Settlement Companies**

**Licensed**

Neuma, Inc., A Viatical Settlement Company, Skokie, IL.....	Mar. 20
American Life Resources Corporation, New York, NY.....	Apr. 25
Legacy Benefits Corporation, New York, NY.....	Apr. 18
Living Benefits, Inc. New York, NY.....	Apr. 25
National Capital Benefits Corporation, New York, NY.....	Apr. 25
Viaticare Capital LP Wilmington, DE.....	Sept. 13
Viaticare Financial Services LLC Wilmington, DE.....	Sept. 13

**License Expired**

Life Funding Corporation, Georgia.....	Nov. 30
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**Withdrawn**

Dignity Partners Fund Corp. I Dover, DE.....	July 24
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**n. Health Maintenance Organizations**

**Company Authorized**

HUM Healthcare Systems, Inc., Glens Falls, NY.....	Sept. 1
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**Name Change**

"Family HealthChoice, Inc." to "EmpireHealth Choice, Inc.," New York, NY.....	June 10
"ChoiceCare Long Island, Inc." to "Vytra Helathcare Long Island, Inc.," Melville, NY.....	Dec. 27

**o. Rating Organization**

ISO Commerical Risk Services, Inc., Dover, DE Reintegrated into Insurance Services Office, Inc.....	Sept. 30
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#### 4. Examination Reports Filed During 1996

##### Domestic Life Insurance Companies

Name of Company	Made as of	Date Filed
Allstate Life Insurance Company of New York	Dec. 31, 1994	Aug. 2
American Medical and Life Insurance Company	Dec. 31, 1994	Apr. 12
American Progressive Life and Health Insurance Company of New York	Dec. 31, 1994	Aug. 14
Bankers Life Assurance Company	Dec. 31, 1993	July 9
Companion Life Insurance Company	Dec. 31, 1993	Apr. 3
First Central National Life Insurance Company of New York	Dec. 31, 1994	June 27
First Jackson National Life Insurance Company	On. Organization	Aug. 15
First Safeco National Life Insurance company	Dec. 31, 1995	Nov. 7
INA Life Insurance Company of New York	Dec. 31, 1993	Mar. 7
Northstar Life Insurance Company	Dec. 31, 1994	Mar. 20
Royal Life Insurance Company of New York	Dec. 31, 1993	Aug. 23
Security Equity Life Insurance Company	Dec. 31, 1994	Sept. 30
Teachers Insurance and Annuity Association of America	Dec. 31, 1994	Aug. 2
Trygg-Hansa Insurance Company, Ltd.	Dec. 31, 1992	May 30
Unity Mutual Life Insurance Company	Dec. 31, 1993	Feb. 5
Utica National Life Insurance Company	Dec. 31, 1994	May 6
Vista Life Insurance Company	Dec. 31, 1994	June 6

##### Foreign Life Insurance Companies (Market Conduct Examinations)

American Skandia Life Assurance Corporation	Dec. 31, 1994	June 14
State Farm Life and Accident Assurance Company	Dec. 31, 1994	Sept. 16

##### Foreign Life Insurance Company (Report on Agency Operations)

Connecticut Mutual Life Insurance Company	Feb. 3, 1995	Nov. 6
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##### Domestic Accident and Health Insurance Companies

Family Health Assurance Company	On Organization	Mar. 4
First Rehabilitation Insurance Company of America	Dec. 31, 1994	May 10

##### Fraternal Benefit Societies

Baptist Life Association	Dec. 31, 1994	Feb. 21
Workmen's Benefit Fund of the United States of America	Dec. 31, 1994	Mar. 12



