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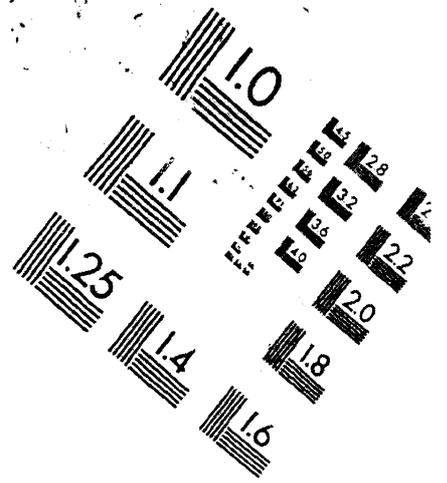
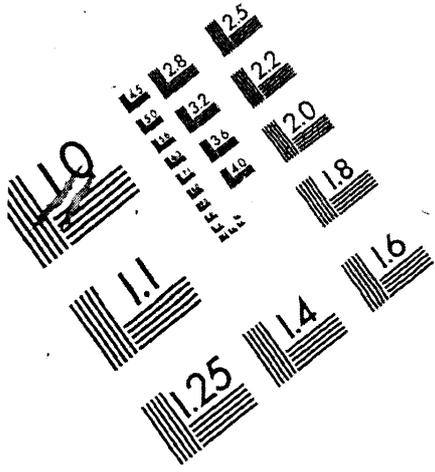
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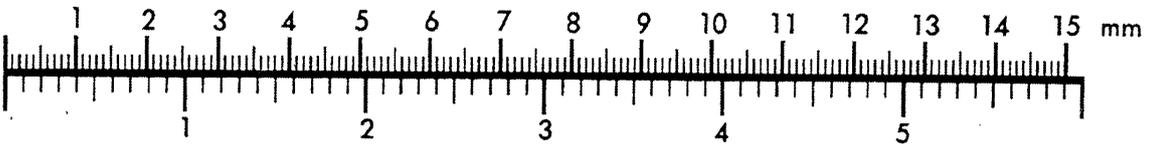


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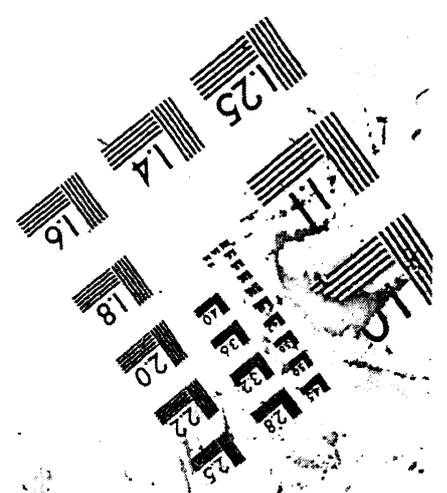
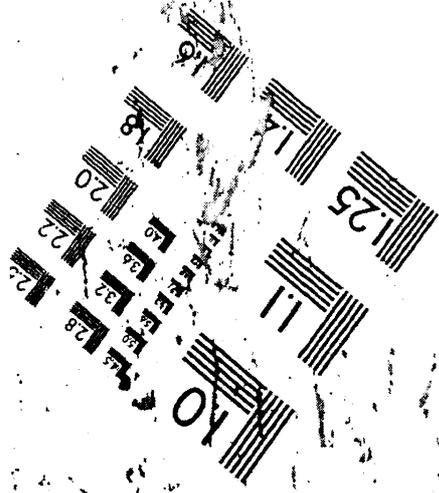
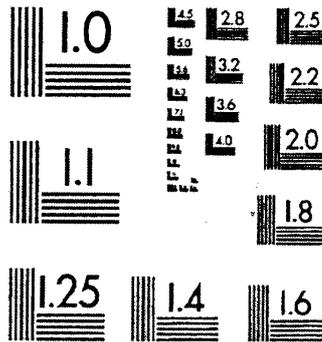
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Superintendent of Insurance  
to the  
New York Legislature***

***Calendar Year 1998***



***Governor George E. Pataki***

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

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***The One Hundred Fortieth***  
**Annual Report**  
**of the**  
**Superintendent of Insurance**

*A Report to the New York State Legislature for the  
Year Ending December 31, 1998*

*George E. Pataki*  
Governor

*Neil D. Levin*  
Superintendent of Insurance

[www.ins.state.ny.us](http://www.ins.state.ny.us)

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STATE OF NEW YORK  
INSURANCE DEPARTMENT  
25 BEAVER STREET  
NEW YORK, NEW YORK 10004

May 14, 1999

To the Legislature:

The Annual Report of the Superintendent of Insurance to the Legislature for the year ending December 31, 1998 is herewith submitted in accordance with Section 206 of the Insurance Law.

Respectively submitted,

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

Neil D. Levin  
Superintendent of Insurance



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# I. Major Developments

## Health Insurance

### 1. Prompt Pay Law

Governor Pataki signed legislation in September 1997 that requires HMOs and insurers to pay claims and bills within 45 days of receipt or face fines of up to \$500 for each day payments are delayed beyond the limit. The law became effective January 22, 1998. The law was enacted in response to consumer complaints about unreasonable delays in payments.

The Department also established a hotline (1-800-358-9260) in January 1998 dedicated to enrollees and providers who are not being promptly paid by their health insurers. The toll-free hotline will make it easier for providers to register their complaints and easier for the Department to monitor companies that violate the law.



Under the law, HMOs and insurance companies must pay claims within 45 days except in cases where the obligation to make payment is not clear or where fraud is suspected. In cases where the obligation to pay is not clear, the HMO or insurer must pay the undisputed portion of the claim within the 45-day time frame. The Department has thus far fined 16 HMOs and insurers nearly \$200,000 as a result of prompt pay violations.

### 2. External Review

As of July 1, 1999, New Yorkers have the right to appeal a health plan's decision to deny coverage on the grounds that the service is not medically necessary. Under these comprehensive set of protections, signed into law by Governor Pataki in 1998, New Yorkers who have exhausted their internal appeal rights can seek an independent external review by experienced physicians or other health care professionals who are familiar with the health conditions that are under appeal.

In addition, New Yorkers with life-threatening or disabling conditions can seek external reviews for experimental or investigational procedures. The external review law allows millions of New Yorkers to receive prompt, consistent, and fair reviews from professionals not affiliated with the insurers that are parties to the dispute.

### 3. Oxford

As a result of concerns raised by the New York Insurance Department, Oxford Health Plans, New York's largest health maintenance organization, received a \$152 million cash infusion from its parent in August 1998. The concerns were raised in a Department financial examination report of the company issued the same month and culminated a multi-faceted examination into the company's finances, overall operations, and claims-processing procedures. The \$152 million will be used to provide additional funds to pay claims.

The financial examination came on the heels of a market conduct examination concluded in late 1997. As a result of that examination, Oxford was fined a record \$3 million and ordered to pay \$500,000 in restitution to subscribers and providers. Oxford also strengthened its management team and improved its information systems as a result of the market conduct examination.

In addition, the Department has fined Oxford more than \$90,000 for numerous violations of the Department's prompt pay law. New York's prompt pay law requires health insurers to pay subscribers and providers within 45 days of receipt of claim. (See item #1 above).

#### **4. HMO Rate Hikes Averted**

Governor Pataki and Superintendent Levin helped stem a major crisis for New York's individual and small group policyholders in February 1998 when they announced that \$110 million of surplus funds from two health insurance pools were to be directed to New York State HMOs. The \$110 million was used by the insurers to offset proposed increases in HMO rates that would have raised some individual policyholder premiums by as much as 69%. The funds represent excess monies that had accumulated in risk-sharing pools funded by New York State insurance carriers. In December 1998, Superintendent Levin announced that he had ordered a further distribution from the pools of \$35.9 million to curb increases in 1999 rates for individual and small group policyholders.

#### **5. HMO Medicare Contracts**

Several HMOs throughout the country announced in the fall of 1998 that they would no longer write Medicare contracts in 1999. During this time, the Department helped senior citizens through its hotline and website to evaluate and obtain alternative coverages. Coverage was available to seniors through the numerous HMOs that continued to offer coverage in New York State and through insurers offering Medicare supplement policies.

#### **6. Health Care Costs**

Nationwide medical care costs increased by 3.1% between 1997 and 1998, slightly above the 2.8 % rise posted the previous year. At the beginning of the decade—1990—medical care costs were increasing at an annual rate of 9%. Due in large part to the shift to managed care, these increases trended downward throughout the decade until last year.

### **Property/Casualty Insurance**

#### **1. Coastal Homeowners Insurance**

The availability and affordability of homeowners insurance remained a significant issue for the Insurance Department in 1998 as insurers continued to examine the concentration of their business in coastal areas of New York State. However, in a February 1998 report mandated by law, the Temporary Panel on Homeowners' Insurance Coverage concluded that the availability of homeowners insurance in coastal communities reached its low point in the mid-1990s and is now expanding. Fewer homeowners are insuring through New York's insurer of last resort, the New York Property Insurance Underwriters Association (NYPIUA), indicating an increase in voluntary-market business. The Department has undertaken several initiatives to assist residents who have experienced difficulty in obtaining homeowners insurance coverage for their shoreline property. They include:

- Established the Coastal Market Assistance Reference Tables, or C-MART, to provide, via a special telephone hotline, the names and phone numbers of insurance companies that indicate a willingness to insure risks in proximity to the shore;
- Organized the Coastal Market Assistance Program (CMAP), a voluntary network of insurers and producers to assist homeowners residing in coastal areas in obtaining insurance;
- Approved special deductibles applicable only to the windstorm peril as a means of encouraging companies to continue to insure properties along the coast.
- Authorized a "wrap-around" policy, consisting of property coverage provided by NYPIUA and liability protection by a voluntary insurer.
- Governor Pataki signed into law legislation permitting insurers to file multi-tier rating programs for homeowners insurance, and to strengthen requirements providing for the minimization of market disruptions when insurers seek to withdraw from the homeowners insurance market.
- Issued Regulation 159, which requires insurers, effective January 1, 1999, to provide detailed disclosure notices to policyholders regarding windstorm deductibles.
- Amended Regulation 57 in 1998 to require insurers to provide premium credits to property owners for the installation of storm shutters in order to prevent or mitigate losses.
- Encouraged the development of innovative approaches for financing natural catastrophe insurance exposures. Finding more efficient ways to access the capital markets is an essential component of this endeavor.

## **2. Automobile Insurance**

There was good news for New York drivers in 1998 as average auto insurance rates declined for the second consecutive year in New York State. The average change for insurers that received rate changes in 1998 was -2.7%, based on an average increase of 0.07% on liability rates and an average decrease of 7.6% on physical damage (primarily collision and theft). The 82 insurers that implemented rate changes in 1998 represent just over 57% of the market for private passenger auto insurance. The overall impact on the rate level was an average decrease of 1.54% for New York insured drivers. In 1998, New Yorkers saw average premium rate declines for many of the State's largest insurers, including State Farm (-3.6%), GEICO (-2.1%), and the Progressive Group (-6.7%).

## **3. Workers' Compensation Insurance**

Workers' compensation rates in the State of New York were reduced by 6% in 1998. This follows rate reductions of 8.4% in 1997 and 18.0% in 1996. The rate reductions are a direct result of reforms contained in the New York State Employment, Safety and Security Act, signed into law by Governor Pataki in September 1996.

## **4. First Captive Licensed**

The New York Insurance Department issued its first captive insurance license in 1998 to a subsidiary of the Metropolitan Transportation Authority, First Mutual Transportation Assurance Company. Captives are insurers owned by the insureds and organized for the main purpose of self-

funding the owners' risk. Under legislation signed by Governor Pataki in 1997, captives can now be incorporated in New York State. By allowing captives for large corporations, New York is encouraging the formation of these self-insurance vehicles in this State rather than forcing companies to look to other jurisdictions to set up captive operations.

## **5. New York's New Venture Capital Law**

New York is extending a helping hand to its venture capitalists as a result of a new law that allows insurance companies to obtain dollar-for-dollar premium tax credits (over a ten-year period) for investments in certified capital companies that invest in promising New York businesses. More than two dozen insurers—including MetLife, New York Life and Travelers—contributed nearly \$100 million to the program. The ultimate goal is more businesses and more jobs in New York State.

## **6. Net Income Down/Catastrophe Losses Up in 1998**

After reaching its highest level in decades in 1997, net income for all U.S. property/casualty insurers fell 16% to \$30.9 billion in 1998. Catastrophe losses were largely responsible for the decline as storms, such as Hurricane Georges and Hurricane Bonnie, helped boost 1998 insured losses to \$10.1 billion. In contrast, catastrophes were responsible for about \$2.6 billion of insured damage in 1997.

A low inflation rate, price-driven competition, and the continued growth of captives and other such alternative market mechanisms helped slow premium growth in 1998 for U.S. property/casualty insurers. In fact, the 1.4% year-to-year increase in net written premium for property/casualty writers was the smallest such increase in decades.

# **Life Insurance**

## **1. Section 4227 Changes**

Early in the 20th Century, the New York Legislature enacted Section 4227 of the Insurance Law which imposed limits on life insurers seeking to write new business in order to prevent uncontrolled growth that could ultimately impact policyholders. Since then, sophisticated regulatory measures of solvency, such as risk-based capital formulae, have eliminated the need for arbitrary caps by introducing minimum capital requirements based on the individual risk characteristics of the insurer. In 1998, Section 4227 was repealed, thereby allowing New York insurers to more effectively compete in today's marketplace.

## **2. MONY Demutualization**

In November 1998, The Mutual Life Insurance Company of New York (MONY) completed its conversion from a mutual to a stock form of ownership. The company's parent, the MONY Group Inc., completed a successful initial public offering later that same month. The demutualization, which was completed under the watchful eye of the Insurance Department's Life Bureau, will provide the \$12 billion New York company with greater access to capital markets.

The Mutual Insurance Company of New York was renamed MONY Life Insurance Company following the conversion and is the MONY Group's principal subsidiary. The demutualization trend continues in 1999 with some of this country's largest mutuals, such as MetLife, Prudential and John Hancock, seeking to shed the mutual form of ownership.

### **3. Operating Results for 1997**

Net income for New York-licensed life insurers fell marginally to \$9.2 billion in 1998, a \$0.1 billion year-to-year decline. This followed a \$2.0 billion increase the previous year. The 1998 results include net gain from operations of \$7.0 billion, together with net realized capital gains of \$2.2 billion. In 1997, net gain from operations reached \$8.3 billion and net realized capital gains totaled \$1.0 billion. The 16% decrease in net gain from operations was due to several factors including low interest rate levels, declining sales of traditional life insurance products, changing organizational structures, the costs associated with Y2K readiness, and narrowing profit margins on health insurance products sold by life insurers.

### **Mergers & Acquisitions**

H.R. 10, a federal proposal designed to break down the walls separating banks, insurance and securities firms failed to pass in 1998. Prior to the close of the legislative session, however, the Federal Reserve Board gave its approval of a \$70 billion mega-merger between Citibank and Travelers. Under grace-period provisions of the federal Bank Holding Company Act (which could extend as long as five years), the newly merged entity, Citigroup, is permitted to operate until federal modernization legislation is enacted, a move most expect within the next year or two.

Nationwide, the dollar volume of insurance-related mergers and acquisitions (M&A) were at record levels. According to a year-end study by SNL Securities, a financial research firm, the value of M&A transactions within the insurance industry reached \$81 billion in 1998, up from \$31.4 billion a year earlier. This does not include the significant M&A activity between insurers and noninsurers, such as the Citibank/Travelers deal.

Significant M&A activity in New York included the purchase by American International Group (AIG) of SunAmerica in Los Angeles, valued at \$18 billion, and the merger of First Provident Life & Health Insurance Company into the AUSA Life Insurance Company, Inc.

### **Fraud Arrests Up**

The Department's Frauds Bureau arrests reached a record 371 in 1998, a year-to-year increase of 34%. Since the beginning of Governor Pataki's administration, the number of insurance fraud arrests has more than tripled.

This year, a new regulation strengthened the relationship between the Department and insurance companies. The Second Amendment to Regulation 95 requires all insurers that write a minimum number of specified policies to file a fraud prevention plan with the Department and establish a Special Investigations Unit (SIU) to investigate fraud so that it can be detected quickly and referred to the Insurance Department promptly. Other Frauds Bureau accomplishments in 1998 include undercover sting operations that led to the arrests of 100 people for sales of phony auto insurance identification cards and the introduction of a pilot electronic fraud reporting system.

### **Y2K Initiatives**

Superintendent Levin has made it clear that he expects all insurance companies doing business in New York to make sure their computer systems will remain up and running in the Year 2000. To that end, all insurers, including mutual insurers and other nonpublic companies, must comply with the Securities and Exchange Commission's Y2K guidelines for publicly traded companies.

Other features of the Department's Y2K compliance initiative include:

- Requiring insurers to have a written plan and budget to assure computer systems are Y2K compliant;
- Requesting senior officers to provide and sign ongoing status update reports;
- Performing on-site targeted Y2K examinations of the companies;
- Requiring company CEOs to sign certificates and submit them to the Department once systems are determined to be in compliance;
- Convening internal Department monthly Y2K task force meetings; and
- Creating a Y2K section on the Department's website

The Department's Y2K compliance efforts were recently commended by the General Accounting Office (GAO) and Representative John D. Dingell (D-Michigan), a member of the U.S. House of Representatives Committee on Commerce, for its timely and comprehensive way of dealing with this problem. The GAO had issued a report that was critical of many state insurance department's Y2K programs, but singled out New York as an exception.

## **Our New & Improved Website**

The Department expanded its website in 1998 to include a centralized Health Insurance Resource Center making it easier for consumers to locate all health insurance-related information. The Resource Center includes the Department's annual complaint ranking of HMOs and health insurers, information on how to file a complaint, external appeal agent applications, a consumer's guide for standard individual HMO and point of service coverage and information on Medicare.

An Automobile Insurance Resource Center was also added in 1998. The Auto Resource Center provides information about mandatory and optional coverages, how to save money on auto insurance, typical premiums for various New York territories and coverages, an up-to-date listing of Department of Motor Vehicle three-digit insurer codes, and our auto insurance complaint ranking. The Department also developed a new home page in 1998 and added sections on licensing and Y2K.

## **Holocaust Victims Insurance Act of 1998**

In 1998, the Insurance Department expanded its efforts to identify unclaimed assets of Holocaust victims. The Holocaust Victims Insurance Act was signed into law by Governor Pataki in 1998 and requires insurers to promptly investigate and resolve Holocaust-related claims. The Act also requires insurers to report the approximate number and value of unpaid policies that could possibly have been issued to Holocaust victims between 1920 and 1945.

In April 1998, a Memorandum of Intent (MOI) was signed by Superintendent Levin, California Insurance Commissioner Chuck Quackenbush, leading Jewish groups and four European insurers in order to bring justice to Holocaust victims and their families by establishing an international commission and humanitarian relief fund.

The Department has established a toll-free hotline to assist Holocaust victims recover the proceeds of insurance policies issued to Holocaust victims. The number is 1-800-695-3318.

## **II. REVIEW OF NEW YORK STATE INSURANCE BUSINESS**

### **A. LIFE BUREAU**

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

There were 139 life insurance companies licensed to transact business in New York State as of December 31, 1998. The total admitted assets of licensed life insurers amounted to approximately \$1.42 trillion at December 31, 1997, a 10-year gain of 108.7%. Bonds totaled \$615.1 billion; stocks \$50.6 billion; mortgage loans \$132.4 billion; real estate \$25.4 billion; policy loans \$61.7 billion, and short-term holdings \$29.5 billion. Other admitted assets totaled \$510.2 billion.

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

Domestic life insurance companies had admitted assets of \$514.3 billion on December 31, 1997, an increase of 101.3% since 1987. Insurance in force at December 31, 1997 of \$3.34 trillion represents an increase of 107.8% since December 31, 1987.

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

There were 21 banks issuing savings bank life insurance at the close of 1998. Total ordinary and group life insurance in force at December 31, 1998 amounted to \$20.7 billion. Admitted assets totaled \$1.3 billion.

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

The Life Bureau supervised 455 organizations as of December 31, 1997. These organizations consisted of: 142 licensed life insurance companies--91 domiciled in New York and 51 foreign; 50 fraternal benefit societies--8 domiciled in New York, 41 foreign and one United States Branch of a Canadian Society; 22 life insurance departments of New York mutual savings banks; 12 retirement systems--four private pension funds and eight governmental systems; eight governmental variable supplements funds; 117 segregated gift annuity funds; 25 employee welfare funds; nine viatical settlement companies and 70 accredited reinsurers.