### Domestic Property and Casualty Insurance Companies

Name of Company	Made as of	Date Filed
American Alternative Insurance Corporation	Dec. 31, 1994	Aug. 30
American Guarantee and Liability Insurance Company	Dec. 31, 1993	Feb. 15
American National Fire Insurance Company	Dec. 31, 1993	Feb. 15
Associated Mutual Insurance Company	Dec. 31, 1992	May 22
Assurance Company of America	Dec. 31, 1993	Aug. 16
Atlantic Specialty Insurance Company	Dec. 31, 1993	Feb. 22
Colonial Indemnity Insurance Company	Dec. 31, 1994	Sept. 16
Contractors Casualty and Surety Company	Dec. 31, 1994	Mar. 4
Country-Wide Insurance Company	Dec. 31, 1994	Mar. 12
Exchange Insurance Company	Inc. in Capital	May 16
Farm Family Mutual Insurance Company	June 30, 1995	Feb. 9
Gerling America Insurance Company	Dec. 31, 1996	May 21
Goldstreet Insurance Company	On Organization	Sept. 6
Graphic Arts Insurance Company	On Organization	Mar. 25
Hermitage Insurance Company	Dec. 31, 1993	Oct. 23
Mercantile and General Reinsurance Company of America	Dec. 31, 1994	Sept. 6
Merchants Mutual Insurance Company	Dec. 31, 1994	Apr. 4
New York Surety Company	Dec. 31, 1994	Aug. 8
Northern Insurance Company of New York	Dec. 31, 1993	Aug. 16
Nova Casualty Company	Dec. 31, 1993	Feb. 21
Oriska Insurance Company	Dec. 31, 1994	Aug. 22
Rochdale Insurance Company	Dec. 31, 1993	May 3
Seaboard Surety Company	Dec. 31, 1993	Jan. 16
Seven Hills Insurance Company	Dec. 31, 1993	Feb. 16
Spirit Insurance Company	On Organization	May 1
Statewide Insurance Company	Dec. 31, 1994	Oct. 3
Taisho Marine and Fire Insurance Company of America	Dec. 31, 1994	Jan. 9
Utilities Mutual Insurance Company	Dec. 31, 1994	July 30
Winterthur Reinsurance Corporation of America	Dec. 31, 1994	Mar. 26
Zurich Insurance Company	Dec. 31, 1993	Feb. 15

### Domestic Financial Guaranty Insurance Companies

Capital Markets Assurance Corporation	Dec. 31, 1993	Jan. 4
Financial Security Assurance, Inc.	Dec. 31, 1994	Mar. 13

### Reciprocal Insurers

New York Municipal Insurance Reciprocal	Dec. 31, 1994	July 3
New York Schools Insurance Reciprocal	Dec. 31, 1994	Apr. 9

### Assessment Co-operative Fire Insurance Companies

Name of Company	Made as of	Date Filed
Farmers Mutual Insurance Company of Milan, Pine Plains and Stanford	Dec. 31, 1995	Aug. 27
Farmers Town Mutual Insurance Company of Clinton	Dec. 31, 1994	July 23
Midrox Insurance Company	Dec. 31, 1994	May 13
Mohawk Minden Insurance Company	Dec. 31, 1994	June 24
North Country Insurance Company	Dec. 31, 1994	Feb. 27
Walton Co-operative Fire Insurance Company	Dec. 31, 1995	Nov. 4

### Advance Premium Co-operative Fire Insurance Companies

Capital Mutual Insurance Company	Dec. 31, 1993	Sept. 9
Central Co-operative Insurance Company	Dec. 31, 1994	Aug. 23
Colonial Co-operative Insurance Company	Dec. 31, 1994	May 13
Heritage Mutual Insurance Company	Dec. 31, 1995	Oct. 7

### Domestic Title Insurance Companies

Capital Title Reinsurance Company	On Organization	Mar. 4
First American Title Insurance Company of New York	Dec. 31, 1994	Aug. 2
Washington Title Insurance Company	On Organization	Apr. 30

### Charitable Annuity Societies

American Baptist Foreign Mission Society	Dec. 31, 1995	Oct. 23
The American Baptist Home Mission Society	Dec. 31, 1995	Nov. 1
American Leprosy Missions, Inc.	Dec. 31, 1994	Mar. 14
Catholic Foreign Mission Society of America, Inc.	Dec. 31, 1994	Mar. 19
Colgate Rochester Divinity School	Dec. 31, 1994	Apr. 10
Friars of the Atonement, Inc.	Dec. 31, 1995	June 26
General Synod Council of the Reformed Church in America	Dec. 31, 1994	Jan. 12
Jewish National Fund	Dec. 31, 1995	Oct. 15
Memorial Sloan-Kettering Cancer Center	Dec. 31, 1994	Sept. 26
The Ministers and Missionaries Benefit Board of American Baptist Churches	Dec. 31, 1995	July 26
Methodist Hospital of Brooklyn	Dec. 31, 1994	Feb. 27
New York Province of the Society of Jesus	Dec. 31, 1994	Feb. 23
Planned Parenthood of New York City, Inc.	Dec. 31, 1995	Sept. 27
The Society for the Propagation of Faith	Dec. 31, 1994	Apr. 9
Syracuse University	June 30, 1995	Nov. 13

<b>Name of Company</b>	<b>Made as of</b>	<b>Date Filed</b>
Vassar College	Dec. 31, 1994	Sept. 9
Women's Division of the General Board of Global Ministries of the United Methodist Church	Dec. 31, 1994	Apr. 5
World Division of the General Board of Global Ministries of the United Methodist Church	Dec. 31, 1994	Apr. 5

**Health Maintenance Organizations**

ChoiceCare Long Island	Dec. 31, 1993	Feb. 29
CIGNA Healthcare of New York, Inc.	Dec. 31, 1993	Sept. 12
Elderplan, Inc.	Dec. 31, 1991	Aug. 6
Empire HealthChoice, Inc.	On Organization	Sept. 16
HMO-CNY, Inc.	Dec. 31, 1993	Sept. 16
Kaiser Foundation Health Plan of New York	Dec. 31, 1994	Sept. 6
MDLI Healthcare, Inc.	On Organization	Aug. 8
North American Healthcare, Inc.	On Organization	Feb. 29
North Medical Community Health Plan	On Organization	Aug. 20
Physicians Health Services of New York Inc.	Dec. 31, 1993	Apr. 1
Rochester Area HMO, Inc.	Dec. 31, 1992	Sept. 12
Sanus Health Plan of Greater New York	Dec. 31, 1992	Sept. 6

**Nonprofit Corporations**

Eastern Vision Service Plan, Inc.	Dec. 31, 1994	June 19
Finger Lakes Medical Insurance Company, Inc.	Dec. 31, 1992	Feb. 6
Finger Lakes Health Insurance Company, Inc.	Dec. 31, 1992	Jan. 2
The Health Care Plan, Inc.	Dec. 31, 1992	Jan. 18
Health Insurance Plan of Greater New York	Dec. 31, 1990	Feb. 20
MVP Health Services Corporation	Dec. 31, 1994	July 16

**Retirement Systems**

College Retirement Equities Fund	Dec. 31, 1994	Apr. 4
The Young Men's Christian Association Retirement Fund, Inc.	June 30, 1994	Apr. 25

**Underwriting Organizations**

Excise Bond Underwriters	Nov. 30, 1994	Feb. 27
Medical Malpractice Insurance Association	Dec. 31, 1988	Oct. 7
Medical Malpractice Insurance Association	Dec. 31, 1989	Oct. 7

<b>Name of Company</b>	<b>Made as of</b>	<b>Date Filed</b>
Medical Malpractice Insurance Association	Dec. 31, 1990	Oct. 7
Medical Malpractice Insurance Association	Dec. 31, 1991	Oct. 7
Medical Malpractice Insurance Association	Dec. 31, 1992	Oct. 7
Medical Malpractice Insurance Association	Dec. 31, 1993	Oct. 7
Medical Malpractice Insurance Association	Dec. 31, 1994	Oct. 7