**Table 1**  
**ADMITTED ASSETS**  
**Life Insurance Companies Licensed in New York State**  
**Selected Years, 1987-1997**  
**(dollar amounts in billions)**

Admitted Assets	1997	1996	1992	1987
Total	\$1,424.9	\$1,301.1	\$971.9	\$682.7
Percent increase from 1987	108.7%	90.6%	42.4%	---
Type of asset				
Bonds	\$ 615.1	\$593.2	\$ 441.1	\$ 287.0
Stocks	50.6	43.9	31.7	23.3
Mortgage Loans	132.4	135.5	172.3	162.8
Real Estate	25.4	29.2	31.2	19.7
Policy loans/liens	61.7	60.7	43.8	39.4
Short-term holdings	29.5	20.5	16.5	14.8
Other	510.2	418.1	235.3	135.7

**NOTE:** Detail may not add to totals due to rounding.

Source: New York State Insurance Department

**Table 2**  
**BALANCE SHEET**  
**Life Insurance Companies Licensed in New York State**  
**Selected Years, 1992-1997**  
**(in billions)**

	1997	1996	1992
Assets	\$1,424.9	\$1,301.1	\$972.1
Liabilities	1,350.8	1,233.5	924.6
Capital & Surplus	74.1	67.6	47.5

Source: New York State Insurance Department

**Table 3**  
**TOTAL LIFE INSURANCE IN FORCE**  
**Life Insurance Companies Licensed in New York State**  
**Selected Years, 1987-1997**  
**(dollar amounts in billions)**

Class of Business	1997	1996	1992	1987
Total insurance in force	\$7,780.1	\$7,324.1	\$6,084.6	\$4,243.9
Percent increase from 1987	83.3%	72.6%	43.4%	---
Ordinary	\$4,172.3	\$3,860.4	\$2,986.9	\$2,062.9
Group	3,519.7	3,383.3	3,022.0	2,092.1
Credit	80.5	72.7	67.6	80.2
Industrial	7.5	7.7	8.1	8.7

Source: New York State Insurance Department

**Table 4**  
**SOURCES OF INCOME**  
**Life Insurance Companies Licensed in New York State**  
**Selected Years, 1992-1997**  
**(dollar amounts in millions)**

Source of Income	<u>1997</u>		<u>1996</u>		<u>1992</u>	
	Amount	Percent of Total	Amount	Percent of Total	Amount	Percent of Total
Group life	\$13,948.1	5.1%	\$12,078.5	4.7%	\$10,182.5	4.6%
Group annuities	68,338.3	25.0	63,355.1	24.5	52,511.2	23.8
Group A & H	24,296.8	8.9	24,792.1	9.6	25,979.5	11.8
Ordinary life	44,005.9	16.1	42,855.3	16.6	36,043.1	16.4
Individual annuities	30,899.9	11.3	27,729.4	10.7	20,258.2	9.2
Individual A & H	3,737.1	1.4	3,420.5	1.3	2,783.9	1.3
Credit life	363.6	0.1	293.1	0.1	322.9	0.1
Industrial life	236.6	0.1	216.1	0.1	224.0	0.1
<b>Total Premiums</b>	<b>\$185,826.3</b>	<b>68.0%</b>	<b>\$174,740.1</b>	<b>67.7%</b>	<b>\$148,305.4</b>	<b>67.3%</b>
Supplementary contracts	7,803.7	2.9%	7,652.1	3.0%	5,022.9	2.3%
Net investment income	66,704.6	24.4	65,357.0	25.3	60,702.2	27.6
Other income	12,740.6	4.7	10,545.8	4.1	6,146.6	2.8
<b>TOTAL</b>	<b>\$273,075.3</b>	<b>100.0%</b>	<b>\$258,295.0</b>	<b>100.0%</b>	<b>\$220,177.1</b>	<b>100.0%</b>

**NOTE:** Detail may not add to totals due to rounding.

Source: New York State Insurance Department

**Table 5**  
**OPERATING RESULTS**  
**Life Insurance Companies Licensed in New York State**  
**Selected Years, 1992-1997**  
**(in millions)**

	1997	1996	1992
Total premiums	\$185,826.4	\$174,740.1	\$148,305.3
Investment income	66,704.6	65,357.0	60,702.2
Supplementary contracts	7,803.7	7,652.1	5,022.9
Other income	12,740.6	10,545.8	6,146.6
Total income	273,075.3	258,295.0	220,177.1
Net gain from operations	8,266.9	6,840.9	4,586.1
Net income	9,283.0	7,226.6	3,560.1

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, 1987-1997**  
**(dollar amounts in billions)**

Insurance In Force	1997	1996	1992	1987
Total	\$975.0	\$907.0	\$740.4	\$538.6
Percent increase from 1987	81.2%	68.4%	37.5%	---
Class of business				
Ordinary	\$581.3	\$550.9	\$431.9	\$286.3
Group	386.9	349.0	296.6	234.9
Credit	5.9	6.2	10.9	16.3
Industrial	0.9	0.9	1.0	1.1

Source: New York State Insurance Department

**Table 7**  
**DOMESTIC LIFE INSURANCE COMPANIES**  
**Selected Years, 1987-1997**  
**(dollar amounts in billions)**

Domestic Life Companies	1997	1996	1992	1987
Admitted assets	\$514.3	\$476.5	\$354.4	\$255.4
Percent increase from 1987	101.3%	86.6%	38.8%	---
Insurance in force	\$3,336.5	\$3,044.0	\$2,430.5	\$1,605.5
Percent increase from 1987	107.8%	89.6%	51.4%	---

Source: New York State Insurance Department

**Table 8**  
**SAVINGS BANK LIFE INSURANCE**  
**New York State**  
**Selected Years, 1988-1998**  
**(dollar amounts in millions)**

SBLI	1998	1997	1993	1988
Number of issuing banks	21	22	31	48
Ordinary insurance issued during year:				
Policies	7,419	9,522	15,215	20,532
Amount	\$165.0	\$226.3	\$411.0	\$470.3
Ordinary insurance in force end of year:				
Policies	384,545	398,042	438,974	475,870
Amount	\$5,647.7	\$5,778.9	\$5,941.2	\$5,680.0
Group life insurance in force end of year:				
Amount	\$15,064.2	\$15,974.3	\$16,915.6	\$9,768.0
Total admitted assets	\$1,292.8	\$1,243.3	\$1,045.5	\$800.1

Source: New York State Insurance Department

## 5. Licensed Fraternal Benefit Societies

At the close of 1998, there were 50 fraternal benefit societies licensed to conduct insurance business in New York State. Of these, eight were domestic, 41 were foreign and one was an alien society. In the ten-year period ending December 31, 1997 the admitted assets of licensed societies rose \$29.7 billion to a total of \$47.8 billion, an increase of 184%. Insurance in force rose \$107.5 billion to \$231.1 billion, an increase of 87%.

## 6. Private Retirement Systems

At the close of 1998, four private retirement systems were under the supervision of the Insurance Department.

The four 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 1997, the assets of these four private pension funds totaled approximately \$126.7 billion. The following table shows data for the private pension funds for selected years from 1987 to 1997:

**Table 9**  
**PRIVATE PENSION FUNDS**  
**Regulated by NYS Insurance Department**  
**Selected Years, 1987-1997**  
**(in millions)**

Private Pension Funds	1997	1996	1992	1987
Total admitted assets	\$126,667.7	\$102,057.0	\$55,308.7	\$28,832.5
Payments to annuitants and beneficiaries	\$6,391.0	\$4,487.5	\$2,115.9	\$1,842.0

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 1997 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 1997 were approximately \$228.8 billion. During the period from 1987 to 1997, the assets of these retirement systems increased at the compound rate of 10.0% 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 1997 increased by less than 1% over its 1987 level, while the number of pensioners increased by 32% 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 Department in April 1995, their funds remain in effect only for members already retired on that date. The eight variable supplements funds, which are under the supervision of the Insurance Department, had assets as of June 30, 1997 totaling \$2.9 billion, a 14% 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 1987 to 1997:

**Table 10**  
**PUBLIC RETIREMENT SYSTEMS AND PENSION FUNDS**  
**Regulated by NYS Insurance Department**  
**Selected Years, 1987-1997**  
**(in millions)**

Public Retirement Systems and Pension Funds	1997	1996	1992	1987
Total admitted assets	\$228,781.2	\$199,234.6	\$134,724.7	\$91,273.3
Payments to annuitants and beneficiaries	\$9,959.5	\$9,647.9	\$6,838.1	\$4,628.7

Source: New York State Insurance Department

#### **8. Segregated Gift Annuity Funds for Charitable Organizations**

At the end of 1998, 133 charitable annuity societies held permits under Section 1110 of the Insurance Law at the end of 1998. 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, 1997, admitted assets of these funds increased by 339% and the annual payments increased by 293%.

**Table 11**  
**SEGREGATED GIFT ANNUITY FUNDS**  
**Selected Years, 1987-1997**  
**(in millions)**

Segregated Gift Annuity Funds	1997	1996	1992	1987
Total admitted assets	\$575.4	\$471.3	\$246.1	\$131.2
Annual payments to annuitants	\$44.0	\$37.1	\$19.3	\$11.2

Source: New York State Insurance Department

### 9. Employee Welfare Funds

Twenty-five employee welfare funds covering 118,389 employees were supervised by the Department at the close of 1997. 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 \$336.1 million in 1997. Benefits paid totaled \$263.5 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 \$13.7 million representing 4.1% of contributions and 5.2% 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 1997, 9 companies were licensed or authorized to act as viatical settlement companies in New York.

As of December 31, 1997, these companies had combined assets of \$181 million, with the largest company accounting for \$129 million. The assets were primarily in the form of life insurance policies purchased. Costs of purchasing these policies amounted to \$167 million, which comprised about 55.2% of the \$303 million total face value.

**11. Examinations of Insurers Conducted in 1997**

**Table 12  
EXAMINATIONS CONDUCTED  
by the Life Bureau  
1998**

	<u>Regularly Scheduled</u>			<u>Other</u>		
	<u>Total</u>	<u>In</u> <u>1998</u>	<u>Initiated</u> <u>Prior to</u> <u>1998</u>	<u>Special</u>	<u>On</u> <u>organi-</u> <u>zation</u>	<u>Increase</u> <u>in capital</u> <u>and other</u>
Life insurance companies	39	27	11	1	0	0
Life insurance depts. of mutual savings banks	4	3	1	0	0	0
Fraternal benefit societies	3	3	0	0	0	0
Retirement systems and pension funds	5	4	1	0	0	0
Segregated gift annuity funds of charitable organizations	19	19	0	0	0	0
Welfare funds	1	1	0	0	0	0
<b>Total</b>	<b>71</b>	<b>57</b>	<b>13</b>	<b>1</b>	<b>0</b>	<b>0</b>

**12. Auditing of Financial Statements**

a. Audit and Analysis

As of December 31, 1998, 422 companies licensed to do business in New York State, as detailed below, were required to file their 1997 Annual Statements for audit and analysis:

Life - New York	89
Life - Other States	51
Accredited Reinsurers	68
Fraternals - New York	8
Fraternals - Other States	41
Fraternals - Canadian, U.S. Branch	1
Charitable Annuities	133
Retirement Systems	20
Viaticals	11
<b>Total</b>	<b>422</b>

In addition to a financial analysis, which includes but is not limited to solvency, investment portfolio, reinsurance, and a review of the CPA report etc., the Annual Statements are audited for overall integrity; compliance with National Association of Insurance Commissioners (NAIC) requirements for completing the 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 1998 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. Public Inspection of Records

The Bureau provides public access to various Insurance Department documents and insurance-related materials. In 1998, 206 Annual Statements, 18 Quarterly Statements, 16 Reports on Examination and one CPA Report were reviewed. Information was also made available from such source materials as *Best's Insurance Reports*.

### 13. Real Estate Review

During 1998, the Real Estate Unit, submitted 8 reports relative to the valuation and condition of real estate assets held by companies under examination, 7 recommendations were made in connection with the acquisition, construction and improvement of home office facilities, 6, in the aggregate amount of \$76,820,944, were subsequently approved.

In addition, recommendations were made relative to leases between related entities, the allocation or transfer of general account real estate assets, capital improvements and participation agreements.

### 14. Actuarial Submissions and Reviews

The actuarial staff of the Life Bureau's New York City office reviews submissions made by licensed life insurance companies and fraternal benefit societies to secure the Insurance Department's approval of separate account plans of operation for individual and group annuity and for variable life insurance products; methods of allocation of investment income; synthetic guaranteed investment contracts (GICs); and plans of operation and actuarial projections in connection with the licensing of a company, merger of two or more companies or acquisition of control of one company by another. The actuarial staff also review filings made by companies under Section 4228 of the Insurance Law, which pertains to compliance with expense limitations, agent compensation plans, agent training allowance plans and expense allowance plans. The staff evaluate the actuarial aspects of life insurer demutualizations and reorganizations of foreign insurers as mutual holding companies. These have been relatively few in numbers but extremely time consuming. The staff also participate in on-site examinations scheduled by the assigned Corporate Regulatory Unit to ascertain the organizations' actuarial practices. The actuaries perform the required regulatory functions concerning the various

New York State and New York City public employee retirement systems, each of which is governed by different chapters of law, as explained in more detail in Section 7 of this report.

During 1998, the actuarial staff began reviewing the first filings submitted under the new Section 4228 of the Insurance Law, which became effective January 1, 1998. Many circumstances covered by the new law did not require filings until February 28, 1999. As a result, as many Section 4228 filings were received during the first three months of 1999 as had been received during all of 1998. Also in connection with the new Section 4228, the actuarial staff assisted in the drafting of two circular letters and is in the process of drafting two regulations, and has produced submission forms that can be filed via e-mail.

The number of separate account filings increased slightly between 1997 and 1998. The continuing rise in the stock market has increased the appeal of variable products, and as a result separate account filings comprise the majority of filings reviewed by the actuarial staff. Synthetic GICs, however, do not appear to have generated much interest; only four such filings were received during 1998.

## **15. Financial Indicators**

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

Because the risk-based capital formula is dynamic, several changes were made to improve it during 1998. New York is a member of the Life Risk-Based Capital Working Group and representatives from the 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 1997 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 1997, the Life Bureau represented the Insurance Department in the work of the IMR/AVR Study Group as chair, the Life and Health Actuarial Task Force and the Life (A) Committee. The Bureau also participated in the following Working Groups, among others: Financial Analysis Research and Development, Financial Analysis Handbook, Codification, Emerging Issues, Invested Assets, Separate Accounts, Life Risk-Based Capital, Securities Valuation Office Oversight and NAIC/AICPA.

A representative of the 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.

## B. PROPERTY BUREAU

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

The Financial Regulation Division side of the Property Bureau had regulatory authority over 1,544 insurer and noninsurer entities as of December 31, 1998.

The Bureau regulated 925 insurer entities comprised of:

66	Accredited reinsurers;*
19	Advance premium co-operatives;
29	Assessment co-operatives;
2	Captive insurers;
12	Financial guaranty insurers;
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);
718	Property/casualty insurers;
20	Title insurers; and
15	United States branches

In addition, the Bureau oversaw the operation of 47 risk retention groups in 1998 and supervised 229 reinsurance intermediaries, 15 insurer-controlling producers, and 328 managing general agents.

The Property Bureau received 36 applications for licensing and three applications for recognition as an accredited reinsurer during 1998. Twenty-four insurers were newly licensed, including one domestic stock company, one foreign title insurer, one mortgage guaranty insurer, and 21 foreign stock insurers. In addition, four insurers were accredited. At the close of the year, eight domestic stock companies, one foreign reciprocal insurer, one foreign mutual insurer, and 25 foreign stock insurers had license applications pending with the Department. In addition, four applications for accreditation were still outstanding.

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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, 1998, 150 active Lloyd's syndicates were recognized as accredited reinsurers by the Department.

## 2. Property and Casualty Business

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

### a. Premium Volume and Surplus to Policyholders

Net premiums written during 1997 by all New York licensed property and casualty insurers aggregated \$200.4 billion, of which 73% represents stock company writings. The following underwriting and investment results deal with the countrywide business of New York-licensed companies:

**Table 13**  
**NET PREMIUMS WRITTEN AND SURPLUS TO POLICYHOLDERS**  
**Property and Casualty Insurers Licensed in New York State**  
**1993-1997**  
**(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
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
1996	614	143,254	139,288	1.0	75	53,094	60,928	0.9
1997	623	146,706	168,327	0.9	73	53,644	76,793	0.7

Source: New York State Insurance Department

b. Underwriting Results

Results for 1997 show a net underwriting loss of \$3.9 billion for stock companies and a net underwriting gain of \$1.3 billion for mutual companies. For 1996, stock companies showed a net underwriting loss of \$10.6 billion, while mutual companies experienced a net loss of \$581 million.

**Table 14**  
**UNDERWRITING RESULTS**  
**Property and Casualty Insurers Licensed in New York State**  
**1995-1997**  
**(dollar amounts in millions)**

Year		<u>Stock Companies</u>		<u>Mutual Companies</u>	
		Number of Companies	Amount	Number of Companies	Amount
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
1996	Underwriting gains	171	\$ 1,661.2	14	\$1,615.6
	Underwriting losses	409	12,309.2	61	2,196.9
	No gain or loss	34	0.0	0	0.0
1997	Underwriting gains	211	\$ 2,917.0	27	\$2,918.9
	Underwriting losses	366	5,957.4	46	1,610.8
	No gain or loss	46	0.0	0	0.0

Source: New York State Insurance Department

c. Investment Income and Capital Gains

Investment income and net capital gains for stock and mutual companies from 1995 to 1997 are as follows:

**Table 15**  
**INVESTMENT INCOME AND CAPITAL GAINS**  
**Property and Casualty Insurers Licensed in New York State**  
**1995-1997**  
**(in millions)**

Year		Stock Companies	Mutual Companies
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>
1996	Net investment income	\$23,389.6	\$ 6,932.3
	Realized capital gains	4,441.0	1,044.0
	Unrealized capital gains	<u>3,833.0</u>	<u>4,773.4</u>
	Net gain from investments	<u>\$31,663.6</u>	<u>\$12,749.7</u>
1997	Net investment income	\$26,643.8	\$ 8,289.5
	Realized capital gains	5,697.2	1,380.4
	Unrealized capital gains	<u>14,421.8</u>	<u>11,154.5</u>
	Net gain from investments	<u>\$46,762.8</u>	<u>\$20,824.4</u>

Source: New York State Insurance Department

d. Underwriting and Investment Exhibit

During 1997, dividends to stockholders amounted to \$12.3 billion; for the same period, dividends to policyholders aggregated to \$3.7 billion. The aggregate contribution to surplus for 1997 was \$5.2 billion compared with \$5.5 billion for 1996.

**Table 16**  
**AGGREGATE UNDERWRITING AND INVESTMENT EXHIBIT**  
**Property and Casualty Insurers Licensed in New York State**  
**1996 and 1997**  
**(in millions)**

	<u>1997</u>		<u>1996</u>	
	Stock Companies	Mutual Companies	Stock Companies	Mutual Companies
Net gain or loss from:				
Underwriting	\$ -3,040.4	\$ 1,308.1	\$-10,648.0	\$ -581.3
Investments*	32,341.0	9,669.9	27,830.6	7,976.3
Other income	<u>-197.1</u>	<u>-316.4</u>	<u>-817.8</u>	<u>-277.2</u>
Net gain or loss	\$ 29,103.5	\$ 10,661.6	\$ 16,364.8	\$7,117.8
Less:				
Dividends to policyholders	1,115.5	2,622.6	893.0	1,327.1
Federal income taxes incurred	<u>4,937.8</u>	<u>1,491.1</u>	<u>2,078.7</u>	<u>1,254.8</u>
Net income	\$ 23,050.2	\$ 6,547.9	\$ 13,393.1	\$4,535.9
Surplus changes other than net income:				
Dividends to stockholders				
• Cash	\$-12,301.4	\$ 0.0	\$-9,052.5	\$ 0.0
• Stock	-17.7	0.0	-24.2	0.0
Net remittance to/from home office	<u>-6.2</u>	<u>0.0</u>	<u>259.7</u>	<u>0.0</u>
Total dividends and remittance	\$-12,325.3	\$ 0.0	\$-8,817.0	\$ 0.0
Unrealized capital gains	14,421.8	11,154.6	3,833.0	4,773.4
Changes in statutory over case basis	-87.8	-37.6	276.6	-4.1
Miscellaneous items	-1,667.0	-1,690.9	-172.3	-544.6
Contributions to surplus	<u>5,193.2</u>	<u>1.5</u>	<u>5,516.5</u>	<u>-5.4</u>
Total other sources	\$ 5,534.9	\$ 9,427.6	\$ 636.8	\$4,219.3
Net increase or decrease in surplus	<u>\$ 28,585.1</u>	<u>\$ 15,975.5</u>	<u>\$14,029.9</u>	<u>\$8,755.2</u>

\* Excludes unrealized capital gains.

Source: New York State Insurance Department

e. Selected Annual Statement Data

From 1995 to 1997, aggregate net premiums written increased 6%; admitted assets increased 16%; unearned premium and loss reserves increased 3%; and other liabilities increased 25%. Capital and surplus to policyholders increased by 40%.

**Table 17**  
**SELECTED ANNUAL STATEMENT DATA**  
**Property and Casualty Insurers Licensed In New York State**  
**1995-1997**  
**(dollar amounts in millions)**

	1997	1996	1995
		<u>Stock Companies</u>	
Number of insurers	623	614	567
Net premiums written	\$146,706	\$143,254	\$136,270
Admitted assets	505,697	469,175	438,090
Unearned premium & loss reserves	293,618	290,637	279,091
Other liabilities	43,753	39,250	36,664
Capital	4,451	4,565	4,350
Surplus funds	163,876	134,723	117,985
		<u>Mutual Companies</u>	
Number of insurers	73	75	75
Net premiums written	\$ 53,644	\$ 53,094	\$ 52,647
Admitted assets	175,476	159,700	150,411
Unearned premium & loss reserves	80,730	83,722	85,611
Other liabilities	17,954	15,049	12,629
Surplus to policyholders	76,793	60,928	52,171

Source: New York State Insurance Department

f. Audit and Analysis

The 1997 Annual Statements of the companies authorized to transact business in the State of New York were filed for audit and analysis in 1998, as were those of reinsurers accredited in this State. Issues arising during the audits were resolved with the companies. As a result of the audits, some filed statements were adjusted to bring reported figures into compliance with New York requirements.