**Miscellaneous Organizations**

Excess Line Association of New York Motor Vehicle Accident Indemnification Corporation	Dec. 31, 1992	Mar. 26
New York State Hospital Excess Liability Pool	Dec. 31, 1994	Sept. 16
	Sept. 11, 1995	Apr. 11

**Rate Service Organization**

Insurance Services Office, Inc.	Dec. 31, 1993	Feb. 27
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## **5. Rehabilitation, Liquidation, Ancillary Receivership and Conservation Proceedings**

The insurance entities under the Liquidation Bureau's jurisdiction during 1996 were as follows:

### **Rehabilitations**

Continued: Executive Life Insurance Company of New York

Completed: Interamerica Reinsurance Company

### **Liquidations**

Commenced: Interamerica Reinsurance Company  
New York Insurance Exchange (NYIE)

Continued: American Consumer Insurance Company  
American Fidelity Fire Insurance Company  
Bakers Mutual Insurance Company of New York  
Carriers Casualty Company  
Citizens Casualty Company of New York  
Consolidated Mutual Insurance Company  
Cosmopolitan Mutual Insurance Company  
Dominion Insurance Company of America  
Galaxy Insurance Company  
Heartland Group, Inc. (New York Insurance Exchange Syndicate)  
Horizon Insurance Company  
Ideal Mutual Insurance Company  
KCC New York Syndicate Corporation (New York Exchange Insurance Syndicate)  
Long Island Insurance Company  
Midland Insurance Company  
Midland Property and Casualty Insurance Company  
Nassau Insurance Company  
Nem Re Insurance Corporation  
Northumberland General Insurance Company (U.S. Branch)  
Pine Top Syndicate, Inc. (New York Insurance Exchange Syndicate)  
Professional Insurance Company of New York  
Realex Group, N.E. (New York Insurance Exchange Syndicate)  
Resources Insurance Company  
Southern Tier Dental Services Corporation  
Union Indemnity Insurance Company of New York  
United Community Insurance Company  
U.S. Risk, Inc. (New York Insurance Exchange Syndicate)  
Whiting National Insurance Company

Completed: Summit Insurance Company of New York

**Ancillary Receiverships** - In the case of a New York-licensed foreign (*i.e.*, not domiciled in New York) insurer that 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: Abington Mutual Insurance Company

Continued: American Druggists' Insurance Company  
American Mutual Insurance Company of Boston  
American Mutual Liability Insurance Company  
Columbus Insurance Company  
Covenant Mutual Insurance Company  
Employers Casualty Company  
Great Atlantic Insurance Company  
Great Global Assurance Company  
Imperial Insurance Company  
Integrity Insurance Company  
MCA Insurance Company  
Millers National Insurance Company  
Mission Insurance Company  
Mission National Insurance Company  
Mutual Fire, Marine and Inland Insurance Company  
Oil and Gas Insurance Corporation  
Proprietors Insurance Company  
Transit Casualty Company  
Warwick Insurance Company  
Western Employers Insurance Company  
Yorktown Indemnity Company

Completed: Edison Insurance Company  
Enterprise Insurance Company  
Security Casualty 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: Latino Americana De Reaseguros

Continued: Andrew Weir Insurance Company, Ltd.  
Bermuda Fire and Marine Insurance Company  
Bryanston Insurance Company, Ltd.  
Colonial Assurance Company, Ltd.  
Mentor Insurance Company (UK), Ltd.  
Municipal General Insurance, Ltd.  
National Colonial Insurance Company

Njord Insurance Company, Ltd.  
Northumberland General Insurance Company - 41 Trust  
Pacific and General Insurance Company  
Pine Top Insurance Company, Ltd.  
River Plate Reinsurance Company, Ltd.  
Scan Re Insurance Company, Ltd.  
Trinity Insurance Company, Ltd.

Completed: Dover Insurance Company, Ltd.  
El Paso Insurance Company, Ltd.  
English and American Insurance Company, Ltd.  
Kingscroft Insurance, Ltd.  
Lime Street Insurance Company  
Mentor Insurance Company, Ltd.  
Mutual Reinsurance Company, Ltd.  
National Employers Mutual General Insurance Association, Ltd.  
United International Insurance Company  
Walbrook Insurance Company

a. Insurance Companies

During 1996, four proceedings commenced while 64 insurance company proceedings continued and fourteen proceedings were completed and closed. The 68 active insurance company proceedings were classified as follows:

- 1 Rehabilitation
- 30 Liquidation
- 22 Ancillary Receivership
- 15 Conservation

Of the 67 not in rehabilitation, the status as to completion of the proceedings is as follows:

- 57 - Evaluation of claims by Liquidation  
Bureau not completed.
- 7 - Liquidator's Report, Audit and Petition  
filed - partial distribution made.
- 3 - Liquidation completed except for preparation  
and filing of Final Accounting and discharge of  
Liquidator.

As of December 31, 1996, assets, liabilities and current insolvency of the 68 active insurance company proceedings, taken as a group, were as follows:

Total Assets	\$2,930,095,092
Total Liabilities	6,817,275,739
Current Insolvency	\$3,887,180,647

During 1996, cash payments from the New York State security funds on allowed claims of claimants totaled \$56,979,000 for claims, \$91,000 for return premiums, and \$39,425,000 for expenses. Payments by other states' guaranty funds are excluded from these numbers.

During 1996, cash distributions to the New York State security funds from domestic estates totaled \$14,874,954. Distributions to the New York State security funds from other states' guaranty funds totaled \$21,807,218 for a combined total \$36,682,172.

b. Fraternal Benefit Societies in Liquidation

As of December 31, 1996, there were 178 liquidation proceedings that had not yet been closed by filing of Final Accounts with the Supreme Court. Their status was as follows:

- 15 - Evaluation of claims by Liquidation Bureau not completed.
- 18 - Evaluation of claims by Liquidation Bureau completed. Liquidator's Report, Audit and Petition in preparation.
- 98 - Liquidation completed except for preparation and filing of Final Audit and Accounting.
- 47 - Final Audit and Accounting filed.

As of December 31, 1996 the remaining assets in the 178 liquidation proceedings totalled \$1,705,091. During 1996, surplus assets of \$308,811 were paid to former members of fraternal benefit societies.

c. Welfare and Pension Funds in Liquidation

As of December 31, 1996, 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.

As of December 31, 1996, the remaining assets of the six liquidation proceedings totalled \$321,201. During 1996, 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 12/31/96*. Copies may be obtained through the Research Bureau at the Department's New York City Office. For earlier developments on 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

**DEPARTMENTAL RECEIPTS FOR THE FISCAL YEAR  
Ended March 31, 1996**Taxes Collected Under the New York State Insurance Law:

Taxes collected by reason of retaliation under Section 1112	\$ 9,576,025.92
Excess Line - Section 2118	12,040,574.33
Organization Tax - Section 180, Tax Law	61,347.54
Total taxes collected	<u>\$ 21,677,947.79*</u>

Fees Collected Under Section 1112 of the New York State Insurance Law:

Filing Annual Statements and Certificates of Authority to Companies	\$ 151,786.02
Agents' Certificates of Authority	342,347.00
Admission Fees	31,819.00
Total	<u>\$ 525,952.02</u>

Licensing and Accreditation Fees:

Agents' Licenses - Section 2103	\$ 3,501,588.26
Adjusters' Licenses - Section 2108	19,935.00
Brokers' Licenses - Section 2104 and 2105	662,929.72
Bail Bond Agents' Licenses - Section 6802	150.00
Insurance Consultants' Licenses - Section 2107	36,675.00
Reinsurance Intermediary Licenses - Section 2106	100,200.00
Special Risk Licenses - Section 6302	147,000.00
Accredited Reinsurers - Section 107(a)2	130,010.00
Limited License	160.00
Duplicate License Fees	18,030.00
Viatical Licenses	10,500.00
Continuing Education Provider Fee	174,400.00
Savings Bank Licenses	106,200.00
No-Fault Managed Care Organization Certification Fee	10,000.00
Total	<u>\$ 4,917,777.98</u>