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

g. State Insurance Fund

All purchases and sales of bonds by the State Insurance Fund are subject to the approval of the Superintendent. During 1998, the State Insurance Fund acquired bonds totaling \$4.4 billion and sold bonds totaling \$2.8 billion. Upon review, the Property Bureau recommended the approval of acquisitions totaling \$3.6 billion and sales totaling \$2.1 billion. Acquisition of \$766.3 million and sales of \$720.5 million are currently under review. In 1997, the Bureau recommended approval of acquisitions totaling \$1.2 billion and sales totaling \$367.1 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 836 companies. There were 22 companies entitled to exemption from the filing requirements.

i. Public Inspection of Records

The Property Bureau provides public access to various Insurance Department documents pursuant to the Freedom of Information Law (FOIL). In 1998, 117 FOIL requests to review and copy records maintained by the Bureau were received from members of the public.

j. Holding Company Systems

Pursuant to Article 15 of the New York Insurance Law and Department Regulation 52, the Property Bureau is responsible for the regulation of insurance holding company systems involving licensed property/casualty insurance companies. During 1998, 94 holding company transaction files, 264 holding company registration statements, and 85 other holding company files were reviewed and closed by the Property Bureau. In addition, 21 requests for acquisition of control of domestic insurers were reviewed and closed by the Property Bureau.

### 3. Financial Guaranty Insurance

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

As of December 31, 1997, there were six domestic and five foreign financial guaranty insurers licensed in New York.

**Table 18**  
**NET PREMIUMS WRITTEN AND SURPLUS TO POLICYHOLDERS**  
**Financial Guaranty Insurers Licensed in New York State**  
**1995-1997**  
**(dollar amounts in millions)**

Year	Net Premiums Written (during year)	Surplus to Policyholders (end of year)	Ratio of Premiums to Surplus
1995	\$ 729.5	\$ 4,569.4	0.16
1996	963.4	4,929.4	0.20
1997	1,000.4	5,469.6	0.18

Source: New York State Insurance Department

**Table 19**  
**UNDERWRITING RESULTS**  
**Financial Guaranty Insurers Licensed in New York State**  
**1995-1997**  
**(dollar amounts in millions)**

	<u>1997</u>		<u>1996</u>		<u>1995</u>	
	Underwriting Gain	Loss	Underwriting Gain	Loss	Underwriting Gain	Loss
No. of Companies	9	2	10	1	9	3
Amount	\$394.3	\$33.5	\$347.7	\$3.9	\$240.6	\$20.9

Source: New York State Insurance Department

**Table 20**  
**INVESTMENT INCOME AND CAPITAL GAINS**  
**Financial Guaranty Insurers Licensed in New York State**  
**1995-1997**  
**(in millions)**

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	1997	1996	1995
Net investment income	\$742.4	\$717.3	\$619.0
Realized capital gains	64.2	106.4	58.5
Unrealized capital gains	<u>0.7</u>	<u>-31.6</u>	<u>80.6</u>
Net gain from investments	<u>\$807.3</u>	<u>\$792.1</u>	<u>\$758.1</u>

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Source: New York State Insurance Department

**Table 21**  
**AGGREGATE UNDERWRITING AND INVESTMENT EXHIBIT**  
**Financial Guaranty Insurers Licensed in New York State**  
**1995-1997**  
**(in millions)**

	1997	1996	1995
Net gain or loss from:			
Underwriting	\$ 360.8	\$ 343.8	\$ 219.7
Investments*	806.6	823.7	677.5
Other Income	<u>6.3</u>	<u>3.7</u>	<u>13.0</u>
Net gain or loss	<u>\$1,173.8</u>	<u>\$1,171.2</u>	<u>\$ 910.2</u>
Less:			
Dividends to policyholders	0.0	0.0	0.0
Federal income taxes incurred	<u>240.1</u>	<u>241.3</u>	<u>164.8</u>
Net income	<u>\$ 933.6</u>	<u>\$ 929.9</u>	<u>\$ 745.4</u>
Surplus changes other than net income:			
Dividends to stockholders			
• Cash	\$ -89.7	\$-180.1	\$-287.8
• Stock	0.0	0.0	0.0
Net remittance to/from home office	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
Total dividends and remittance	<u>\$ -89.7</u>	<u>\$-180.1</u>	<u>\$-287.8</u>
Unrealized capital gains	0.7	-31.6	80.6
Changes in statutory over case basis	0.5	0.5	-1.2
Miscellaneous sources	-520.3	-428.1	-276.7
Contributions to surplus	<u>215.4</u>	<u>-19.6</u>	<u>115.7</u>
Total other sources	<u>\$-393.4</u>	<u>\$-658.9</u>	<u>\$-369.4</u>
Net increase or decrease in surplus	<u>\$ 540.2</u>	<u>\$ 271.0</u>	<u>\$ 376.0</u>

\* Excludes unrealized capital gains.

Source: New York State Insurance Department

**Table 22**  
**SELECTED ANNUAL STATEMENT DATA**  
**Financial Guaranty Insurers Licensed in New York State**  
**1995-1997**  
**(in millions)**

	1997	1996	1995
Number of Companies	11	11	12
Exposure	\$1,033,649.0	\$1,004,509.0	\$869,852.0
Net premiums written	1,000.4	963.4	729.5
Admitted assets	13,990.4	12,475.0	11,256.7
Unearned premium & loss reserves	4,913.8	4,601.1	4,247.0
Other liabilities	3,607.0	2,944.4	2,440.3
Capital	198.5	198.5	203.5
Surplus funds	5,271.1	4,730.9	4,365.9

Source: New York State Insurance Department

#### 4. Mortgage Guaranty Insurance

At year-end 1997, there were two domestic and 19 foreign companies licensed to transact mortgage guaranty business in New York.

**Table 23**  
**NET PREMIUMS WRITTEN AND SURPLUS TO POLICYHOLDERS**  
**Mortgage Guaranty Insurers Licensed in New York State**  
**1995-1997**  
**(dollar amounts in millions)**

Year	Net Premiums Written (during year)	Surplus to Policyholders (end of year)	Ratio of Premiums to Surplus
1995	\$1,713.4	\$2,243.3	0.78
1996	2,158.6	2,556.7	0.84
1997	2,438.5	2,693.7	0.91

Source: New York State Insurance Department

**Table 24**  
**AGGREGATE UNDERWRITING AND INVESTMENT EXHIBIT**  
**Mortgage Guaranty Insurers Licensed in New York State**  
**1995-1997**  
**(in millions)**

	1997	1996	1995
Net gain or loss from:			
Underwriting	\$ 654.7	\$ 327.8	\$ 226.4
Investments*	552.0	507.2	443.2
Other Income	<u>0.2</u>	<u>1.3</u>	<u>1.3</u>
Net gain or loss	<u>\$1,206.9</u>	<u>\$ 836.3</u>	<u>\$ 670.9</u>
Less:			
Dividends to policyholders	0.0	0.0	0.0
Federal income taxes incurred	<u>128.1</u>	<u>38.5</u>	<u>66.4</u>
Net income	<u>\$1,078.8</u>	<u>\$ 797.8</u>	<u>\$ 604.5</u>
Surplus changes other than net income:			
Dividends to stockholders			
• Cash	\$-120.5	\$ -77.0	\$ -81.5
• Stock	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
Total dividends	\$-120.5	\$ -77.0	\$ -81.5
Unrealized capital gains	39.3	-16.0	97.2
Changes in statutory over case basis	0.0	0.0	0.0
Miscellaneous sources	-886.2	-566.6	-633.0
Contributions to surplus	<u>25.5</u>	<u>94.6</u>	<u>139.6</u>
Total other sources	<u>\$-941.9</u>	<u>\$-565.0</u>	<u>\$-477.7</u>
Net increase or decrease in surplus	<u>\$ 136.9</u>	<u>\$ 232.8</u>	<u>\$ 126.8</u>

\* Excludes unrealized capital gains

Source: New York State Insurance Department

**Table 25**  
**SELECTED ANNUAL STATEMENT DATA**  
**Mortgage Guaranty Insurers**  
**1995-1997**  
**(dollar amounts in millions)**

	1997	1996	1995
Number of companies	21	21	18
Net premiums written	\$ 2,438.5	\$2,158.6	\$1,713.4
Admitted Assets	10,107.5	8,911.0	7,157.4
Unearned premium & loss reserves	3,930.8	3,666.1	3,019.2
Other liabilities	3,483.0	2,688.1	2,030.1
Capital	93.4	92.9	85.2
Surplus	2,600.3	2,463.8	2,157.1

Source: New York State Insurance Department

## 5. Title Insurance

Ten domestic and nine foreign companies were licensed to write title insurance in this State at the close of 1997. The statutory reinsurance reserve of domestic title insurers approximated \$126.1 million as of December 31, 1997.

**Table 26**  
**SELECTED ANNUAL STATEMENT DATA**  
**Domestic Title Insurance Companies**  
**1995-1997**  
**(dollar amounts in millions)**

	1997	1996	1995
Number of Companies	10	11	9
Net premiums written	\$342.0	\$257.8	\$228.7
Admitted assets	361.8	239.8	203.4
Liabilities	204.1	124.0	114.7
Capital	11.3	11.8	9.3
Surplus	146.4	103.9	79.4

Source: New York State Insurance Department

## 6. Advance Premium and Assessment Co-operatives

At year-end 1997, there were 20 advance premium cooperatives under the supervision of the Property Bureau. The total number of advance premium co-operative companies remained the same from 1996 to 1997 due to one merger and one mutual company converting to advance premium status. The net premium volume of the advance premium co-operatives increased by 4% from the prior year.

There were 30 assessment co-operatives under the Bureau's supervision at the end of 1997; there were no changes from 1996. The net premium volume of these 30 companies increased by 5% from the prior year.

During 1998, the Bureau initiated 11 examinations of the advance premium co-operative and assessment co-operative companies.

**Table 27**  
**SELECTED ANNUAL STATEMENT DATA**  
**Advance Premium and Assessment Co-operative Companies**  
**1995-1997**  
(dollar amounts in millions)

Year	Total	Advance Premium Companies	Assessment Co-operative Companies
1995	Number of companies	20	31
	Total assets	\$755.4	\$164.6
	Net premiums written	365.7	64.2
	Surplus funds	250.0	95.4
1996	Number of companies	20	30
	Total assets	\$829.0	\$156.6
	Net premiums written	401.2	58.3
	Surplus funds	283.3	93.1
1997	Number of companies	20	30
	Total assets	\$920.0	\$170.5
	Net premiums written	415.5	61.5
	Surplus funds	341.4	101.8

Source: New York State Insurance Department

**7. New York Insurance Exchange, Inc.**

During November 1987, the Underwriting Members of the New York Insurance Exchange, Inc. (the Exchange) voted to suspend writing new and renewal business. No business has been written on the Exchange since that time. As of December 31, 1998, 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.

**8. Special Risk Insurers (Free Trade Zone)**

Calendar year 1998 was the 20th full year of operation for the companies licensed as special risk insurers pursuant to Section 6302 of the Insurance Law. There were 177 licensed companies as of December 31, 1998. Net premiums written during the year amounted to an estimated \$468.9 million, bringing the net premiums written since inception to approximately \$4.8 billion. Net premiums written (in millions) since inception are as follows:

1978-1993	\$2,730.9
1994	355.4
1995	364.7
1996	443.2
1997	398.9
1998	468.6 (estimated)

**9. Risk Retention Groups**

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

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

As of December 31, 1997, 46 risk retention groups had notified the Department of their intention to do business in New York under the provisions of the federal legislation.

In calendar year 1997, 43 risk retention groups filing financial statements with this Department reported total direct premiums written of \$590.9 million and total net premiums written of \$125.4 million. These risk retention groups reported direct premiums written of \$48.1 million in New York State during this same period.

10. Examinations of Insurers

**Table 28**  
**EXAMINATIONS CONDUCTED**  
by the Financial Regulation Division of the Property Bureau  
1998

	<u>Regularly Scheduled</u>			<u>Other Financial Examinations</u>		
	Total	In 1998	<u>Initiated</u> Prior to 1998	Special	On organi- zation	Increase in capital and other
Property and casualty insurers, including financial guaranty insurers	152	41	34	74	3	0
Other insurers	2	1	1	0	0	0
Title and mortgage guaranty insurers	4	2	2	0	0	0
Total	158	44	37	74	3	0

11. Lloyd's of London

Underwriters at Lloyd's (Lloyd's of London) consist of underwriting syndicates at Lloyd's which meet the requirement for recognition as accredited reinsurers in New York. As of December 31, 1998, 150 active syndicates at Lloyd's were recognized as accredited reinsurers by the Department. Each syndicate is required to maintain a trust fund in New York and the amount deposited in each trust fund is required to equal each syndicate's gross liabilities for U.S. *situs* reinsurance business. In addition, all syndicates together must maintain a minimum surplus in trust, on a joint and several basis, of not less than \$100 million, for the protection of United States ceding insurers.

## **12. Captive Insurance Companies**

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

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

As of December 31, 1998, there were two captive insurance companies in New York. The industry has indicated that current law contains certain restrictions that hinder growth in the formation of New York captive insurers. The Department is considering proposing revisions to the law to address these restrictions.

## **13. Certified Capital Companies**

Governor George E. Pataki signed the Tax Omnibus Bill (Chapter 389 of the Laws of 1997) into law on August 7, 1997. Sections 142 through 145 of that law provide for the establishment of certified capital companies (CAPCOs) and create tax credit incentives to insurers that invest in them.

CAPCOs can be partnerships, corporations, trusts or limited liability companies whose primary business activity is the investment of cash in qualified businesses. CAPCOs must be organized on a "for-profit" basis and be located, headquartered and licensed (or registered) to conduct business in New York State. As of December 31, 1998, the Insurance Department certified six CAPCOs.

**14. Filings Involving Rate and Rating Rule Changes, Policy Forms, Territories and Classifications**

a. During 1998, the Market Regulatory Section of the Property Bureau received 8,648 filings involving changes in rates, rating rules, policy forms, rate classifications and rating territories submitted by rate service organizations, joint underwriting associations and insurers. The filings were submitted for the following lines of business:

**Table 29  
NUMBER OF FILINGS  
by Type, 1998**

<u>Line of Business</u>	<u>Rates &amp; Rules</u>	<u>Policy Forms</u>	<u>Classes &amp; Territories</u>	Totals
Fire and Allied Lines	599	461	3	1,063
Farmowners Multiple Peril	63	50	0	113
Homeowners Multiple Peril	228	217	6	451
Multiple Line	146	132	0	278
Commercial Multiple Peril	553	407	5	965
Inland Marine	289	234	0	523
Medical Malpractice	239	163	0	402
Earthquake	25	3	2	30
Rain	0	2	0	2
Workers' Compensation & Employer's Liability	72	99	0	171
Other Liability	1,179	1,228	5	2,412
Motor Vehicle Insurance	908	523	7	1,438
Aircraft	4	17	0	21
Fidelity & Surety	132	60	1	193
Glass	49	10	0	59
Burglary & Theft	211	117	1	329
Boiler & Machinery	46	48	0	94
Credit	5	8	0	13
Animal Mortality	4	5	0	9
Mortgage Guaranty	27	12	0	39
Residual Value	2	3	0	5
Title	2	3	0	5
Financial Guaranty	0	29	0	29
Prize Indemnification	2	2	0	4
<b>Totals</b>	<b>4,785</b>	<b>3,833</b>	<b>30</b>	<b>8,648</b>

These figures include approximately 295 consent-to-rate filing applications; 121 group property & casualty filings; 232 manuscript policy form filings; 733 Y2K form and rate filings and 316 rating plans filings submitted in 1998. Fifty-nine policy form filings and fifty-four rate or rating rule filings were disapproved during 1998.

b. The following table lists major revisions in rates or loss costs that were approved or acknowledged during 1998:

**Table 30**  
**EFFECTS OF PRINCIPAL RATE & LOSS COST CHANGES**  
**Filed in 1998 by Property and Casualty**  
**Rate Service Organizations**

	Percent Changes in Average State-Wide Rates
<u>Automobile</u>	
Automobile Insurance Plans Service Office	
Commercial Automobile, Public Livery	
Rates Revised	
Taxis	
Bodily Injury Liability	+16.0
Liability Subtotal	+9.0
Medicars	
Bodily Injury Liability	+15.0
Property Damage Liability	+15.0
Personal Injury Protection	+15.0
Liability Subtotal	+15.0
Ambulettes	
Bodily Injury Liability	+16.0
Liability Subtotal	+12.2
Total All Coverages	
Effective February 28, 1998	+9.3
Automobile Insurance Plans Service Office	
Commercial Automobile, Public Livery	
Rates Revised	
Taxis	
Bodily Injury Liability	+20.0
Property Damage Liability	+5.0
Personal Injury Protection	+20.0
Liability Subtotal	+17.6
Medicars	
Bodily Injury Liability	+30.0
Property Damage Liability	+30.0
Personal Injury Protection	+30.0
Liability Subtotal	+30.0
Remainder of Social Service	
Bodily Injury Liability	+20.0
Property Damage Liability	+3.0

Personal Injury Protection	+20.0
Liability Subtotal	+17.7
All Other Public Autos	
Bodily Injury Liability	+20.0
Property Damage Liability	+3.0
Personal Injury Protection	+20.0
Liability Subtotal	+16.7
Total All Coverages	
Effective February 28, 1999	+18.2
Automobile Insurance Plans Service Office	
Private Passenger Automobile	
Rates Revised	
Bodily Injury Liability	0.0
Property Damage Liability	+9.8
Personal Injury Protection	+25.3
Uninsured Motorists	0.0
Liability Subtotal	+9.4
Comprehensive	-25.2
Collision	+6.0
Physical Damage Subtotal	-10.3
Total All Coverages	
Effective March 1, 1999	+8.2
Insurance Services Office, Inc.	
Commercial Automobile	
Loss Costs Revised	
Commercial Cars	
Single Limit Liability	+5.2
Personal Injury Protection	+13.7
Liability Subtotal	+5.9
Comprehensive	+5.7
Collision	+16.1
Physical Damage Subtotal	+12.8
Total Commercial Cars	+7.5
Garages	
Single Limit Liability	+8.0
Personal Injury Protection	+8.6
Liability Subtotal	+8.0
Physical Damage – Garage Dealers	
Comprehensive	-25.0
Collision	+25.0
Physical Damage – Garage Keepers	
Comprehensive	-17.1
Collision	+25.0

Phys. Dam.—Garage Dealers and Keepers Subt.	-7.3
Total Garages	-1.8
Private Passenger Types	
Single Limit Liability	-8.2
Personal Injury Protection	-3.8
Liability Subtotal	-7.5
Comprehensive	-15.9
Collision	-2.1
Physical Damage Subtotal	-7.9
Total Private Passenger Types	-7.7
Total All Coverages	+1.4
Total Liability	+2.3
Total Physical Damage	-0.4
Effective November 1, 1998	
Insurance Services Office, Inc.	
Commercial Automobile	
Loss Costs Revised	
Zone-Related Risks	
Liability	+34.5
Comprehensive	+33.3
Collision	-21.2
Physical Damage Subtotal	-13.0
Total All Coverages	
Effective February 1, 1999	+6.0
Boiler and Machinery	
Insurance Services Office	
Revision of Loss Costs	-13.4
Effective January 1, 1998	
Burglary and Theft	
Insurance Services Office	
Commercial Burglary and Theft	
Revision of Crime Loss Costs	-22.4
Farmowners Multiple Peril	
Insurance Services Office	
Revision of Loss Costs	
Farm Inland Marine	-10.0
Farm Liability	+8.7
Total Effective April 1, 1998	-4.7
Insurance Services Office	
Revision of Multi-State and State Loss Costs	0.0
Effective April 1, 1998	
National Crop Insurance services, Inc.	