Assessments and Reimbursement of Departmental Expenses:

Section 313 - Company Examinations	\$ 8,159,665.66
Section 332 - Assessment	69,345,474.18
Section 9104/9105 - Tax Distribution	131,745.26
Administrative Expense Security Funds	49,513.00
Total	<u>\$ 77,686,398.10</u>

Other Fees and Receipts:

Regulation 68 - Health Services Arbitration Expenses	\$ 80,514.00
Regulation 68 - Processing Fee	1,800.00
Section 9107 - Certification & Filing Fees	136,783.25
Section 9108 - Fire Insurance Fee	8,896,347.47
Section 205 - Publications	405.00
Section 1212 - Summons and Complaints	134,788.00
Fines and Penalties	10,791,799.22
Arbitration Fees	687,600.00
FOIL Requests	82,133.96
Miscellaneous	5,403.75
Regulation 134	3,700.00
Motor Vehicle Law Enforcement Fee	12,228,807.21
Continuing Education Filing Fees	22,860.00
Total	<u>\$ 33,072,941.86</u>

Total Departmental Receipts \$ 137,881,017.75

\* This amount is in addition to the \$ 502,500,000 collected by the Department of Taxation and Finance under Article 33 of the Tax Law.

Table 59  
INSURANCE TAX RECEIPTS\*

(in millions)

<u>Fiscal Year</u>	<u>Net</u>
1991-92	\$540.7
1992-93	563.5
1993-94	619.4
1994-95	487.0
1995-96	502.5

\* Collected by the Department of Taxation and Finance under Article 33 of the Tax Law.  
Source: State of New York, Annual Budget Message, 1996-1997

Table 60  
DISBURSEMENTS FOR THE FISCAL YEAR  
Ended March 31, 1996  
Paid in the First Instance From Appropriations

Chapter 050 - 1994-95	\$ 3,169,727.03
Chapter 050 - 1995-96	\$ 68,436,201.40
<u>Personal Service</u>	
Employee salaries	\$ 42,213,366.70
<u>Maintenance and Operation</u>	
General office supplies	\$ 573,960.53
Traveling expense	1,852,632.22
Rental equipment	58,174.98
Repair and maintenance of equipment	140,473.64
Real estate rental	5,655,799.93
Postage and shipping	527,691.27
Printing	144,163.78
Telephone and telegraph	457,855.73
Miscellaneous contractual services	2,117,862.70
OGS E.D.P. rental	22,749.26
Equipment	2,724,621.65
Employee fringe benefits	15,116,576.04
Total maintenance and operation	<u>\$ 29,392,561.73</u>
Total disbursements from first instance appropriations for fiscal year ended 3/31/96	<u>\$ 71,605,928.43</u>
Total Department receipts for fiscal year ended 3/31/96	\$ 137,881,017.75
Excess of Department receipts over Department disbursements	\$ 66,275,089.32

**7. Security Funds Income and Disbursements**

Table 61  
PROPERTY/CASUALTY INSURANCE SECURITY FUND<sup>a</sup>  
Income and Disbursements  
April 1, 1996