Introduction of Crop-Final Hail  
 Average Loss Cost -21.1  
 Effective January 1, 1998

Fire and Allied Lines  
 Insurance Services Office  
 Commercial Fire  
 Revision of Loss Cost Modification-  
 Vandalism Exclusion 0.0

Insurance Services Office  
 Commercial Fire  
 Revision of Basic Group I Loss Cost to  
 Reflect Introduction and Withdrawal of  
 CSP Class Codes 0.0  
 Effective September 1, 1997

Insurance Services Office  
 Commercial Fire  
 Revision of Loss Costs  
 Group I -12.2  
 Group II -7.0  
 Special Causes of Loss +25.0  
 Total Effective August 1, 1997 -2.5

Insurance Services Office  
 Dwelling Fire and Extended Coverage  
 Revision of Loss Costs -14.7

Homeowners  
 Insurance Services Office  
 Revision of Loss Costs -4.3  
 Effective July 1, 1997

Liability Other Than Auto  
 American Assn. of Insurance Services  
 Commercial Liability Program  
 Revision of Loss Costs  
 Premises Liability +30.0  
 Products and Completed Operations Liability +4.3  
 Premises and Operations Liability 0.0  
 Total All Coverages +23.5  
 Effective February 1, 1999

Insurance Services Office  
 Commercial General Liability  
 Basic Limits Loss Costs Revised  
 Manufacturers and Contractors -1.7  
 Owners, Landlords and Tenants +6.3  
 Product Liability -31.0  
 Completed Operations +5.6  
 Total All coverages +0.4  
 Effective December 1, 1997

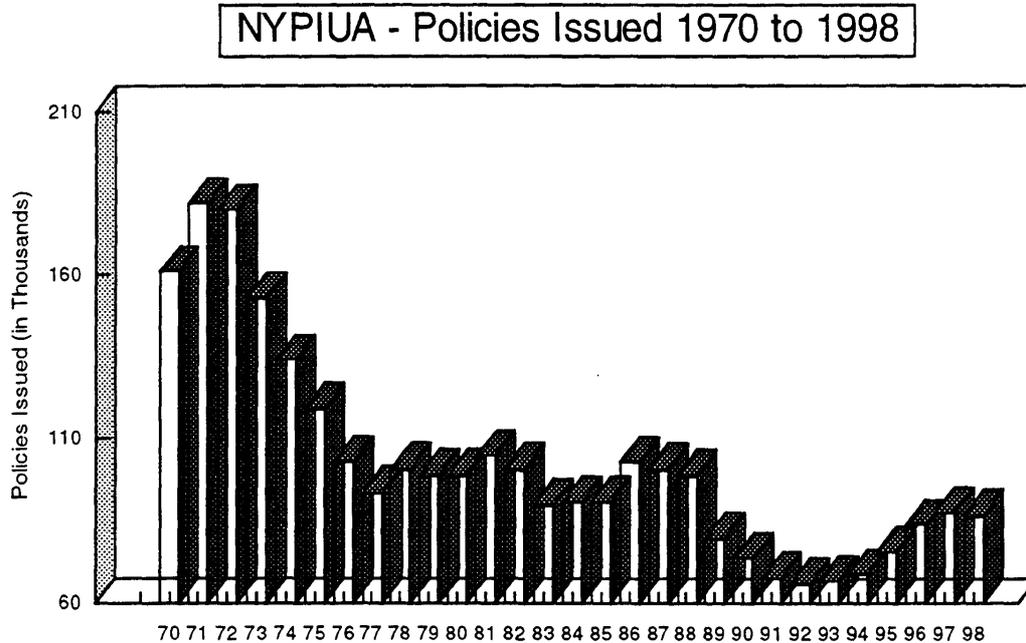
Insurance Services Office  
Commercial General Liability  
Basic Limits Loss Costs Revised  
NYC Apartments and Tenements Classes +19.6  
Effective December 1, 1997

Insurance Services Office  
Commercial General Liability  
Increased Limits and Deductible Discount  
Factor Revised  
Premises/Operations -6.3  
Products/Completed Operations -0.4  
Total All Coverages -5.1  
Effective December 1, 1997

## 15. New York Property Insurance Underwriting Association (NYPIUA)

### a. Policies Issued

The following graph illustrates the number of policies issued by the New York Property Insurance Underwriting Association from 1970 through 1998:



Following the peak year of 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, 1998, the Association's Financial Report indicated premiums earned of \$33,342,184 and a net underwriting gain of \$8,666,239. Other income of \$4,503,902, comprised of net investment income of \$4,364,061; premium balances charged off (\$19,816); bond amortization loss of (\$30,736); gain on sale of securities of \$14,263; income from data processing services of \$34,722; and policy installment fees of \$141,408, resulted in net income before taxes of \$13,170,141. The change in assets not admitted of (\$14,231) and taxes incurred of (\$511,890) resulted in a net change in the Members' Equity Account of \$12,644,020. The cumulative operating profit as of December 31, 1998 was \$85,408,711. After all assessments (net of distribution of \$40,268,192), the net Members' Equity Account totaled \$45,140,519.

In accordance with Section 5405(c) of the New York Insurance Law, the Association estimated a deficit from operations of \$1,251,000 for the calendar year 1999. 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, 1999, since its assets exceed its liabilities.

After the Department's review of the data submitted, it was determined that there would be an operating deficit of \$647,000 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, 1999.

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

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

#### c. Rate Revisions

During 1998, the Department approved rate revisions for both the Commercial and Farm Property classes of business. These revisions resulted in an average state-wide decrease of 4.90% for Basic Group I commercial insureds; a decrease of 12.40% for Basic Group II commercial insureds; and an average state-wide decrease of 5.10% for farm property. These revisions correspond with loss costs revisions promulgated by the Insurance Services Office for the voluntary market.

#### d. Legislation in 1998

Chapter 44 of the Laws of 1998 extended the authority of the New York Property Insurance Underwriting Association to operate until April 30, 1999. The bill also extended the provisions of Chapter 42 of the Laws of 1996, through April 30, 1999, including the requirement that the Association issue homeowners insurance upon a determination of necessity by the Superintendent due to unavailability of meaningful coverage in the voluntary market.

### **16. Insurance Availability Issues**

The general easing of availability problems that has characterized most liability insurance markets over the past several years continued in 1998. 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. The availability survey is conducted annually to ensure that meaningful and timely information is obtained. In cases where a meaningful market did not exist for critical coverages, voluntary market assistance programs (MAPs) were successfully developed.

The survey format, which in past years involved scanning hardcopy responses prior to downloading the data to an IBM mainframe system, has been revised to a diskette filing. The revised format allows the Department to process the responses in a more expeditious manner in which insurer responses will be downloaded directly to a PC based database. This allows for the enhanced analysis of market conditions and developing trends, and enables the Department to better serve the insurance community as well as consumers in New York State.

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

b. 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. Travelers Property Casualty Insurance Company acts as the servicing carrier for the FDCMAP, in which 14 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 350 policies issued in the FDCMAP since its inception. Four new policies were issued during 1998. There were 70 policies in force at the end of 1998.

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. UST Helpline activity was sparse in 1998.

The Department has worked with insurers interested in writing insurance for a newly developing market which would provide coverage for residential tanks. The Great American Group through the American Alliance Insurance Company proposed the C.L.E.A.R. Program which would offer such coverage. The Department approved their filing during 1998.

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 1998, exclusions have been approved for approximately 88 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 statewide 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 were generally available in 1998, there were difficulties in several key markets, particularly in properties located in coastal areas of the State. During 1998, 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."

**17. Workers' Compensation**

a. Workers' Compensation Rate Credits for Managed Care Programs

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

A managed care program can control associated workers' compensation costs through careful

review of utilization and case management, safety programs, return-to-work policies and other loss control techniques. Since the initial program was approved, the Department has approved rate credits for 26 other insurance carriers desiring to offer managed care programs.

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

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

#### b. Employee Leasing

In March of 1993, the Department approved manual rules and endorsements filed by the New York Compensation Insurance Rating Board, 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 has a backup policy.

In the past, the Department met with the Government Office of Regulatory Reform (GORR) concerning a recommendation to the Board of a revision to the current rules for employee leasing arrangements. Recommendations discussed include a revision permitting the parties in a leasing arrangement to choose which party will be the primary workers' compensation vehicle. This would enable employee leasing firms to purchase a single workers' compensation policy.

The Department approved the New York Compensation Insurance Rating Boards' submission of an optional employee leasing rule for the New York Workers' Compensation and Employers Liability Manual. The Optional Employee Leasing Rule provides for the ability for a carrier to issue a single policy naming the labor contractor as the named insured for each of its client's leased workers.

In the new rule, effective January 1, 1999, the client is named as an additional named insured by attaching the New York Optional Labor Contractor Endorsement and retains its own experience rating or merit factor. The current employee leasing rules still remain in effect and a carrier will have the option of providing coverage under the alternative rule.

#### c. Workers' Compensation Drug-Free Workplace Credit Program

On February 2, 1996, the Department approved Great American Insurance Companies filing for a 5% workers' compensation premium rate modification for those insureds adopting a drug-free workplace program. Consideration for this program was based upon a significant number of studies on how drugs and alcohol affect an employer's workplace by adversely increasing the frequency and severity of accidents and claims. Consequently, a drug free credit program could be a useful loss prevention program in reducing the cost of workers' compensation claims. Subsequently, the

Department has received requests and approved a 5% credit for 22 other insurance carriers desiring to implement a similar program.

## **18. Residual Value Insurance**

Chapter 508 of the Laws of 1998 amended Section 2307(b) of the Insurance Law which requires the prior approval of policy forms by the Superintendent to provide that with regard to residual value insurance, the policy forms and amendments shall be filed with the superintendent within 30 days of their use by the insurer. For purposes of this provision, such insurance shall only be utilized for commercial purposes and not for personal lines or commercial auto insurance. It further requires that applicants for the insurance must sign a statement that the applicant has an appropriate level of knowledge and understanding of the use of residual value insurance.

## **19. Year 2000 Issues**

Many in the insurance industry do not believe that a Y2K failure could be considered an "insurable" event, since insurance should protect against fortuitous losses only. Because the potential problem has been so well publicized, and steps can be taken to "fix" the problem before a loss occurs, the argument has been raised that these losses should not be considered fortuitous. Nonetheless, while some insurers have chosen to totally exclude coverage, others have chosen to provide coverage under certain circumstances.

### **a. Commercial Property and Liability Insurance**

With respect to commercial property insurance, physical loss or damage to insured property is always a prerequisite for triggering coverage in insurance policies that cover loss or damage to property, or for time element coverages (such as business interruption insurance.) Whether coverage applies is determined by the terms and conditions of the policy, i.e., that there is direct physical loss or damage caused by an unforeseen event that occurred during the policy period. Since Y2K related problems are not expected to result in physical damage to insured property, but rather, in output errors or failure of a computer system (or machinery controlled by it) to operate, most current property insurance policies do not appear to provide coverage for directly caused Y2K-type losses.

The Insurance Services Office (ISO) and the American Association of Insurance Services (AAIS), organizations that develop and file policy forms on behalf of insurers, have produced policy forms clarifying this lack of coverage. However, the Insurance Department has required that there be coverage for losses that ensue from Y2K incidents involving a covered peril. For example, if a circuit that failed to function properly because it was not Y2K compliant caused a fire, the resulting damage should be covered. Policies for business interruption specifically covering the Y2K problem can also be purchased.

With respect to commercial liability insurance, if a third party brings a claim for Y2K damage caused by business operations, coverage depends upon the applicable provisions of the liability insurance policy. ISO received approval of various policy form endorsements addressing the Y2K problem to be used with its Comprehensive General Liability policy (CGL). One of these endorsements, when attached to a CGL policy, excludes coverage completely for Year 2000 computer related and other related problems. The other endorsements provide a "buyback" of limited coverage for this exposure.

AAIS's liability policy forms exclude all Y2K related claims.

In addition to the insurers who will be using the forms approved for ISO or AAIS, the Department has approved approximately 300 independent filings for various Y2K exclusions and coverages.

b. Personal Property and Liability Insurance

For personal property insurance, damage to an appliance or system caused by a Y2K related event is not covered, but any ensuing damage involving a covered peril should be covered. For example, if a burglar alarm system fails to operate properly because it was not Y2K compliant, there would be no coverage to repair or replace the alarm, but damage or theft caused by an actual break-in that occurred would be covered. Policy endorsements that clarify the coverage provisions that apply to personal property coverages relating to Y2K have been approved for ISO and AAIS.

The Insurance Department has not approved any policy forms restricting third party liability coverage under personal liability coverages, but has approved restrictions on the business exposures contained in the personal liability policy.

In addition to the insurers who will be using the forms approved for ISO or AAIS, the Department has approved approximately 40 independent filings for various Y2K exclusions and coverages.

c. Insurer Readiness

The Insurance Department has also conducted numerous market conduct investigations targeting Y2K readiness. Further details on these investigations can be found in Section 10(i) Year 2000 Reviews.

## 20. Medical Malpractice Insurance

a. Establishment of Rates and Premium Surcharges for Policy Year 1998 - 1999

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-Fifth Amendment to Regulation 101, which became effective on October 14, 1998, established primary medical malpractice insurance rates in New York for the July 1, 1998 through June 30, 1999 policy year. Although most physicians' rates remained unchanged from the previous year, simultaneously approved classification and territory changes for all insurers resulted in rate

changes for some insureds that ranged between -20% and +27.6%.

This was the second year consecutive year that rates, for the most part, remained unchanged. It followed an average -6.2% change for policy year 1996, and average rate increases for the three years preceding 1996. The analysis of medical malpractice insurance company experience showed, in general, a 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 remain unchanged for most physicians while at the same time ensuring that the medical malpractice system remained adequately funded.

It was also determined that the 4% surcharge imposed since 1989 on Group Council Mutual Insurance Company should continue for the 1998-1999 policy year, based on a review of the segregated account reports received October 1, 1997, as well as an evaluation of the financial condition of insurers issuing physicians medical malpractice insurance.

b. Application of Premium Surcharges

The premiums of all physicians insured with Group Council Mutual Insurance Company during the period July 1, 1985 through June 30, 1997 had to be surcharged even if that company no longer insured the physician. The insurer providing coverage for these physicians for the policy period beginning July 1, 1998 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, 1997. 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, 1997. The surcharges collected from these physicians were remitted to insurers in the following proportions:

Medical Liability Mutual Insurance Company	55.35%
Physicians Reciprocal Insurers	24.65
Group Council Mutual Insurance Company	6.30
Frontier Insurance Company	5.95
Medical Malpractice Insurance Association	3.60
Legion Insurance Company	1.30
Academic Health Professionals Insurance Association	1.30
Hospital Underwriters Mutual Insurance Company	1.55

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. (Details of previous amendments were included in Annual Reports for prior years.) For the Twenty-Fifth Amendment it was determined that no change was needed to these factors. Factors were not needed for years of coverage in excess of eight years.

d. Refund of Premium for Physicians Excess Medical Malpractice Insurance for Policy Year 1997-1998

Subsequent to the establishment of the excess medical malpractice insurance rates for the policy year July 1, 1997 through June 30, 1998 in the Twenty-Second Amendment to Regulation 101, with the benefit of hindsight the Superintendent determined that the rates established for previous policy years for policies issued by the Medical Malpractice Insurance Association, and purchased on behalf of physicians and dentists participating in the excess medical malpractice program provided for in §18 of Chapter 266 of the Laws of 1986, as amended, had produced premium in amounts greater than required to satisfy the standard that premiums be fixed at the lowest possible rates consistent with the maintenance of solvency and of reasonable reserves and surplus therefor. Based on this determination, as provided in Chapter 161 of the Laws of 1997, the Medical Malpractice Insurance Association was directed to refund \$91.6 million to the New York Hospital Excess Liability Pool to purchase the excess insurance for participating physicians and dentists for policy year July 1, 1997 through June 30, 1998. Payment of this amount was made in 12 monthly installments of \$7.6 million each, beginning February 1, 1998.

The \$91.6 million was less than the amount which would have resulted from applying the rates established in the Twenty-Second amendment to Regulation 101, and was based on the Department's subsequent review and in consideration of the requirements of Chapter 161.

e. Rates for Excess Insurance Coverage for Policy Year 1998 - 1999

The rates for first and second excess layers of insurance coverage established for the policy year July 1, 1998 through June 30, 1999 were reduced between 5% and 20% from those finally established for the previous year, and are calculated by applying the following factors to the \$1 million/\$3 million primary rates established for the Medical Malpractice Insurance Association:

	<u>Purchased by the Physician</u>	<u>Purchased by a Hospital on Behalf of the Physician</u>
First Excess Layer <sup>a</sup>	15.5%	17.6%
Second Excess Layer <sup>b</sup>	9.8%	c

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

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

c 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, 1997, 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, 1998.

## 21. Homeowners Insurance

### a. New York's Coastal Areas

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

The Department continues to carefully monitor the availability of coastal insurance. Staff continue to meet with interested parties to discuss the problems and arrive at workable solutions. In addition, the Department continues to respond to inquiries from producers and property owners received either by mail, in person, or on our hotline (212-480-6292) or toll-free line (800-522-4370). Where appropriate, we have intervened to resolve disputes involving incorrect policy rating and declination of initial or renewal coverage. The Department's objectives have been—and continue to be—maximizing consumer protections, encouraging risk management, emphasizing responsible underwriting, and facilitating voluntary market homeowners insurance coverage in shore communities.

The Legislature and the Insurance Department have taken several initiatives to assist New York State residents located near the shore or waterfront areas who have experienced difficulty in purchasing and maintaining homeowners insurance. These initiatives have included the development of "wrap-around" policies, as well as permitting insurers to offer catastrophe windstorm deductibles in their homeowners policies. Under wrap-around programs, an insurer provides liability, theft, and other coverages to an insured who has purchased fire and extended coverage through NYPIUA. The coverage from NYPIUA and the wrap-around coverages from a voluntary insurer essentially provide an insured with the equivalent of a full homeowners policy. Several insurers and rate service organizations have received approval for both windstorm deductible and wrap-around coverage programs. It is anticipated that the utilization of these innovative underwriting tools would enable those insurance companies with heightened concerns about the catastrophic potential posed by hurricanes to continue to provide comprehensive homeowners coverage for shoreline residents.

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

Participating insurers have agreed to write 5,000 policies in total over a three-year period through the C-MAP program. From April 1996 through December 31, 1998, 2,920 policies have been issued through C-MAP. The Department believes C-MAP will continue to help consumers secure vital homeowners coverage while still addressing insurers' coastal area concerns.

### b. Legislation and Regulations Affecting the Coastal Availability Problem

1) Chapter 44 of the Laws of 1998 extended the provisions of Chapter 42 of the Laws of 1996, which:

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

ii) 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. During 1998, three such filings were submitted and are pending approval. The majority of policyholders affected by such withdrawals would be offered replacement coverage in the voluntary market through another carrier that has agreed to accept this business.

iii) Extends the operating authority of NYPIUA to April 30, 1999, thus maintaining the safety net for residents unable to obtain insurance in the voluntary market. The law also grants authority to the Superintendent to authorize NYPIUA to provide full homeowners insurance coverage if deemed necessary. (NYPIUA currently provides fire and extended coverages, but does not provide protection for theft or personal liability.)

2) In accordance with Chapter 42 of the Laws of 1996, the Department promulgated Regulation 154 on an emergency basis, which was made final effective July 30, 1997, 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, and defines those areas in which the Superintendent has deemed that writings by NYPIUA had increased significantly since January 1, 1992. There were three plans of orderly withdrawal filed in 1998, affecting approximately 15,900 policies. Most policyholders will be offered replacement coverage in the voluntary market.

3) Chapter 44 also directed a special advisory panel established in accordance with Chapter 42 of the Laws of 1996 to report to the Governor and the Legislature on the problems affecting the availability and affordability of homeowners insurance in New York State. (See Item 14, "Reports and Publications.")

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

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

To date, the Department has not permitted the inclusion of computer simulation modeling results in the ratemaking process. Due to the proprietary nature of the model's components and assumptions, as well as the difficulty in determining the reasonableness of certain assumptions, the Department has encountered difficulty in reviewing all of a model's components and assumptions. Accordingly, the inclusion of the results of computer simulation modeling precludes the Department from determining whether an insurer's proposed rates meet the standards set forth in Article 23 of the New York State Insurance Law.

In order to assist the Department in its study, Circular Letter No. 7 issued April 30, 1998, requested those insurers and rate service organizations which use computer simulation modeling as part of their homeowners insurance rate review and development process in this state, may provide, at their option, a comparison of the indicated rates and rate changes by form and territory. The comparison should include the rates and rate changes developed using the results of computer simulation modeling as well as those developed using more traditional ratemaking methodology.

The computer simulation modeling information will not be considered as part of the actual rate submission. However, any comparisons submitted by insurers and rate service organizations will help the Department gain perspective and familiarity with computer simulation modeling, and will assist us in making a future determination on the appropriateness of the use of this methodology in the ratemaking process for homeowners insurance rate filings. Upon request by the insurer, such information would be considered confidential to the extent permitted by Section 87(2) of the Freedom of Information Law.

In addition, the Department is closely monitoring the work on catastrophe modeling by Insurance Departments in Florida and Louisiana. The Department is also a member of the Personal Lines P/C Insurance Committee, which is currently focusing on state, federal, industry and NAIC acceptability of tax deductible catastrophe reserves, and the various accounting standards that would be required. The Committee is also developing a catastrophe modeling handbook.

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

The Department permits insurers to reflect the cost of catastrophe excess-of-loss reinsurance in homeowners insurance rate filings, provided an insurer can reasonably allocate the cost of such reinsurance to its New York policyholders. During 1998, the Department accepted three homeowners rate filings in which reinsurance costs were among the factors in the rate increase. These companies have previously used reinsurance costs in the development of their rates. In addition, one homeowners company's rate filing, which had previously used reinsurance costs, has revised its rates without using reinsurance cost, bringing the total number of companies to 12 as of 12/31/98.

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

#### e. Mineola Office

In order to assist consumers on Long Island who are experiencing problems obtaining homeowners policies, the Department opened a satellite office in Mineola, New York. This office was designed to provide consumers with information to assist them in obtaining insurance protection for their homes, and was staffed by Department examiners during regular business hours. Consumers can contact the staff at the Mineola office either in person at 200 Old Country Road in Mineola or by telephone at (800) 300-4593 or (800) 300-4576.

## 22. Automobile Insurance

### a. General Issues

1. New York City Taxi and Limousine Commission (TLC) Mandated Increased Minimum Limits for Bodily Injury Liability (BI) and Personal Injury Protection (No-Fault) for Public Autos.

The TLC amended Section 1-40 of Title 35 of the Rules of the City of New York to require that each owner of a for-hire vehicle (e.g., taxicab, limousine, car service) maintain BI coverage of \$100,000 per person/\$300,000 per accident and \$200,000 per person no-fault coverage. Applicants for licensing by TLC will have to demonstrate that they meet these requirements. TLC mandated these minimum limits effective September 1, 1998.

The Department issued Circular Letter No. 18 (1998) on August 6, 1998 advising insurers of these increased minimum limits. For those insureds who had the current minimum financial responsibility limits required by the Vehicle and Traffic Law of \$25,000/\$50,000 BI and \$50,000 no-fault coverage, there will be a substantial increase in premium.

As a result of these rules and other issues, the New York Taxi & Livery Advisory Committee reconvened in a meeting held at the Insurance Department's New York City Office on October 27, 1998. Committee members consist of representatives of State legislators, the livery industry, voluntary livery insurance carriers, insurance agents and brokers, statistical organizations, and the Insurance Department. Prior years' meetings of this advisory committee have proven successful in addressing significant issues and developments affecting the livery industry. Subcommittees have been formed to address the significant issues and another meeting will be scheduled in the early part of 1999 to further discuss the subsequent proposals of the subcommittees.

## 2. Required Discount for Commercial Motor Vehicles Equipped with Auxiliary Running Lamps

Chapter 475 of the Laws of 1998, effective June 1, 1999, requires insurers of commercial motor vehicles weighing in excess of 10,000 pounds to provide an actuarially appropriate premium reduction if such vehicles are equipped with factory installed auxiliary running lamps. Such discount will be applied to the premium charges for bodily injury liability, property damage liability, personal injury protection, medical payments and collision coverage. As required by statute, the Department will be promulgating a regulation establishing the qualifications and standards for the approval, utilization and installation of such lamps.

### b. No-Fault Motor Vehicle Insurance Law Activity - 1998

#### Insurance Department Administration of the Optional Arbitration System:

For all 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. In 1998, 42,906 cases were filed and processed for arbitration. This represents a 46% increase over filings in 1997, when the Department processed 29,369 requests for No-Fault arbitration and is more than quadruple the number of cases received in 1989 when the Department processed 9,462 No-Fault arbitration requests.

The increased volume in No-Fault arbitration requests results from the increased use of the arbitration system by health care providers. Assignee cases, those filed by health care providers increased 168% from 14,895 cases in 1995 to 39,939 in 1998. From 1997 to 1998, assignee case volume increased by 14,760 cases, a 58.6% increase from the prior year. Since 1990 the number of cases filed by claimants ranged from a high of 5,075 in 1992 to a low of 2,967 filed in 1998, and averaged approximately 4,200 a year.

Of the disputes received in 1998, 3,671 were successfully conciliated by Department examiners. The Department's conciliation rate of 17.23% represents a decrease from the 23.5% experienced in 1997. Although the percentage of conciliated cases decreased in 1998, the number of cases conciliated by the Department increased by 158 cases.

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 new 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 1,523 cases in 1998, a 50% increase from the 1,015 cases decided in 1997. This accounted for 7.15% of all cases filed for arbitration in 1998. Accordingly, 24.38% of all No-Fault cases closed in 1998 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 31**  
**DISPOSITION OF NO-FAULT ARBITRATION CASES**  
**1996-1998**

	<u>1998</u>		<u>1997</u>		<u>1996</u>	
	No. of Cases	Percent of Closed Cases	No. of Cases	Percent of Closed Cases	No. of Cases	Percent of Closed Cases
Total Cases accepted by the Department	42,906		29,369		25,967	
Disposition:						
Disputes Conciliated By the Department	3,671	17.23%	3,513	23.5%	3,271	22.5%
Transmitted for Arbitration to: American Arbitration Forum (AAA)	16,102	75.58%	10,398	69.6%	10,010	68.8%
Insurance Department Arbitration Forum (IDA)	1,523	7.15%	1,015	6.8%	1,255	8.6%
IDA and AAA Concurrently	9	0.04%	14	0.1%	12	0.1%
Total Transmitted for Arbitration	17,634	82.77%	11,427	76.5%	11,277	77.5%
Total Closed	21,305	100.0%	14,940	100.0%	14,548	100.0%
Pending Disposition	21,601		14,429		11,419	

**TABLE 32**  
**SOURCES OF APPLICATIONS FOR NO-FAULT**  
**ARBITRATION**  
**1996-1998**

	<u>1998</u>		<u>1997</u>		<u>1996</u>	
	No. of	Percent	No. of	Percent	No. of	Percent
	Disposition	of	Disposition	of	Disposition	of
	Cases	Total	Cases	Total	Cases	Total
Applications Made By Assignee	39,939	93.08%	25,179	85.7%	21,514	82.9%
Applications Made By Claimants	<u>2,967</u>	<u>6.92%</u>	<u>4,190</u>	<u>14.3%</u>	<u>4,453</u>	<u>17.1%</u>
Total	42,906	100.0%	29,369	100.0%	25,967	100.0%

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#### b. No-Fault Law Changes

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 their policyholders that elect to have their health care services provided pursuant to such programs. Pursuant to Chapter 726 of the Laws of 1993, a special report to the Governor and the State Legislature on No-Fault managed care was prepared by the Department. Due to the paucity of approved programs and the relatively short period of time the programs have been in effect, the Department was of the opinion that the data developed for the report was immature and inconclusive in nature. Chapter 726 of the Laws of 1993 was not extended and therefore expired on June 30, 1998.

### 23. Market Conduct Activities

#### a. Market Conduct Fines Collected

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

There were 25 investigations in progress at the beginning of 1998. Fifty-three market conduct investigations were initiated during the year and 37 investigations were closed in the course of the year, leaving 41 investigations in progress at year end. The one statutory rate service organization examination in progress during the year was filed. Twenty-three stipulations were entered into during the year. The fines collected as a result of admitted violations totaled \$ 1,920,050. In addition, one group paid an administrative charge of \$225,000 to offset the cost of verifying compliance with the stipulation.

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

Section 3425 limits the total number of non-renewals of personal automobile insurance policies that an insurer is allowed. Generally, an insurer is permitted to non-renew up to 2% of the total number of covered policies that the insurer had in force at the previous year end in each such insurer's rating territory in use in this State. As a result of an analysis of reports to the Superintendent required by Section 3425(l)(1), five stipulated fines totaling \$ 353,250 were collected during calendar year 1998 (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. On May 1, the Superintendent submits 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 1997 and submitted to the Department no later than April 15, 1998. 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.

During calendar year 1998, 89 insurers paid a total of \$ 44,500 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.

Please note that Regulation 131 is being repealed as of February 1999.

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

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

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

Insurers were also advised that in accordance with Section 109(c)(1) of the Insurance Law, a penalty would be imposed on insurers for each complaint made where no justifiable reason for nonpayment or late payment was furnished to the Department. In addition, these complaints are recorded for the purpose of calculating the complaint ratios that form the basis of the Department's annual automobile complaint ranking. During calendar year 1998, the Department collected fines totaling \$34,750 from 35 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, one insurer group was required to perform re-rating reviews for the periods specified. As a consequence of this review, the insurer group refunded a total of \$ 109,665 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, three insurer groups remitted \$ 145,055.

g. 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 the number of late policy terminations filed, the number of insurers that are making these late filings as well as the overall quality of the data being submitted to DMV. The success of the Financial Security Program is of utmost importance because of its deterrent effect on the uninsured motorist population. In addition, late, incomplete or inaccurate submissions 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. The fines collected in 1998 totaled \$178,885 (amount included in item 10a). Additional investigations are in process and it is expected that additional market conduct actions will be taken against various insurers during 1999.

#### h. New York Public Automobile Reviews

In response to the large number of complaints received regarding the Public Automobile marketplace, the Department held meetings with the industry members of the Public Automobile community. Twenty-nine market conduct investigations were performed in 1998 to address allegations that insurers of these coverages were not complying with filed rates, using unapproved rates and rating plans and marketing practices.

The investigations have resulted in the assessment of fines totaling \$279,000 (included in item 10a). Additional investigations are pending. The Department remains concerned over the behavior of this market and plans to take further action during 1999.

#### i. Y2K Reviews

To assess the industry's preparation for computer problems that could result from the change to Year 2000 (Y2K), the Department has been conducting numerous investigations into insurer Y2K systems readiness. The Market Conduct Unit undertook 14 Y2K audit reviews. Other areas of the Department undertook many other Y2K reviews. The reviews concentrated on the progress to date of the insurer/groups in assessing, identifying, and correcting the potential problems within their computer systems.

Since the problems could affect all premium, claim, and accounting systems used by insurers, it was necessary for the insurers to review all systems, prioritize and determine the method of the remediation necessary for each, and test the changes made. In addition, any operational system with embedded chips or controlled by a computer would have to be reviewed for Y2K compliance.

Some insurers/groups had begun or completed testing of their systems for Y2K compliance. Many other insurers/groups were aware of the problems and had begun remediating the systems. A few insurers/groups had only begun to address the problem.

The Department plans to continue its review of Y2K readiness and will follow up with insurers who have not demonstrated readiness.

## **24. 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 a New York-licensed excess line broker.

Since insurers providing this coverage are not licensed by this Department, statistical data relating to the amount and nature of premiums written in the excess line market must be obtained from excess line brokers through tax statements required to be filed no later than March 15 of each year relating to business written during the previous calendar year. The data pertaining to excess line business used in this Report were obtained from statistical reports provided to the Superintendent by the Excess Line Association of New York (ELANY) pursuant to Section 2130 of the New York Insurance Law. ELANY obtains the information from affidavits required to be filed by excess line brokers under Section 2118 of the Insurance Law. There are approximately 452 licensed excess line brokers who filed approximately 66,558 affidavits for the year 1998. Fifty-three complaints and inquiries regarding excess line business were received in 1998.

For calendar year 1998, total excess line gross premiums written on risks located or resident both in and out of New York State amounted to approximately \$678 million, of which approximately \$457 million was attributable to risks located or resident wholly in New York State.

In 1998, there were approximately 281 unauthorized insurers eligible to do business in New York pursuant to Regulation 41. This includes 72 foreign insurers; 47 alien insurers; and Lloyd's, with 160 Syndicates. These insurers are required to file Form EL-1 annually by March 15. The filing requirement was changed in 1997 to include the use of computer diskettes.

a. Business Written in New York

Excess line premiums written in New York State increased from \$408.5 million to \$457 million in 1998, an increase of 11.88%. The broad-based increase in business appears to be the result of changes in the excess line laws that permit binding authority and establishing an export list. The largest dollar increase over the previous year occurred in the errors and omissions peril line, up by \$32 million in 1998. The largest percentage increase occurred in the fidelity and surety line was up by 293% and up \$15 million over the previous year. Other increases included fire and allied lines, up by \$8.7 million; inland marine, up by \$4 million; commercial multiple peril, up by \$3 million.

The largest dollar decline from the previous year occurred in other liability line, down \$16 million, a decrease of nearly 13%. The largest percentage decline occurred in the aircraft physical damage line, although small in volume was off by 74%. Malpractice was also down by \$1.7 million.

**Table 33**  
**EXCESS LINE PREMIUMS WRITTEN**  
**Risks Located in New York State**  
**1995-1998**  
**(in thousands)**

Line of business	1998	1997	1996	1995
Fire and allied lines	\$38,178	\$29,447	\$48,856	\$50,878
Inland marine	31,250	26,934	27,370	24,683
Auto liability	4,274	3,050	3,060	1,975
Malpractice	2,049	3,787	5,717	4,476
Errors and omissions	191,172	158,475	160,956	121,462
Commercial multiple peril (excluding fire)	32,713	29,656	15,458	18,991
Other liability	109,612	126,041	118,502	136,580
Auto physical damage	13,489	13,302	16,214	15,118
Aircraft physical damage	1,282	5,001	1,146	1,713
Burglary and theft	4,295	1,707	4,583	5,761
Fidelity and surety	21,145	5,382	8,555	9,192
Other lines	<u>7,568</u>	<u>5,706</u>	<u>5,602</u>	<u>3,605</u>
<b>Total</b>	<b><u>\$457,027</u></b>	<b><u>\$408,489</u></b>	<b><u>\$416,019</u></b>	<b><u>\$394,434</u></b>
Excess line premiums as a percentage of all Property and casualty Insurance premiums Written in New York	2.08%*	1.85%	1.88%	1.78%

\*Estimated

Source: Excess Line Association of New York

**b. Warranty Programs**

The Department continues to investigate companies offering illegal warranty programs. For a set price, these companies offer to replace stolen items--generally automobiles or bicycles--during a specific period of time. For the most part, the Department considers these programs to be insurance, not warranties, since the benefits offered are based upon a fortuitous event (the theft of the item subject to the guarantee).

However, an agreement between the Attorney General and Winner International, manufacturer of "The Club," set a precedent that allows warranty providers to operate in New York until July 1, 1999 without the passage of enabling legislation. In order to operate in accordance with the agreement, warranty providers must enter into a stipulation with the Department and must establish an escrow account for claims, or a surety bond provided by an insurer not authorized in this State. Last year at this time, only four entities had signed these agreements. Presently, there are 11 signed agreements and two proposed agreements.

These agreements are only good until July 1, 1999, unless further legislation passes. At this point in time the Department's legislative proposals have not addressed this issue. It is possible that legislation can be introduced by another party but we are unaware of any legislation at this point in time.

c. Weather Derivatives

The Department has been investigating the sale of weather derivatives in New York to see if this activity constitutes the doing of an insurance business in New York. Besides the question of the actual sales of these products, there are reports that offshore insurance companies are reinsuring this product. The question of how can there be reinsurance if the first transaction is not insurance?

This investigation is in the fact-finding stages.

d. Binding Authority

Sections 2117 and 2118 of the Insurance Law were amended in 1997 to provide that an excess line broker, licensed pursuant to Section 2105 of the Insurance Law, may exercise binding authority, which the law defines as "...the authority to issue and deliver insurance policies on behalf of an insurer not licensed or authorized to do business in this state." Since the implementation of the amended statute, the Excess Line Association of New York (ELANY) has notified the Department that 43 excess line brokers have filed 69 binding authority agreements with ELANY representing insurers not licensed or authorized to do business in this state.

e. Lloyd's of London

Pursuant to the provisions of Section 27.13(g) of Regulation 41, Lloyd's is required to maintain various trust funds in New York in order to conduct surplus lines business in the United States. In 1995, an examination of Lloyd's by the Department determined that the trust funds Lloyd's maintained in New York for its United States business were insufficient to meet its liabilities under Regulation 41. As a result of these findings, Lloyd's entered into a stipulation with the Insurance Department whereby Lloyd's was required to fund its surplus lines business at 100% of gross liabilities, in addition to the \$100 million required to be maintained in the Lloyd's American Surplus Joint Asset Trust Fund.

In 1997, Lloyd's petitioned the Department to amend the agreement to provide for a reduction in the portion of its liabilities to be maintained in trust. Ongoing discussions between representatives of the Department and Lloyd's resulted in a tentative agreement. On December 2, 1997, the Superintendent announced that effective December 31, 1997, Lloyd's surplus lines business will be funded at 50% of gross liabilities. This applies to all surplus lines business funded by the Lloyd's United States situs surplus lines trust funds and written on or after August 1, 1995. As part of this agreement, Lloyd's also increased the funding of the Lloyd's American Surplus Joint Asset Trust Fund from \$100 million to \$200 million, effective January 1, 1998.

f. Ineligible Unauthorized Insurers

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

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

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

Since the inception of the LRRRA, the Department has received notices of intent from 638 purchasing groups. Subsequently, 212 have withdrawn their notice of intent, 78 have notified the Department of their inactive status, and 39 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, 1998, 38% of the remaining 309 purchasing groups (21 of which are in pending status) have named unlicensed companies as their intended insurers.

Some of the most common types of businesses and professions that have formed purchasing groups in the past year include real estate professionals, insurance professionals, entertainers, health care facilities and services, and manufacturers/dealers. Approximately 16 complaints and inquiries regarding purchasing groups were received in 1998.

## **25. Reports and Publications**

### **1. Report of the Temporary Panel on Homeowners' Insurance Coverage**

In accordance with Section 4 of Chapter 66 of the Laws of 1997, a special advisory panel was established to submit a report to the Governor and the Legislature on the problems affecting the availability and affordability of homeowners insurance in New York State. The report, which was submitted February 1, 1998, studied the measures implemented by the Legislature and the Insurance Department in response to problems faces by homeowners residing in coastal areas, along with actions taken by other states; the means of providing for the financing of catastrophes; and other intermediate and long term alternatives.

### **2. A Study of Market Dynamics of Homeowners Insurance Policies Written, Canceled, or Nonrenewed in Designated Geographic Areas.**

In accordance with Regulation 154 and Circular Letter No. 10 (1996), the Department has collected quarterly reports from property/casualty insurers in the homeowners market showing policies in effect; new business written; policies terminated; transfers of books of business; and the number of producers authorized to service policies on behalf of these insurers for all counties in the State and for other designated geographic areas. The data was compiled in the report, which also provided an overview of the current status of the homeowners marketplace, as well as information on various initiatives taken by the Legislature and the Insurance Department to alleviate the problems of homeowners residing in coastal areas. As required by Section 3425(o) of the Insurance Law, the report was submitted to Governor Pataki and the Legislature on February 15, 1998.

3. Report on Section 3425 of the Insurance Law in Relation to Private Passenger Automobile Insurance Policies.

As required by Section 3425 (l)(2), the Department collect, analyzes and compiles reports submitted by private passenger automobile insurers regarding the number of new insureds, non-renewed insureds, and business written by each insurer in each of its rating territories. The analysis of this data was reported to the Legislature on March 15, 1998. In addition to the analysis, the report discusses recent developments affecting New York's automobile insurance market.

4. Report on the Effectiveness of Flexible Rating for Nonbusiness Automobile Insurance Policies.

Chapter 113 of the Laws of 1995 added Section 2350 to the Insurance Law which provided for flexible rating for nonbusiness automobile insurance policies. As required by this section, the Department prepared a report, submitted on March 31, 1998 to the Legislature which analyzed the effectiveness of this system. The report analyzed the impact of flex-rating on the extent and nature of competition; size and significance of coverage, level and range of rates and rate changes, extent of consumer complaints; volume of cancellations and non-renewals; changes in the number of policies, by territory and class in each territory; and the number of new insureds, non-renewed insureds and business written by each insurer.

5. The Annual Commercial Property/Casualty Report

As required by Section 334 of the Insurance Law, since 1986, 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 data are compiled in an annual report, which was submitted to Governor Pataki and the Legislature on May 1, 1998. The report included data through the 1995 policy year. This is the last time this report will be compiled since Chapter 579 of the Laws of 1998 repealed Section 334 of the Insurance Laws.

6. Report on the New York Automobile Insurance Plan.

As required by Section 338 of the Insurance Law, this third biennial report was submitted to the Governor and the Legislature on May 1, 1998. The report analyzed the New York Automobile Insurance Plan (Auto Plan); compliance with Section 3425 of the Insurance Law (cancellations and nonrenewal of voluntary private passenger automobile insurance policies); efforts to maintain or reduce the population of the Auto Plan; enforcement of Sections 3429, 3430 and 3433 of the Insurance Law (discrimination by geographic location in regard to private passenger automobile insurance); and offered recommendations for statutory or administrative changes to reduce or maintain the Plan population.

7. A Special Report on No-Fault Managed Care

This report, mandated by Chapter 726 of the Laws of 1993, was submitted to the Governor and the Legislature in May. The report analyzed data on the efficacy of managed care programs offered in conjunction with no-fault motor vehicle insurance in containing medical and health costs while maintaining quality of health care to policyholders.

## 8. Consumer Guide For Automobile Insurance

On October 1, 1998, the Department published two editions of the 1998 Consumers Guide to Automobile Insurance, one for upstate New York residents and one for downstate residents. The guide is required by Section 337 of the Insurance Law to be updated annually. The comprehensive guide helps consumers determine how much auto insurance they need and explains all mandatory and optional coverages available in New York State. The guide contains lists of insurers, phone numbers, and sample rates to facilitate comparison shopping, and advice regarding how to file a claim or make a complaint against an insurer is also provided. Copies of the guide were distributed to every Department of Motor Vehicles office and public library in the State. The guide is also available free of charge directly from the Insurance Department, and can be accessed via the Department's website.

## 26. Regulations Promulgated and Circular Letters Issued in 1998

### a. Regulations Adopted in 1998:

The following P/C-related regulations were placed in effect during 1998:

1. The Third Amendment to Regulation 35-D, Supplementary Uninsured/Underinsured Motorists Insurance, ran as an emergency measure from June 12, 1998 until it was adopted effective January 27, 1999. The amendment incorporated changes to the coverage as mandated by Chapter 568 of the Laws of 1997. Those changes consisted of (1) a change in the name of the coverage; (2) an increase in the maximum limits of liability for SUM coverage that must be offered by an insurer from \$100,000/\$300,000 to \$250,000/\$500,000; and (3) allowing insurers to split the required maximum limits of liability for SUM coverage between an underlying primary motor vehicle policy and a personal umbrella liability policy.

2. The 4<sup>th</sup> Amendment to Regulation 41, Excess Lines Placements Governing Standards, ran as an emergency measure throughout 1998. The amendment established filing procedures to be followed by excess line brokers and the Excess Line Association of New York with respect to the binding authority powers enacted by an amendment to Section 2118 of the Insurance Law. The amendment also gave the Superintendent the authority to reduce the trusteed account requirements of syndicates, subject to certain factors.

3. The Twenty-Second Amendment to Regulation 101, Medical Malpractice Insurance Rate Modification, Provisional Rates, Required Policy Provisions and Availability of Additional Coverages, effective February 11, 1998, established the primary and excess physicians and surgeons medical malpractice rates to be used as of July 1, 1997.

4. The Twenty-Fifth Amendment to Regulation 101, Medical Malpractice Insurance Rate Modification, Provisional Rates, Required Policy Provisions and Availability of Additional Coverages, effective October 14, 1998, established the primary and excess physicians and surgeons medical malpractice rates to be used as of July 1, 1998.