	To and including <u>3/31/95</u>	4/1/95 to <u>3/31/96</u>	As of <u>4/1/96</u>
Paid into the Fund	\$ 540,160,070.71	\$ 95,229.88	\$ 540,255,300.59
Interest income - net	396,487,828.20	6,652,459.95	403,140,288.15
Recoveries from companies in liquidation	221,850,786.75	51,505,808.21	273,356,594.96
General Fund Reimbursement	<u>44,289,305.00</u>	<u>25,232,368.00</u>	<u>69,521,673.00</u>
Total	\$ 1,202,787,990.66	\$ 83,485,866.04	\$ 1,286,273,856.70
Less Disbursements:			
Administrative expenses	\$ 824,722.50	\$ 62,602.56	\$ 887,325.06
Awards and expenses of companies in liquidation	934,242,507.39	71,523,555.73	1,005,766,063.12
Refunds and credits to companies	44,440,739.54	-0-	44,440,739.54
Transfers to other funds <sup>b</sup>	<u>136,562,280.96</u>	<u>-0-</u>	<u>136,562,280.96</u>
Total	<u>\$ 1,116,070,250.39</u>	<u>\$ 71,586,158.29</u>	<u>\$ 1,187,656,408.68</u>
Total of Fund	<u>\$ 86,717,740.27</u>	<u>\$ 11,899,707.75</u>	<u>\$ 98,617,448.02</u>
Cash in bank and U.S. securities (at par)	<u>\$ 86,717,740.27</u>		<u>\$ 98,617,448.02</u>
Total of Fund	<u>\$ 86,717,740.27</u>		<u>\$ 98,617,448.02</u>

<sup>a</sup> Monies collected under Sections 7602 and 7603 of the Insurance Law

<sup>b</sup> State Purpose Fund - \$47,562,280.96 + \$87,000,000.00 per Chapter 55 of the Laws of 1982, + \$2,000,000 transferred to the Public Motor Vehicle Liability Security Fund.

Table 62  
**PUBLIC MOTOR VEHICLE LIABILITY SECURITY FUND<sup>a</sup>**  
 Income and Disbursements  
 April 1, 1996

	To and including <u>3/31/95</u>	4/1/95 to <u>3/31/96</u>	As of <u>4/1/96</u>
Paid into the Fund	\$ 56,547,328.25	\$ 4,271,735.31	\$ 60,819,063.56
Interest income - net	22,693,905.99	734,136.72	23,428,042.71
Recoveries from companies in liquidation	18,118,429.96	5,633,327.55	23,751,757.51
Transfers	<u>2,000,000.00</u>	<u>-0-</u>	<u>2,000,000.00</u>
Total	<u>\$ 99,359,664.20</u>	<u>\$ 10,639,199.58</u>	<u>\$ 109,998,863.78</u>
Less disbursements:			
Administrative expenses	\$ 372,136.12	\$ 17,371.44	\$ 389,507.56
Awards and expenses of companies in liquidation	68,237,044.74	6,876,614.30	75,113,659.04
Refunds to companies	<u>13,471,307.02</u>	<u>-0-</u>	<u>13,471,307.02</u>
Total	<u>\$ 82,080,487.88</u>	<u>\$ 6,893,985.74</u>	<u>\$ 88,974,473.62</u>
Total of Fund	<u>\$ 17,279,176.32</u>	<u>\$ 3,745,213.84</u>	<u>\$ 21,024,390.16</u>
Cash in bank and U.S. securities (at par)	<u>\$ 17,279,176.32</u>		<u>\$ 21,024,390.16</u>
Total of Fund	<u>\$ 17,279,176.32</u>		<u>\$ 21,024,390.16</u>

<sup>a</sup> 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<sup>a</sup>**  
 Income and Disbursements  
 April 1, 1996