5. Regulation 159, Homeowners Insurance Disclosure Information, has been running as an emergency measure since August 10, 1998, was mandated by Chapter 44 of the Laws of 1998. The regulation provides the information that must be contained in a disclosure statement which explains the application of windstorm/hurricane deductibles. This notice must be sent on an annual basis to all insureds who have a homeowners' insurance policy or a dwelling fire personal lines policy.

6. The First Amendment to Regulation 86, Special Risk Insurance, was effective April 29, 1998. This amendment updated the Class Two Risk List for the Free Trade Zone by incorporating all exposures, which had been added by Public Notice in the State Register since July, 1993. It also deleted the Physicians/Faculty Members classification since most medical malpractice insurers in the voluntary market write this type of exposure.

7. The Second Amendment to Regulation 124, Physicians and Surgeons Professional Insurance Merit Rating Plan, was effective August 5, 1998. This amendment changed the sequence of scheduling risk management courses for easier administration; updated territory and classification surcharges and allowed for other credits to be filed for approval by the Superintendent as long as adequate statistical support was provided.

8. The Third Amendment to Regulation 57, Responsibilities in Construction and Application of Rates, was effective November 10, 1998. The amendment provided that premium credits be applied to homeowners insurance policies when the property insured was equipped with deadbolt locks or fitted or retrofitted with hurricane/storm shutters or hurricane resistant laminated glass windows and doors. It also provided for premium credits on commercial risk insurance if the insured property was fitted or retrofitted with hurricane resistant laminated glass windows and doors.

b. P/C-related Circular Letters issued in 1998

1. Circular Letter No. 5, Revision of No-Fault Denial of Claim Form, was issued February 17, 1998 advising insurers of the new Post Office Box established to receive No-Fault arbitration requests and other related No-Fault arbitration correspondence.

2. Circular Letter No. 7, The Use of Computer Simulation Models in Homeowners' Insurance Rate Development, was issued April 30, 1998. The letter advised the insurance industry that the Department is engaged in an ongoing study of computer simulation models used in the development of homeowners insurance rates in response to insurers' desire to incorporate this methodology into their rate filings. Insurers who use this methodology were asked to submit to the Department a comparison of the indicated rates and rate changes developed using the results of computer simulation modeling as well as those developed using traditional ratemaking methodology.

3. Supplement No. 1 to Circular Letter No. 18 (1997), Workers' Compensation Policies Reporting Requirements for Preferred Provider Organization, was issued May 6, 1998. The letter advised insurers utilizing state-approved managed care programs that they must maintain evidence of compliance with the Workers' Compensation Board in appropriate underwriting files and that these files must be made available, upon request by the Insurance Department, for its review and examination.

4. Circular Letter No. 11, Procedures for the Filing Policy of Forms, Rules and Rates, was issued May 7, 1998 and outlined the procedures for filing policy forms, rates and rules that the Department will employ in reviewing filings submitted by insurers.

5. Supplement No. 1 to Circular Letter No. 8 (1997), Policies Covering Injury to Economic Interest, was issued on May 21, 1998 and contained a copy of a proposed draft of Regulation 110 which provides standards for policies covering Directors and Officers liability insurance. Insurers were advised that the Department would approve policy forms which conformed to the standards in the proposal.

6. Supplement No. 8 to Circular Letter No. 3 (1986), 1998 Insurance Availability Survey, was issued June 29, 1998. The letter provided instructions and a diskette containing Lotus 123 and Microsoft Excel worksheets to be completed by insurers when responding to the 1998 availability survey.

7. Circular Letter No. 18, Increased Minimum Limits for Bodily Injury Liability and Personal Injury Protection for Public Autos Subject to the Rules of the NYC Taxi and Limousine Commission, was issued August 6, 1998. It advised insurers that the Taxi and Limousine Commission raised bodily injury limits for for-hire cars to \$100,000/\$300,000 and Personal Injury Protection (No-Fault) limits to \$200,000 per person, effective September 1, 1998. Insurers were directed to ensure that the proper rate and rule filings would be in effect at that time.

8. Circular Letter No. 24, Suspension of Regulation 131 Filing Requirements, was issued September 4, 1998 advising insurers that they are no longer required to submit Regulation 131 information because Section 334 of the Insurance Law (the enabling statute) was repealed by the Legislature.

9. Circular Letter No. 25, 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, was issued October 19, 1998. It contained an updated list of Motor Vehicle Accident Prevention Courses, approved by the Department of Motor Vehicles, to be furnished to insureds. Upon completion of these courses, an insured will receive a premium reduction on their motor vehicle liability insurance.

10. Circular Letter No. 29, Rate Filings for Taxi and Livery Public Automobiles, was issued October 22, 1998. The letter reminded insurers that insurance coverage for taxi and livery public automobiles expires on February 28<sup>th</sup>, as required by the Department of Motor Vehicles. In order to assure that the Department has adequate time to review these types of filings, which are subject to prior approval, insurers were advised to submit their rate filings prior to November 15<sup>th</sup>.

11. Supplement No. 1 to Circular Letter No. 11 (1998), Procedures for the Filing of Policy Forms, Rules and Rates, was issued November 10, 1998 advising insurers of an optional procedure to be followed if they wished to receive an initial receipt of their policy form or rate filing.

## **27. Individual Policyholder Complaints and Inquiries**

Certain complaints and inquiries are processed independent of the Consumer Services Bureau. A total of 1,526 such complaints and inquiries were received by the Market Regulatory Section of the Property Bureau in 1998. This total consisted of 669 involving personal automobile insurance; 80 involving commercial automobile insurance; 36 involving homeowners insurance; 184 involving other liability insurance; 40 involving commercial multiple peril insurance; 149 involving medical malpractice insurance; 10 involving title insurance; and 358 involving other types of insurance (fire and allied lines, surety, inland marine, workers' compensation, etc.).

## **Casualty Actuarial Unit**

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 within +/- 7.0% can generally be implemented without prior-approval under New York's "flex-rating" statute, which became effective July 1, 1995. However, filings for the Automobile Insurance Plan, voluntary insurers requesting changes greater than +/- 7.0% or filings involving classification revisions are all subject to prior approval. In terms of premium volume, private passenger automobile and workers' compensation insurance are the largest property/casualty coverages, accounting for approximately \$11 billion of premium volume in 1998.

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

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

In 1998, the Department approved 32 rate requests for either new private passenger automobile rates or changes to existing rates. Of these, nine were new automobile programs in New York. In addition, there were 29 rate changes implemented on a file-and-use basis. Furthermore, 21 insurers implemented both a prior-approval and a flex-rating change in 1998. The following table displays both requested and approved rate changes, as well as flex-rating changes, and provides the liability and physical damage components of all implemented changes.

The average change for insurers receiving rate changes in 1998 was approximately -2.68%. For these insurers, liability rates increased 0.07% on average, while physical damage, primarily collision and theft coverages, declined 7.63% on average. The 82 insurers receiving rate changes in 1998 represent 57.4% of the total market for private passenger automobile insurance. The overall impact on the rate level was an average decrease of 1.54%. Allstate Insurance Company, the largest insurer in New York, did not implement a rate change in 1998. State Farm, the second largest insurer in New York, decreased its rates by an overall 3.6% in 1998.

Table 34

**PRIVATE PASSENGER AUTOMOBILE RATE CHANGES IMPLEMENTED IN 1998<sup>1</sup>**

Renewal Effective Date	Insurance Company or Insurance Group	Market Share (%)	Overall Change Requested (%)	Liability Change <sup>2</sup> (%)	Physical Damage Change <sup>2</sup> (%)	Overall Change Taken (%)
9/1/98	State Farm Mutual Auto Ins Co <sup>4</sup>	11.03	-3.60	2.42	-11.21	-3.60
9/15/98	GEICO Ins Co; GEICO General Ins Co <sup>4</sup>	5.98	-2.10	0.00	-8.49	-2.10
2/8/99	Nationwide Mutual Ins Co <sup>3</sup>	4.23	-2.90	6.03	-15.73	-2.90
8/1/98	New York Central Mutual Ins Co <sup>3</sup>	2.90	-5.60	-6.22	-4.64	-5.60
8/17/98	Allstate Indemnity Co <sup>4</sup>	2.78	-0.80	-1.37	0.00	-0.80
10/20/98	Liberty Mutual Fire Ins Co; First Liberty Ins Co <sup>3</sup>	2.76	-5.60	-2.32	-12.03	-5.60
7/15;9/15/98	Progressive: PNE,PNW,PNO <sup>3,4</sup>	2.50	-6.25	-6.85	-10.94	-6.70
10/15/98	General Accident Ins Group <sup>4</sup>	2.41	-3.70	-3.11	-5.05	-3.70
5/4/98	Auto Ins Co of Hartford; Standard Fire Ins Co <sup>3</sup>	2.11	-0.50	-1.94	-2.01	-0.50
4/13;9/23/98	Integon Nat Ins Co; Integon Preferred Ins Co <sup>3,4,6</sup>	1.50	1.03	0.15	2.24	1.03
7/1;1/1/99	CNA: CIC,FCICNY,GF,NBFIC,FICNNJ,KCFM <sup>3,4</sup>	1.45	-5.10	-6.29	-5.50	-5.10
5/20/98	Prudential: PPCIC,PGIC,PCIC <sup>3</sup>	1.16	-6.80	-7.81	-6.26	-6.80
12/1/97;3/1/99	Amica Mutual Ins Co <sup>3,4</sup>	1.06	3.80	6.46	-0.00	3.80
9/10;9/14/98	Progressive: PCIC,PSIC,UFCC,NCIC <sup>3</sup>	1.05	4.06	3.28	0.04	4.06
2/15;7/1;10/1/98	Royal Ins Group <sup>3,4,3</sup>	1.03	-3.40	-3.34	-3.60	-3.40
5/21/98	Metropolitan P&C Ins Co <sup>4</sup>	1.02	-1.10	-0.14	-3.03	-1.10
3/21;8/19/98	Hartford Ins Co of the Midwest <sup>3,3</sup>	0.97	-9.10	-6.84	-18.51	-9.10
4/15;10/15/98	Kemper: AMMIC,APIC <sup>3,4,3,4</sup>	0.97	-1.30	-1.32	-1.69	-1.30
8/1/98	Maryland Ins Group <sup>4</sup>	0.88	5.70	14.38	-6.00	5.70
11/1/98	Hanover: HIC,MBIC,CICA <sup>3</sup>	0.87	-4.50	4.60	-23.16	-4.50
5/16/98	Colonial Penn Ins Group <sup>3</sup>	0.85	4.00	8.10	-2.96	4.00
1/1/99	Utica: GAMIC,RFIC,UMIC,UNAC <sup>3,6</sup>	0.78	-3.80	-3.05	-4.93	-3.80
9/1/98	State Farm Fire & Casualty Co <sup>4</sup>	0.68	-3.20	1.58	-14.11	-3.20
8/3/98	Chubb: GNIC,FIC,PIC,VIC,CIIC <sup>3</sup>	0.68	-0.60	-0.40	-0.84	-0.60
12/5/98	National Grange Mutual Ins Co <sup>4</sup>	0.67	0.20	-0.08	0.78	0.20
2/8/99	GEICO Indemnity Ins Co <sup>4</sup>	0.57	2.80	5.09	-2.09	2.80
7/1;1/15/98	Hartford: HFIC,HA&IC,TCFIC <sup>4,5,3</sup>	0.50	-6.90	-4.58	-11.66	-6.90
5/1/98	Merchants Mutual Ins Co; Merchants Ins Co <sup>3</sup>	0.39	2.90	3.09	2.79	2.90
7/1/98	Country-Wide Ins Co <sup>3</sup>	0.36	1.65	2.75	0.00	1.65
11/2;11/17/98	Providian Auto & Home Ins Group <sup>4,3</sup>	0.31	-4.58	2.40	-19.08	-4.50
6/1/98	Peerless Ins Co; Excelsior Ins Co <sup>3</sup>	0.30	0.30	7.54	-11.58	0.30
5/15/98	Atlantic Mut Ins Co; Centennial Ins Co <sup>3</sup>	0.29	-5.00	-0.17	-11.02	-5.00
1/18/99	GEICO Casualty Ins Co <sup>4</sup>	0.26	7.30	3.52	0.23	2.90
6/25/98	Amex Assurance Co <sup>4</sup>	0.26	0.00	5.21	-6.65	0.00
10/9;12/4/98	Windsor Ins Co <sup>3,4,5,6</sup>	0.25	3.80	6.98	-1.52	3.80
8/1;8/1;9/1/98	Worcester Ins Co <sup>4,3,4</sup>	0.22	-7.33	-7.43	-7.10	-7.33
10/12/98	St. Paul Guardian Ins Co <sup>3</sup>	0.22	6.90	11.69	2.48	6.90
8/15/98	Farm Family Casualty Ins Co <sup>4</sup>	0.21	-5.10	-3.47	-6.39	-5.10
4/1/98	Granite State Ins Co <sup>3</sup>	0.12	-3.40	-3.55	-2.26	-3.40
5/15;1/1;12/29/98	Michigan Millers Mutual Ins Co <sup>3,3,4</sup>	0.09	-4.90	3.84	-20.08	-4.90
8/14/98;3/24/99	AIG: AIUICo,AIIC,INIC <sup>3,4</sup>	0.08	-4.40	0.67	-12.49	-4.40
6/8;11/22/98	TICO Ins Co <sup>4,3</sup>	0.07	5.40	2.98	9.81	5.40
8/14/98;3/24/99	AIG: AHIC,ISOP,NUFIC <sup>3,4</sup>	0.07	-6.50	-0.55	-21.87	-6.50
4/17/98	Safeco: SICOA,SNIC,GICOA <sup>3</sup>	0.06	-0.10	2.70	-5.90	-0.10
5/6/98	Travelers: TICA,TCCC,TPCIC <sup>3,4</sup>	0.06	-3.30	-2.08	-6.39	-3.30
7/15;10/20/98	Liberty Ins Corp <sup>4,3</sup>	0.05	-8.20	-4.77	-15.19	-8.20
1/1/99	Erie Ins Co; Erie Ins Co of NY <sup>3</sup>	0.05	0.30	3.74	-4.90	0.30
12/1/98	Sterling Ins Co <sup>4</sup>	0.05	-1.70	-2.40	-1.10	-1.70
8/31;9/1/98	Great American Ins Co <sup>4,3,3</sup>	0.04	-8.60	-13.94	-1.60	-8.60
9/1/98	American National Fire Ins Co <sup>3</sup>	0.04	-4.00	-8.92	1.23	-4.00
4/1/98	Holyoke Mutual Ins Co in Salem <sup>3</sup>	0.04	6.70	7.36	2.89	6.70
10/6/98	Sentry Ins Group <sup>4</sup>	0.03	-4.00	-0.11	-10.45	-4.60
8/1/98	American Bankers Ins Co of Florida <sup>4</sup>	0.02	-3.90	-1.41	-5.00	-3.90

Table 34

**PRIVATE PASSENGER AUTOMOBILE RATE CHANGES IMPLEMENTED IN 1998<sup>1</sup>**

Renewal Effective Date	Insurance Company or Insurance Group	Market Share (%)	Overall Change Requested (%)	Liability Change <sup>2</sup> (%)	Physical Damage Change <sup>2</sup> (%)	Overall Change Taken (%)
9/1/98	Agricultural Ins Co <sup>5</sup>	0.02	-5.50	-5.10	-5.86	-5.50
6/18/98	Travelers: Charter Oak Fire; Travco Ins Co <sup>3</sup>	0.01	-0.90	0.09	-0.82	-0.90
8/15/98	Pioneer Mutual Ins Co <sup>4</sup>	0.01	-1.60	-1.60	-1.76	-1.60
2/1/98	Central Mutual Ins Co <sup>4</sup>	0.01	4.40	3.96	3.90	4.40
6/1/98	Horace Mann Ins Co <sup>4</sup>	0.01	0.20	0.00	0.52	0.20
12/1/98	American Ins Co <sup>4</sup>	0.01	-1.00	-1.00	-1.00	-1.00
3/9;8/15;12/16/98	Response Ins Co; Response Indemnity Co <sup>3,3,3</sup>	0.00	0.60	4.85	-11.96	0.60
7/29/98	TIG Ins Corp of America <sup>4</sup>	0.00	25.44	17.97	14.98	16.20
10/1/98	Selective Ins Co of America <sup>4,6</sup>	0.00	-21.30	-11.31	-35.67	-21.30
4/13;5/18/98	Infinity Ins Co; Infinity Select Ins Co <sup>3,3</sup>	0.00	-1.66	-1.15	-2.22	-1.66
9/1/98	Clarendon National Ins Co <sup>4,5</sup>	0.00	0.00	0.00	0.00	0.00
12/14/98	Travelers Commercial Ins Co <sup>4,5</sup>	0.00	0.00	0.00	0.00	0.00
10/14/98	Reliance Ins Co <sup>4,5,6</sup>	0.00	0.00	0.00	0.00	0.00
10/31/98	Main Street America Assurance Co <sup>4,5</sup>	0.00	0.00	0.00	0.00	0.00
10/15/98	Lion Ins Co <sup>4,5</sup>	0.00	0.00	0.00	0.00	0.00
10/1/98	P & C Ins Co of Hartford <sup>4,5</sup>	0.00	0.00	0.00	0.00	0.00
4/1;9/23/98	Integon Casualty Co <sup>4,5,4,6</sup>	0.00	0.00	0.00	0.00	0.00
6/26;12/1/98	Nationwide P&C Ins Co <sup>4,3</sup>	0.00	-2.90	5.12	-15.90	-2.90
6/26;12/1/98	Nationwide Mutual Fire Ins Co <sup>4,3</sup>	0.00	-2.90	5.12	-15.90	-2.90
2/11;7/20/98	Farmington Casualty Co <sup>4,5,6,3</sup>	0.00	-0.10	-0.83	-0.49	-0.10
2/15/98	Reliance National Ins Co; United Pacific Ins Co <sup>3</sup>	0.00	-6.90	-4.24	-11.00	-6.90
2/16/98	Commercial Union Midwest Ins Co <sup>4,5</sup>	0.00	0.00	0.00	0.00	0.00
4/27;9/30/98	Colonial Ins Co of California <sup>4,5,3</sup>	0.00	-5.20	-5.81	-2.80	-5.20
6/15/98	Reliance National Indemnity Co <sup>3,6</sup>	0.00	-1.70	-1.66	-1.40	-1.70
7/1/98	Blue Ridge Indemnity Co <sup>3</sup>	0.00	1.20	1.20	1.20	1.20
7/15/98	Regal Ins Co <sup>4,5,6</sup>	0.00	0.00	0.00	0.00	0.00
10/1/98	Centurion Ins Co <sup>4</sup>	0.00	0.00	0.00	0.00	0.00
1/1/99	Newark Ins Co <sup>4</sup>	0.00	-3.50	-0.20	-9.54	-3.50
12/7/98	Atlanta Casualty Co; Atlanta Specialty Co <sup>4,5,6</sup>	0.00	0.00	0.00	0.00	0.00

**1998 Rate Change Summary**

	Prior Approval	Flex-Rating	Combination <sup>7</sup>	Total
• Number of companies implementing rate changes:	32	29	21	82
• Average liability change for insurers implementing rate changes:	1.55%	-0.06%	-2.56%	0.07%
• Percentage of total liability industry premium affected:	19.63%	24.55%	9.86%	54.04%
• Impact on the entire market of the overall average liability rate change:	0.30%	-0.01%	-0.25%	0.04%
• Average physical damage change for insurers implementing rate changes:	-7.39%	-8.62%	-5.50%	-7.63%
• Percentage of total physical damage industry premium affected:	23.64%	29.90%	11.20%	64.74%
• Impact on the entire market of the overall average physical damage change:	-1.75%	-2.58%	-0.62%	-4.94%
• Average combined liability and physical damage change for insurers:	-1.65%	-3.15%	-3.58%	-2.68%
• Percentage of total industry premium affected:	20.90%	26.24%	10.28%	57.43%
• Impact on the entire market of the overall average liability and physical damage rate change:	-0.34%	-0.83%	-0.37%	-1.54%

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

<sup>2</sup> These rate changes are calculated using 1996 Annual Statement premiums.

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

<sup>4</sup> Prior Approval

<sup>5</sup> New Program

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

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

NOTE: No change in Assigned Risk Plan private passenger automobile rates was approved in 1998.

## 2. New York Automobile Insurance Plan (AIP)

AIP did not change its rates in 1998 for private passenger automobiles written through the AIP, covering 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 divided into a 7.3% increase for liability coverages and a 13.9% decrease for physical damage coverages.

### Plan Experience in 1996 and 1997

#### a. Number of Policies Written

Net Policies written through the New York Automobile Insurance Plan (Assigned Risk Plan) decreased 12.4% from 1,081,054 in 1996 to 947,422 in 1997. Table I shows policies by coverage and issuance category for 1996 and 1997. The data include single and multi-car risks for both private passenger and commercial policies.

#### b. Earned Car Years

An important indicator of the size of the Assigned Risk Plan is earned car years. This reflects the size of the Plan as measured by the duration of coverage. (One car insured for one year is one earned car year). The number of private passenger automobiles (not including commercial autos) insured through the Plan decreased 23.2% for liability and decreased 22.5% for collision in 1997 over 1996. Table II shows a ten-year history for voluntary and assigned liability and assigned collision earned car years. This marks the seventh consecutive year that assigned collision earned car years decreased from the previous year.

#### c. Risks by Surcharge Category

In 1997, 744,973 earned private passenger car years for liability and 39,948 for collision coverage were insured through the Plan. Table III shows the distribution of New York private passenger liability and collision assigned risks by surcharge category for 1995, 1996 and 1997.

#### d. Risks by Rating Territory

The proportion of all private passenger liability risks that are assigned risks, listed by rating territory for 1996 and 1997, is shown in Table IV. During 1997, 9.6% of all New York State private passenger automobiles were assigned risks as opposed to 12.7% in 1996. The number of voluntary risks increased 386,452 while the number of assigned risks decreased 225,578. The proportion of assigned risks was 10% or higher in 16 of the 70 rating territories in 1996 and was 10% or higher in 12 of the 70 in 1997. The highest 1997 ratio was 65.3% in the Bronx Territory and the lowest was 0.6% in the Elmira Territory. Between 1996 and 1997 the percentage of Assigned Risks decreased in all of the 70 rating territories. As usual, the congested urban areas of New York City produced the highest assigned risk-to-voluntary ratios in the State.

The following table provides a seven-year history of the percentage of assigned to voluntary risks by territory, ranked from the highest to the lowest.

**Table 35**  
**Percentage of Private Passenger Automobiles Insured Through the Automobile Insurance Plan**  
**By Territory For Years 1991-1997\***

Territory	1991		1992		1993		1994		1995		1996		1997	
	(%)	Rank	(%)	Rank	(%)	Rank	(%)	Rank	(%)	Rank	(%)	Rank	(%)	Rank
01 Bronx	81.7	1	82.9	1	84.4	1	86.0	1	81.7	1	77.7	1	65.3	1
19 Queens	52.8	2	51.9	2	57.6	2	60.9	2	58.3	2	54.8	2	46.1	2
18 Manhattan	46.2	3	47.1	4	46.6	3	46.5	4	42.1	3	39.6	3	30.1	3
03 Bronx Suburban	46.0	4	48.1	3	46.8	4	46.7	3	39.1	5	37.3	4	27.6	4
17 Kings County	45.1	5	46.3	5	45.5	5	46.4	5	39.6	4	36.8	5	25.8	5
55 Queens Suburban	35.2	6	36.9	6	36.7	6	38.0	6	33.0	6	32.5	6	24.2	6
94 Mount Vernon & Yonkers	25.8	7	26.6	7	26.4	7	26.9	7	22.3	7	21.7	7	16.5	7
76 Suffolk County East	15.8	11	15.6	15	15.0	15	16.1	10	13.9	11	14.3	9	11.2	8
75 Suffolk County West	15.8	10	15.7	14	14.6	14	15.4	13	13.2	12	13.6	11	10.8	9
95 White Plains	10.8	33	9.2	47	10.9	40	14.1	16	13.9	10	14.0	10	10.7	10
20 Hempstead	14.9	15	15.6	16	15.3	11	15.9	11	13.1	13	13.4	13	10.3	11
05 Staten Island	17.3	9	18.9	9	19.0	9	19.5	9	15.3	9	14.7	8	10.0	12
82 Sullivan County Central	21.2	8	23.2	8	21.6	8	20.4	8	13.8	8	13.7	12	9.9	13
97 New York City Suburban	15.0	14	15.7	13	14.6	13	13.9	17	10.7	17	10.6	14	7.9	14
81 Monticello - Liberty	13.6	20	15.2	17	15.7	16	15.7	12	10.3	14	10.4	15	7.7	15
21 North Hempstead	11.9	27	12.5	23	12.1	21	12.2	22	10.0	21	10.0	16	7.6	16
37 Oswego	14.7	16	13.4	20	13.1	22	12.1	23	8.7	23	8.8	21	7.2	17
64 Middletown	14.1	17	16.1	11	14.6	12	13.8	18	9.4	19	8.9	19	6.9	18
22 Oyster Bay	11.0	32	11.3	32	10.8	32	11.0	25	8.9	24	8.9	20	6.8	19
83 Sullivan County (Balance)	15.3	12	16.3	10	15.1	10	14.8	14	9.3	16	9.6	17	6.8	20
07 Buffalo	15.3	13	15.9	12	14.4	17	14.2	15	8.9	15	9.0	18	6.7	21
62 Highland, Kingston	13.8	19	14.2	18	13.8	18	13.6	19	8.8	20	8.7	22	6.2	22
46 Putnam County	11.9	26	12.2	26	11.7	24	10.8	27	7.5	29	7.4	26	5.5	23
33 Poughkeepsie	12.8	23	12.5	24	11.5	25	10.7	28	7.3	28	7.3	28	5.4	24
65 Ossining	11.2	30	12.0	30	10.6	30	9.9	33	7.1	34	7.1	30	5.2	25
34 Troy	13.0	22	13.2	21	13.4	20	13.0	20	8.0	22	7.9	24	5.2	26
58 Dutchess County (Balance)	11.8	28	12.0	28	11.2	28	10.6	29	7.2	27	7.4	27	5.1	27
29 Gloversville	14.0	18	14.0	19	13.1	19	12.6	21	8.2	18	8.1	23	4.9	28
32 Newburgh	10.7	34	9.4	43	9.8	45	9.7	34	6.7	31	6.8	32	4.8	29
68 Rockland County	12.0	25	12.3	25	11.8	23	11.2	24	7.2	26	7.2	29	4.7	30
36 Glens Falls	13.1	21	12.7	22	11.5	26	10.9	26	7.3	25	7.6	25	4.6	31
67 Clinton Falls, etc.	12.4	24	12.0	29	11.1	29	10.4	30	6.9	30	6.9	31	4.5	32
59 Columbia County, etc.	9.3	42	9.7	39	9.6	36	9.2	37	6.3	35	6.4	34	4.2	33
61 Delaware County, etc.	10.5	36	11.2	33	10.8	31	10.3	31	6.5	32	6.4	33	4.2	34
74 Jefferson County	11.8	29	12.0	27	11.3	27	10.1	32	6.3	33	6.2	35	3.9	35
13 Albany	10.6	35	10.4	34	10.0	34	9.7	35	5.9	36	5.9	36	3.8	36
28 Binghamton	7.5	62	7.8	56	7.6	56	7.3	54	4.5	53	4.6	45	3.6	37
54 Cortland County, etc.	9.9	38	10.0	37	9.0	43	8.5	43	5.4	42	5.5	41	3.5	38
84 Allegany County, etc.	9.7	39	10.1	36	9.3	37	8.8	41	5.6	41	5.5	40	3.4	39

**Table 35**  
**Percentage of Private Passenger Automobiles Insured Through the Automobile Insurance Plan**  
**By Territory For Years 1991-1997\***

Territory	1991		1992		1993		1994		1995		1996		1997	
	(%)	Rank	(%)	Rank	(%)	Rank	(%)	Rank	(%)	Rank	(%)	Rank	(%)	Rank
11 Rochester	8.7	49	8.9	51	7.8	51	7.6	53	4.9	48	5.0	43	3.3	40
14 Niagara Falls	11.0	31	11.7	31	10.0	33	9.3	36	5.5	39	5.5	38	3.3	41
12 Syracuse	9.3	41	9.3	46	8.5	49	8.2	45	4.5	47	4.6	46	3.2	42
51 Ontario County, etc.	9.5	40	9.9	38	8.8	42	8.1	47	5.2	44	5.2	42	3.2	43
31 Chautaugua County	8.7	48	9.1	50	8.9	46	8.8	42	5.9	37	5.8	37	3.1	44
09 Schenectady County	8.7	50	8.9	52	8.3	50	7.7	49	4.4	49	4.5	50	3.0	45
52 Fort Plain, Herkimer	8.8	46	9.5	42	9.3	38	9.2	38	5.5	38	5.5	39	2.9	46
08 Buffalo Semi-Suburban	6.7	64	7.3	59	6.5	58	6.0	64	3.6	64	3.6	58	2.7	47
43 Niagara Falls Suburban	9.1	43	9.5	41	9.1	35	8.4	44	4.6	45	4.7	44	2.7	48
42 Buffalo Suburban	7.8	59	8.3	54	7.2	55	6.6	61	3.9	61	4.1	52	2.7	49
41 Erie County (Balance)	8.5	53	6.4	65	7.5	65	7.7	50	4.2	50	4.1	51	2.6	50
47 Orleans County	10.4	37	10.1	35	9.2	39	8.8	40	4.6	43	4.6	47	2.6	51
86 Oneida	8.5	52	8.7	53	7.7	54	7.1	57	3.8	58	3.9	54	2.6	52
24 Rome	5.0	69	5.3	69	5.9	62	7.6	52	3.6	51	3.7	56	2.6	53
25 Auburn	7.9	58	7.3	60	7.2	59	6.9	59	4.0	55	4.1	53	2.5	54
73 Rensselaer County (Balance)	8.8	47	9.4	45	8.8	44	8.1	48	4.5	46	4.6	48	2.4	55
30 Saratoga Springs	8.9	45	7.2	61	8.3	60	7.7	51	3.8	54	3.9	55	2.3	56
56 Saratoga County (Balance)	9.0	44	9.4	44	8.9	41	9.1	39	4.9	40	4.5	49	2.1	57
35 Amsterdam	7.7	60	8.3	55	8.0	53	8.1	46	3.7	52	3.7	57	2.0	58
60 Genesee County	7.9	57	7.7	57	7.1	57	6.6	60	3.1	63	3.2	64	1.9	59
72 Albany County (Balance)	8.0	55	9.1	49	7.2	52	6.4	62	3.3	60	3.4	60	1.8	60
48 Monroe County (Balance)	7.9	56	4.1	70	6.5	70	7.1	58	3.5	56	3.3	62	1.7	61
44 Broome County (Balance)	8.1	54	9.1	48	8.0	48	7.2	56	3.3	59	3.4	61	1.7	62
15 Utica	7.4	63	7.6	58	6.4	61	5.3	66	2.4	66	2.5	65	1.6	63
16 Saratoga Springs Suburban	8.5	51	9.7	40	8.2	47	7.2	55	3.4	57	3.5	59	1.6	64
49 Niagara County (Balance)	7.7	61	6.7	62	6.5	64	6.2	63	3.4	62	3.3	63	1.4	65
39 Rochester Suburban	5.7	67	6.2	66	5.2	66	4.7	69	2.3	69	2.4	66	1.3	66
38 Syracuse Suburban	5.8	66	6.0	67	5.1	69	4.7	70	2.2	70	2.1	69	1.3	67
71 Saratoga County South	4.4	70	6.7	63	5.6	63	4.9	68	2.3	67	2.2	67	1.2	68
40 Corning	6.5	65	6.5	64	5.6	68	5.0	67	1.7	68	1.7	70	0.7	69
27 Elmira	5.3	68	5.7	68	5.6	67	5.6	65	2.1	65	2.2	68	0.6	70
ENTIRE STATE	16.7		17.1		16.4		16.4		12.7		12.7		9.6	

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

**Table 36  
Private Passenger Automobile Exposures in Earned Car Years by Territory for the Voluntary and Assigned Risk Markets**

Territory	1996				1997				Change In Volunt. (#)	Change In Vol. (%)	Change In Market (%)
	Assigned	Voluntary	Total Market	Total Market	Assigned	Voluntary	Total Market	Total Market			
01 Bronx	35,139	10,081	45,220	29,104	15,481	44,585	5,400	53.6	-635	-1.4	
19 Queens	28,923	23,864	52,787	24,328	28,426	52,754	4,562	19.1	-33	-0.1	
18 Manhattan	52,933	80,772	133,705	43,390	100,862	144,252	20,090	24.9	10,547	7.9	
03 Bronx Suburban	55,207	92,907	148,114	44,054	115,746	159,800	22,839	24.6	11,686	7.9	
17 Kings County	117,763	202,255	320,018	91,085	261,732	352,817	59,477	29.4	32,799	10.2	
55 Queens Suburban	159,051	330,288	489,339	129,136	404,645	533,781	74,357	22.5	44,442	9.1	
94 Mount Vernon & Yonkers	21,330	76,862	98,192	17,293	87,820	105,113	10,958	14.3	6,921	7.0	
76 Suffolk County East	51,183	306,392	357,575	42,303	335,533	377,836	29,141	9.5	20,261	5.7	
75 Suffolk County West	62,342	397,475	459,817	50,060	413,093	463,153	15,618	3.9	3,336	0.7	
95 White Plains	4,815	29,474	34,289	3,825	31,846	35,671	2,372	8.0	1,382	4.0	
20 Hempstead	55,788	359,828	415,616	43,219	375,882	419,101	16,054	4.5	3,485	0.8	
05 Staten Island	27,175	157,613	184,788	20,953	188,068	209,021	30,455	19.3	24,233	13.1	
82 Sullivan County Central	1,665	10,527	12,192	1,243	11,339	12,582	812	7.7	390	3.2	
97 New York City Suburban	21,644	181,966	203,610	17,133	200,701	217,834	18,735	10.3	14,224	7.0	
81 Monticello - Liberty	1,150	9,876	11,026	810	9,714	10,524	-162	-1.6	-502	-4.6	
21 North Hempstead	14,449	130,016	144,465	11,196	135,472	146,668	5,456	4.2	2,203	1.5	
37 Oswego	2,742	28,317	31,059	2,085	26,821	28,906	-1,496	-5.3	-2,153	-6.9	
64 Middletown	10,931	111,511	122,442	8,182	110,615	118,797	-896	-0.8	-3,645	-3.0	
22 Oyster Bay	19,556	200,280	219,836	15,557	211,771	227,328	11,491	5.7	7,492	3.4	
83 Sullivan County (Balance)	1,776	16,812	18,588	1,308	18,067	19,375	1,255	7.5	787	4.2	
07 Buffalo	9,097	91,865	100,962	6,202	87,017	93,219	-4,848	-5.3	-7,743	-7.7	
62 Highland, Kingston	6,106	63,830	69,936	4,290	64,451	68,741	621	1.0	-1,195	-1.7	
46 Putnam County	4,770	59,811	64,581	3,679	63,373	67,052	3,562	6.0	2,471	3.8	
33 Poughkeepsie	6,312	80,385	86,697	4,615	81,291	85,906	906	1.1	-791	-0.9	
65 Ossining	11,575	150,903	162,478	8,963	162,909	171,872	12,006	8.0	9,394	5.8	
34 Troy	4,200	48,782	52,982	2,813	51,414	54,227	2,632	5.4	1,245	2.3	
58 Dutchess County (Balance)	5,767	72,670	78,437	4,111	77,171	81,282	4,501	6.2	2,845	3.6	
29 Gloversville	1,789	20,184	21,973	1,086	20,940	22,026	756	3.7	53	0.2	
32 Newburgh	3,948	54,006	57,954	2,852	56,999	59,851	2,993	5.5	1,897	3.3	
68 Rockland County	11,983	153,860	165,843	8,169	167,233	175,402	13,373	8.7	9,559	5.8	
36 Glens Falls	2,544	31,119	33,663	1,723	35,708	37,431	4,589	14.7	3,768	11.2	
67 Clinton Falls, etc.	20,251	272,686	292,937	13,794	289,547	303,341	16,861	6.2	10,404	3.6	
59 Columbia County, etc.	4,381	64,424	68,805	3,125	70,546	73,671	6,122	9.5	4,866	7.1	
61 Delaware County, etc.	7,717	112,348	120,065	5,095	116,962	122,057	4,614	4.1	1,992	1.7	
74 Jefferson County	3,721	56,577	60,298	2,490	61,332	63,822	4,755	8.4	3,524	5.8	
13 Albany	8,522	136,468	144,990	5,461	139,966	145,427	3,498	2.6	437	0.3	

**Table 36  
Private Passenger Automobile Exposures in Earned Car Years by Territory for the Voluntary and Assigned Risk Markets**

Territory	1996			1997			Total Market	Change In Vol. (#)	Change In Vol. (%)	Change In Market (#)	Change in Market (%)
	Assigned	Voluntary	Total Market	Assigned	Voluntary	Total Market					
28 Binghamton	5,243	108,170	113,413	3,685	98,309	101,994	-9,861	-9.1	-11,419	-10.1	
54 Cortland County, etc.	9,719	169,108	178,827	6,340	175,507	181,847	6,399	3.8	3,020	1.7	
84 Allegany County, etc.	9,472	163,310	172,782	6,147	175,637	181,784	12,327	7.5	9,002	5.2	
11 Rochester	19,305	371,889	391,194	12,627	364,659	377,286	-7,230	-1.9	-13,908	-3.6	
14 Niagara Falls	3,680	63,517	67,197	2,120	61,249	63,369	-2,268	-3.6	-3,828	-5.7	
12 Syracuse	9,316	193,263	202,579	5,667	168,984	174,651	-24,279	-12.6	-27,928	-13.8	
51 Ontario County, etc.	8,927	162,893	171,820	5,830	174,828	180,658	11,935	7.3	8,838	5.1	
31 Chautauqua County	4,453	72,221	76,674	2,437	76,035	78,472	3,814	5.3	1,798	2.3	
09 Schenectady County	4,149	88,803	92,952	2,639	86,690	89,329	-2,113	-2.4	-3,623	-3.9	
52 Fort Plain, Herkimer	1,886	32,512	34,398	1,057	35,062	36,119	2,550	7.8	1,721	5.0	
08 Buffalo Semi-Suburban	6,785	184,801	191,586	4,826	171,258	176,084	-13,543	-7.3	-15,502	-8.1	
43 Niagara Falls Suburban	1,502	31,055	32,557	861	30,676	31,537	-379	-1.2	-1,020	-3.1	
42 Buffalo Suburban	6,741	157,229	163,970	4,482	164,297	168,779	7,068	4.5	4,809	2.9	
41 Erie County (Balance)	2,263	52,975	55,238	1,449	53,386	54,835	411	0.8	-403	-0.7	
47 Orleans County	1,134	23,699	24,833	633	23,437	24,070	-262	-1.1	-763	-3.1	
86 Oneida	1,505	37,143	38,648	943	35,147	36,090	-1,996	-5.4	-2,558	-6.6	
24 Rome	752	19,453	20,205	482	18,186	18,668	-1,267	-6.5	-1,537	-7.6	
25 Auburn	974	23,171	24,145	567	22,213	22,780	-958	-4.1	-1,365	-5.7	
73 Rensselaer County (Balance)	1,566	32,823	34,389	867	35,930	36,797	3,107	9.5	2,408	7.0	
30 Saratoga Springs	686	17,130	17,816	393	16,837	17,230	-293	-1.7	-586	-3.3	
56 Saratoga County (Balance)	891	18,699	19,590	442	20,501	20,943	1,802	9.6	1,353	6.9	
35 Amsterdam	793	20,631	21,424	390	19,131	19,521	-1,500	-7.3	-1,903	-8.9	
60 Genesee County	1,189	36,084	37,273	650	34,335	34,985	-1,749	-4.8	-2,288	-6.1	
72 Albany County (Balance)	352	10,019	10,371	208	11,221	11,429	1,202	12.0	1,058	10.2	
48 Monroe County (Balance)	466	13,675	14,141	242	13,810	14,052	135	1.0	-89	-0.6	
44 Broome County (Balance)	482	13,916	14,398	240	14,245	14,485	329	2.4	87	0.6	
15 Utica	1,486	59,411	60,897	882	52,707	53,589	-6,704	-11.3	-7,308	-12.0	
16 Saratoga Springs Suburban	1,442	40,216	41,658	666	41,133	41,799	917	2.3	141	0.3	
49 Niagara County (Balance)	964	28,238	29,202	427	30,729	31,156	2,491	8.8	1,954	6.7	
39 Rochester Suburban	841	34,984	35,825	437	32,477	32,914	-2,507	-7.2	-2,911	-8.1	
38 Syracuse Suburban	1,169	53,238	54,407	725	54,644	55,369	1,406	2.6	962	1.8	
71 Saratoga County South	863	37,641	38,504	442	37,195	37,637	-446	-1.2	-867	-2.3	
40 Corning	334	19,757	20,091	154	21,181	21,335	1,424	7.2	1,244	6.2	
27 Elmira	977	44,173	45,150	284	47,204	47,488	3,031	6.9	2,338	5.2	
<b>ENTIRE STATE</b>	<b>972,548</b>	<b>6,662,881</b>	<b>7,633,433</b>	<b>746,970</b>	<b>7,049,333</b>	<b>7,796,303</b>	<b>386,452</b>	<b>5.8</b>	<b>160,873</b>	<b>2.1</b>	

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

Period	Original Policies	Renewal Policies	Cancelled Policies	Net Policies Written <sup>1</sup>	(%) Change
<b><u>Liability Only<sup>2</sup></u></b>					
1996	950,208	865,313	864,474	951,047	
1997	763,482	720,643	654,173	829,952	-12.7
<b><u>Physical Damage Only<sup>2</sup></u></b>					
1996	1,877	659	1,390	1,146	
1997	1,802	637	1,379	1,060	-7.5
<b><u>Liability and Physical Damage Combined<sup>2</sup></u></b>					
1996	103,884	88,767	63,790	128,861	
1997	96,313	77,747	57,650	116,410	-9.7
<b><u>Total All Policies</u></b>					
1996	1,055,969	954,739	929,654	1,081,054	
1997	861,597	799,027	713,202	947,422	-12.4

<sup>1</sup> Net policies written is the sum of original policies and renewal policies less Cancellations.

<sup>2</sup> Policies are written for Liability and Physical Damage separately as well as for Liability and Physical Damage combined

Source: Data from New York State licensed companies reporting to the Automobile Insurance Plan Service Office (subject to verification).