	To and including <u>3/31/95</u>	4/1/95 to <u>3/31/96</u>	As of <u>4/1/96</u>
Paid into the Fund	\$ 126,584,489.80	\$ 1,019,353.99	\$ 127,603,843.79
Interest income - net	110,833,875.19	1,780,929.45	112,614,804.64
Recoveries from companies in liquidation	<u>45,433,502.60</u>	<u>13,105,431.05</u>	<u>58,538,933.65</u>
<b>Total</b>	<b>\$ 282,851,867.59</b>	<b>\$ 15,905,714.49</b>	<b>\$ 298,757,582.08</b>
<b>Less disbursements:</b>			
Administrative expenses	\$ 691,239.11	\$ 22,710.91	\$ 713,950.02
Awards and expenses of companies in liquidation	163,528,321.96	12,218,244.96	175,746,566.92
Refunds to companies	27,380,833.32	-0-	27,380,833.32
Transfers	<u>67,000,000.00</u>	<u>-0-</u>	<u>67,000,000.00</u>
<b>Total</b>	<b>\$ 258,600,394.39</b>	<b>\$ 12,240,955.87</b>	<b>\$ 270,841,350.26</b>
<b>Total of Fund</b>	<b><u>\$ 24,251,473.20</u></b>	<b><u>\$ 3,664,758.62</u></b>	<b><u>\$ 27,916,231.82</u></b>
Cash in bank and U.S. securities (at par)	<u>\$ 24,251,473.20</u>		<u>\$ 27,916,231.82</u>
<b>Total of Fund</b>	<b><u>\$ 24,251,473.20</u></b>		<b><u>\$ 27,916,231.82</u></b>

<sup>a</sup> 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  
New York State Insurance Department  
Number of Filled Positions by Bureau  
(as of 4/97)

Bureau	Examiners	Attorneys	Actuaries	Other Professionals	Investigators	Support Staff	Total
<b>New York City Office:</b>							
Executive				8		7	15
Fin. Cond.-Life	103		10	4		10	127
Administration				4		9	13
Consumer Services	30					26	56
Frauds	5				29	7	41
OGC		19				10	29
Research				3		2	5
P&C (includes Cas. Act.)	108		16			25	149
Fin. Cond.-Prop	123		12			18	153
Systems	5			17		8	30
<b>NYC Total</b>	<b>374</b>	<b>19</b>	<b>38</b>	<b>36</b>	<b>29</b>	<b>122</b>	<b>618</b>
<b>Albany Office:</b>							
Executive				4		2	6
Life & Health (includes Act. Val.)	1	21	21	1		18	62
Administration	6			10		63	79
Consumer Services	35					13	48
Frauds	1				9		10
OGC		3				2	5
Fin. Cond.-Prop.	14					1	15
Systems	4			18		17	39
<b>Albany Total</b>	<b>61</b>	<b>24</b>	<b>21</b>	<b>33</b>	<b>9</b>	<b>116</b>	<b>264</b>
<b>Buffalo Office:</b>							
Consumer Services	3					1	4
<b>Buffalo Total</b>	<b>3</b>					<b>1</b>	<b>4</b>
<b>Department Total</b>	<b>438</b>	<b>43</b>	<b>59</b>	<b>69</b>	<b>38</b>	<b>239</b>	<b>886</b>

**C. NEW YORK STATE INSURANCE DEPARTMENT  
PUBLICATIONS\*  
1996**

**Consumer Guides, Annual Reports, Directories, Newsletters, etc.**

- Annual Health Insurer Complaint Ranking  
(includes Commercial Health Insurers, Health Maintenance Organizations and Nonprofit Indemnity Health Insurers)
- 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, Nonprofit Health Insurers, Charitable Annuity Societies, Retirement Systems/Pension Plans, Viatical Settlement Companies
- The Bulletin (monthly newsletter)
- Directory of Regulated Insurance Companies
- Consumers Shopping Guide on 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 Corp. of New York
- Consumer's Guide for Standard Individual HMO and Point of Service Coverage
- Insurance Policies Covering Long Term Care Services in New York State
- 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
- Annual Commercial Property/Casualty Report
- Annual Frauds Bureau Report
- Insurance Fraud Reporter (Frauds newsletter)
- Freedom of Information Law, List of Department Records

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\* There is a fee of \$3.50 for the List of Department Records.  
Copies of other listed publications are available free of charge to New York State residents (limit: one per resident).

***THE HARD COPY VERSION OF THE 1996 ANNUAL REPORT IS AVAILABLE THROUGH THE RESEARCH BUREAU OF THE NEW YORK STATE INSURANCE DEPARTMENT.***