Calendar Year	Voluntary Liability	Vol. (%) Change	A/R Liability	A/R (%) Change	Total Market Liability	Total (%) Change	A/R Collision	A/R (%) Change
1988	6,474,315		1,262,811		7,737,126		93,237	
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	1,196,578	-6.3	7,840,183	1.0	62,517	-2.4
1996	6,662,881	0.3	970,552	-18.9	7,633,433	-2.6	51,547	-17.5
1997	7,049,333	5.8	744,973	-23.2	7,794,306	2.1	39,948	-22.5

<b>Table 39</b> <b>Distribution of Private Passenger Automobile Assigned for the Liability and Collision Coverages</b> <b>By Discount or Surcharge Category for Years 1995-1997</b>						
Discount or Surcharge Category	Liability			Collision		
	1995 (%)	1996 (%)	1997 (%)	1995 (%)	1996 (%)	1997 (%)
Total, All Categories	100.0	100.0	100.0	100.0	100.0	100.0
Total Not Surcharged:						
3 Years Claim Free (One or less with Plan) (Manual Rates)	68.7	69.1	68.5	64.0	65.2	62.6
Experience Discount:						
4 Years (One or more with Plan) 18 % Credit	14.4	13.0	13.1	14.0	13.1	12.7
5 Years (Two or more with Plan) 25% Credit	8.0	9.4	9.4	8.1	9.5	10.0
6 Years or More (Three or more with Plan) 30% Credit	10.2	10.9	11.0	8.3	9.0	8.7
Total Surcharged	31.3	30.9	31.5	36.0	34.8	37.4
Inexperienced Operator Surcharge	11.9	12.2	12.6	8.7	9.5	9.8
Experienced Operator Surcharge:						
15%	12.2	11.6	11.7	16.2	14.6	16.0
25%	0.1	0.1	0.1	0.0	0.0	0.1
35%	2.5	2.6	2.6	4.1	4.3	4.7
50%	1.5	1.4	1.4	1.6	1.5	1.6
75%	1.2	1.1	1.1	1.9	1.9	2.0
100%-150%	2.0	2.1	1.9	3.4	3.0	3.1

### 3. Workers' Compensation Insurance

#### a. Rate Revision Effective October 1, 1998

On October 1, 1998, the annual Workers' Compensation rate revision became effective producing an average decrease of 3.1%. Including the change in the New York State Assessment, the overall decrease was 6.0%.

Last year's general rate revision represented the fourth rate level decrease in as many years, as shown in the table below:

<u>Year</u>	<u>Net Change*</u>
1995	-5.0%
1996	-18.2%
1997	-8.4%
1998	-6.0%

\* Net change includes rate level and assessment charge changes.

However in 1998, unlike the other years, the loss experience, which supported the rate change, indicated a small increase. This increase was counterbalanced by a negative Loss/Wage Trend Factor. The factor reflects loss and wage level assumptions in the effective period of the rate revision.

Additionally, for a second year, the experience of business written in Large Deductible programs was included in the data used to determine the indicated rate level. On a standard basis, this book of business represented about one third of the experience supporting the rate revision. Furthermore, the experience of these programs more closely resembled that of the regular business than expected.

#### b. 1998 Workers' Compensation Legislation

The legislation modified the procedures determining the premium charged for workers' compensation for construction classification employers. The base to which the calculated rate would apply is limited payroll rather than unlimited payroll; which is the base for the majority of the other rating classifications. The limitation will be implemented over a four-year period. For policies written after September 30, 2002, the limitation will be \$750 per week or the weekly payroll amount upon which the maximum weekly benefit is based, per employee.



Table 41

**WORKERS' COMPENSATION**  
**LARGE DEDUCTIBLE PROGRAMS APPROVED IN 1998**

COMPANY NAME	EFFECTIVE DATE
AIU Insurance Company <sup>1</sup>	04/09/98
American Home Assurance Company <sup>1</sup>	04/09/98
Atlantic Mutual Insurance Company <sup>2</sup>	03/05/98
Birmingham Fire Insurance Company of PA <sup>1</sup>	04/09/98
Centennial Insurance Company <sup>2</sup>	03/05/98
Chubb Indemnity Insurance Company <sup>2</sup>	05/06/98
Commerce and Industry Insurance Company <sup>1</sup>	04/09/98
Crum and Forster Indemnity Company <sup>2</sup>	05/06/98
Fairmont Insurance Company <sup>2</sup>	10/19/98
Federal Insurance Company <sup>2</sup>	05/06/98
Frontier Insurance Company <sup>1</sup>	10/19/98
Granite State Insurance Company <sup>1</sup>	04/09/98
Great Northern Insurance Company <sup>2</sup>	05/06/98
Illinois National Insurance Company <sup>1</sup>	04/09/98
Midwest Employers Casualty Company <sup>1</sup>	09/10/98
National Union Fire Insurance Company of Pittsburgh, PA <sup>1</sup>	04/09/98
New Hampshire Indemnity <sup>1</sup>	04/09/98
New Hampshire Insurance Company <sup>1</sup>	04/09/98
North American Specialty Insurance Company <sup>1</sup>	11/03/98
Pacific Indemnity Company <sup>2</sup>	05/06/98
Realm National Insurance Company <sup>1</sup>	09/10/98
The Insurance Company of the State of PA <sup>1</sup>	04/09/98
The North River Insurance Company <sup>2</sup>	05/06/98
United States Fire Insurance Company <sup>2</sup>	05/06/98
Vigilant Insurance Company <sup>2</sup>	05/06/98

<sup>1</sup> Approval of a new program.

<sup>2</sup> Approval of modifications to an existing program.

Table 42

**WORKERS' COMPENSATION RATE HISTORY**

Effective Date	Policy Year	Calendar Year	Law Amendments & Medical & Hospital Agreements		Wage & L/R Trend Factors	Expenses	Effect on Rate Level	Assessments			Approved	Cumulative Approved
			Indemnity	Medical				WCB	SDF&RCF	Filed		
July 1980	-4.5%	-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%	7.7%		0.8600	-3.1%		-0.4%	0.3%	2.9%	2.9%	-7.5%
July 1982	-4.6%	-11.6%	4.3%		0.9895	0.3%		0.1%	1.2%	-14.3%	-20.4%	-26.4%
July 1983 <sup>1</sup>	-0.3%	-7.8%	19.5%		0.8807	-0.1%		0.1%	-4.1%	-2.1%	-3.4%	-28.9%
July 1984	6.6%	3.5%	7.8%		0.8979	3.8%		0.1%	2.6%	5.4%	-2.0%	-30.3%
July 1985 <sup>2</sup>	7.7%	0.9%	8.3%		0.9725	2.2%		-0.3%	-1.5%	9.4%	8.1%	-24.6%
July 1986	-1.3%	-8.4%	3.8%		0.9257	3.0%		0.2%	1.0%	14.2%	10.2%	-17.0%
July 1987	7.5%	12.8%	2.2%		0.9134	0.4%		0.3%	0.5%	1.5%	-4.7%	-20.9%
July 1988	9.2%	12.2%	7.2%		0.9470	0.7%		-0.4%	-1.4%	6.5%	5.1%	-16.9%
July 1989	17.6%	22.5%	2.0%		0.9254	0.7%		-0.3%	1.5%	28.3%	11.1%	-7.7%
July 1990	12.8%	13.5%	18.0%	3.4%	0.9478	0.4%		-0.4%	-0.7%	28.5%	15.5%	6.6%
July 1991	23.4%	20.9%	3.7%	2.1%	0.9012	-4.2%		0.3%	4.1%	39.1%	29.4%	38.1%
July 1992	20.5%	13.1%	4.2%	1.2%	0.9500	-0.3%		-0.4%	4.1%	25.1%	15.3%	59.2%
July 1993	12.0%	17.1%	1.0%		1.0010	0.0%		-0.3%	-1.0%	18.4%	15.6%	84.1%
April 1994	-4.9%	-0.1%	-1.9%	<sup>4</sup>	1.0010	0.0%	-16.3%	<sup>5</sup>	<sup>5</sup>	13.5%	-5.0%	110.6%
Oct. 1994	8.0%	1.9%	0.8%		0.9640	-1.2%	1.4%		-3.1%	-5.0%	-1.7%	100.1%
Oct. 1995	-17.1%	-15.3%	0.05%		1.0960	0.8%	-8.4%		3.7%	-1.6%	-5.0%	96.7%
	<u>Pol. Yr.</u>	<u>Acc. Yr.</u>										
Oct. 1996	-14.9%	-16.5%	-3.2%		1.0430	0.0%	-14.9%		-0.2%	-15.1%	-18.2%	52.9%
Oct. 1997	-9.1%	-9.5%	0.0%		1.0140	-0.1%	-7.5%		-1.0%	-3.8%	-8.4%	40.1%
Oct. 1998	8.9%	2.9%	0.0%		0.9080	0.8%	-3.1%		-3.0%	-0.4%	-6.0%	31.7%

<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 43

**WORKERS' COMPENSATION  
APPROVED RATE DEVIATIONS CURRENTLY IN EFFECT  
AS OF MARCH 1, 1999**

Company Name	Effective Date	Downward Deviation	Company Name	Effective Date	Downward Deviation
A.I.U. Ins Co	05/15/96	15.0%	Commercial Compensation Ins Co	04/01/98	10.0%
Acadia Ins Co	11/01/97	10.0	Commercial Ins Co of Newark, NJ	09/27/83	15.0
Agricultural Ins Co	06/13/83	15.0	Commercial Union Midwest Ins Co	06/01/96	15.0
All America Ins Co	08/15/98	10.0	Connecticut Indemnity Co	02/27/97	15.0
American Alliance Ins Co	08/02/96	17.5	Credit General Ins Co	07/10/98	10.0
American Alternative Ins Corporation	01/08/99	10.0	Erie Ins Co of New York	01/01/96	10.0
American Automobile Ins Co	06/13/83	16.0	Erie Insurance Company	11/01/96	10.0
American Casualty Co of Reading, PA	10/01/95	10.0	Fairfield Ins Co	12/03/97	10.0
American Central Ins Co	06/01/96	15.0	Federated Mutual Ins Co	05/17/96	15.0
American Economy Ins Co	06/01/96	10.0	FICO Insurance Company	05/17/96	15.0
American Employers' Ins Co.	06/01/96	15.0	Fidelity & Deposit Co of Maryland	10/15/97	10.0
American Guarantee & Liability Ins Co	03/04/97	15.0	Fidelity & Guaranty Ins Co	08/04/83	15.0
American Manufacturers Mutual Ins Co	10/01/85	10.0	Fidelity & Guaranty Ins Underwriters Inc.	12/22/97	10.0
American Protection Ins Co	06/02/93	15.0	Fire & Casualty Ins Co of CT	02/13/98	10.0
American-Zurich Ins Co	12/01/96	15.0	Fire Districts of NY Mutual Ins Co	12/17/97	9.0
AmGuard Ins Co	02/01/99	12.5 <sup>5</sup>	Fireman's Fund Ins Co	02/15/85	10.0
Argonaut-Midwest Ins Co	09/01/96	15.0	Fireman's Ins Co of Newark, NJ	03/24/83	10.0
Assurance Co of America	06/13/83	15.0	Florists' Mutual Ins Co.	08/01/98	10.0
Atlantic Mutual Ins Co	08/01/96	12.0	Fremont Indemnity Ins Co	10/28/97	15.0
Atlantic Specialty Ins Co	08/01/96	15.0	Frontier Ins Co	04/07/98	10.0
Automobile Ins Co of Hartford, CT	05/25/83	15.0	General Assurance Co	09/01/88	10.0
Bankers Standard Ins Co	03/23/95	15.0	Globe Indemnity Co	09/01/97	15.0
Blue Ridge Ins Co	05/15/96 <sup>1</sup>	15.0	Graphic Arts Mutual Ins Co	01/01/84	15.0
Blue Ridge Ins Co	08/01/96 <sup>2</sup>	15.0	Great Northern Ins Co	08/12/85	7.0
Business Ins Co	02/01/97	15.0	Guidant Mut Ins Co (formerly Preferred Risk Mut)	02/01/94	10.0
Camden Fire Ins Co	12/01/85	10.0	Hartford Casualty Ins Co	10/20/92	17.5 <sup>6</sup>
Casualty Ins Co	10/28/97	15.0	Hartford Fire Ins Co	10/01/86	15.0
Centennial Ins Co	07/15/88	10.0	Hartford Ins. Co. of the Midwest	05/02/86	10.0
Centre Ins Co (formerly Business Ins Co)	02/01/97	15.0	Hartford Underwriters Ins Co	04/01/99	10.0
Church Mutual Ins Co.	12/04/98	10.0	Houston General Ins Co	08/22/96	15.0
Cigna Fire Underwriters Ins Co	03/23/95	10.0	Indemnity Ins Co of North America	01/01/97	15.0
Cigna Property & Casualty Ins Co	01/01/97	10.0	Insurance Co of Greater New York	04/15/96	15.0
Citizens Ins Co of America	02/01/85	15.0	International Ins Co	10/15/85	10.0
Clarendon National Ins Co	07/10/97	10.0	John Deere Ins Co	08/01/97	10.0
Colonial American Casualty & Surety Co	10/15/97	10.0	Legion Ins Co	12/01/96	15.0

Table 43

**WORKERS' COMPENSATION  
APPROVED RATE DEVIATIONS CURRENTLY IN EFFECT  
AS OF MARCH 1, 1999**

Company Name	Effective Date	Downward Deviation	Company Name	Effective Date	Downward Deviation
Liberty Insurance Corporation	07/01/95 <sup>1</sup>	17.5	Republic-Franklin Ins Co	01/01/88	10.0
Liberty Insurance Corporation	09/01/95 <sup>2</sup>	17.5	Royal Indemnity Co	09/01/97	17.5
Liberty Mutual Fire Ins Co	07/15/95	10.0	Royal Ins Co	05/01/95	12.5
Lumber Mutual Ins Co	11/17/97	10.0	Safeco Ins Co of America	02/01/97	15.0
Main Street America Assurance Co	06/24/96	10.0	Safeguard Ins Co	05/01/95	10.0
Markel Ins Co (formerly Ins Co of Evanston)	07/26/95	10.0	Safety National Casualty Corp.	01/02/98	10.0
Massachusetts Bay Ins Co	08/01/96	10.0	Selective Ins Co of South Carolina	08/19/96	15.0
Michigan Millers Mutual Ins Co	06/01/98	10.0	Selective Way Ins Co	07/01/94	7.5
Mount Vernon Fire Ins Co	07/10/97	10.0	Sentry Indemnity Co	01/01/87	15.0
Netherlands Ins Co	04/01/97	15.0	St. Paul Mercury Ins Co	02/13/96	15.0
New Hampshire Ins Co	05/15/96	15.0	Star Ins Co	01/08/97	15.0
New York Casualty Ins Co	02/13/98	10.0	Sun Ins Office, Ltd.	12/03/86	7.0
Newark Ins Co	05/01/95	7.5	Titan Indemnity Co	03/19/97	15.0
Niagara Fire Ins Co	03/24/83	10.0	TIG Ins Co of New York	08/09/83	15.0
NorGuard Ins Co	02/01/99	10.0	Transcontinental Ins Co	10/01/95	17.5
North River Ins Co	02/04/97	15.0	Travelers Casualty & Surety Co of Illinois	08/12/85	15.0
Northbrook National Ins Co	03/15/83	10.0	Travelers Indemnity Co of America	01/16/91	15.0
Northern Ins Co of New York	06/13/83	15.0	Travelers Indemnity Co of Connecticut	08/01/98	10.0
Oriska Ins Co	04/01/96	15.0	Ullico Casualty Co	01/11/96 <sup>3</sup>	15.0
Pacific Indemnity Co	01/13/83	15.0	Ullico Casualty Co	06/24/96 <sup>4</sup>	10.0
Paramount Ins Co	10/03/83	15.0	United Community Ins Co	01/05/83	10.0
Patriot General Ins Co	01/01/87	15.0	United Pacific Ins Co	07/01/96	7.5
Peerless Ins Co	05/01/96	7.5	Universal Underwriters Ins Co	04/01/98	10.0
Pennsylvania Manufacturers Assn. Ins. Co	10/01/96	10.0	Utica National Assurance Co	01/07/98	17.5
Pennsylvania Manufacturers Indemnity Co	10/01/96	15.0	Utica National Ins Co of Texas	01/01/96	17.5
PG Ins Co of New York	09/01/96	17.5	Valley Forge Ins Co	06/15/83	15.0
Potomac Ins Co of Illinois	01/01/93	15.0	Wausau Business Ins Co	06/10/96	15.0
Princeton Ins Co	12/03/97	10.0	Wausau Underwriters Ins Co	10/08/98	10.0
Realm Ins Co	01/03/97	10.0	Westport Insurance Corp.	08/20/98	10.0
Reliance National Ins Co	06/15/96	15.0	Worcester Ins Co	10/01/85	10.0
Chubb Indemnity Co	05/01/96	15.0	Zenith Ins Co	01/01/97	15.0

<sup>4</sup> Non-ADR (Alternative Dispute Resolution) Policies.

<sup>5</sup> Deviation reduces to -10% as of 08/01/99.

<sup>6</sup> Deviation reduces to -15% as of 04/01/99.

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

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

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

Prior to 1988, contributions were last required in 1973. In 1988, contributions resumed as a consequence of the Superintendent's determination that the fund's net value as of 12/31/87 had fallen below \$150 million. By statute, the quarterly contributions for the 1988 fund year were due on May 15, 1988, August 15, 1988, November 15, 1988 and February 15, 1989. Similarly, contributions continued through 1992. For the 1993 fund year, the Superintendent determined that the PCISF net value was greater than \$150 million. 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 through 1997 fund years. In 1998, the Superintendent determined that the PCISF net value had again fallen below \$150 million and contributions resumed.

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

<b>PCISF Contributions*</b>	
<b>1988 - 1998</b>	
<b>Fund Year</b>	<b>Estimated Quarterly Contributions</b>
1988	\$15.0 Million
1989	\$37.5 Million
1990	\$ 5.5 Million
1991	\$25.0 Million
1992	\$ 7.5 Million
1993 - 1997	\$ 0.0 Million
1998	\$ 8.3 Million

\* During 1993, settlement was reached with respect to Alliance of American Insurers et al v. Chu et al (Albany County, Index No. 3279/88). The 1993 through 1998 fund year net value and contribution amounts described herein reflect the impact of the settlement.

## **C. HEALTH BUREAU**

### **1. Entities Under Health Bureau Supervision**

The Health Bureau had primary regulatory authority over 71 insurers and health maintenance organizations (HMOs) as of December 31, 1998. These include 17 accident and health insurers, one property/casualty insurer (writing accident and health insurance only), one life insurer (writing accident and health insurance only), 14 health service and medical and dental expense indemnity corporations, two Article 43 of the Insurance Law HMOs and 36 Article 44 of the Public Health Law HMOs.

In 1998 the Health Bureau received one application for an accident and health insurance license and two applications for Article 44 HMO Certificates of Authority. One accident and health insurer was licensed and one Article 44 HMO was licensed or certified in 1998. Regulatory authority over one life insurer and one property/casualty insurer were transferred to the Health Bureau as these two entities only write accident and health insurance. Two accident and health applications and one HMO application were withdrawn. Four accident and health and five HMO applications are still pending. In addition, the Bureau approved the merger of four health service corporations.

Article 47 of the New York Insurance Law, enacted in 1994, permits the formation of municipal cooperative health benefit plans. Of the 16 municipal cooperative health benefit plan applications that have been submitted, 14 are still pending and two are in the process of being withdrawn.

Article 44 of the Public Health Law, enacted in 1996, permits the formation of integrated delivery systems. One application was received in 1998 for a certificate of authority as an integrated delivery system. The application is still pending.

### **2. Accident and Health Insurers**

In total, 12 stock and four mutual companies were licensed to transact only accident and health insurance at year-end 1997.

**Table 44**  
**SELECTED ANNUAL STATEMENT DATA**  
**Accident and Health Insurers**  
**1995-1997**  
**(dollar amounts in millions)**

	1997	1996	1995
Number of insurers	16	17	16
Net premiums written	\$3,756.1	\$3,550.0	\$3,348.6
Admitted assets	5,958.6	5,523.7	5,114.3
Unearned premium & loss reserves	883.9	879.1	904.5
Other liabilities	2,678.5	2,413.0	2,221.9
Capital	21.1	20.5	20.2
Surplus	2,375.1	2,211.1	1,967.7
Ratio of premiums written to capital and surplus	1.6	1.6	1.7

Source: New York State Insurance Department

### 3. 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 an alternative 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 10% in any 12-month period and such filing shall be deemed approved. In order to use this procedure, the contract must meet certain loss ratios as specified in the law. Since the law became effective on January 1, 1996, many Article 43 and Article 44 corporations have chosen this alternative method to modify their premium rates. The Department received seventy-nine premium rate change filings under this alternative method during 1998.

In addition, the Health Bureau received 11 premium rate increase applications submitted under the prior approval requirements of Section 4308(c) of the Insurance Law from Article 44 HMOs for their community-rated contracts and riders with requested effective dates in 1998. The rates requested on 4 of the applications were approved as submitted and four were approved at levels lower than requested; 3 applications were denied. Additionally, the Insurance Department received one application from an Article 43 Corporation for an increase in premiums which was approved as requested.

**Table 45**  
**SUBSCRIBER RATE CHANGES**  
**Subject to Prior Approval**  
**1998**

	Average Percent Requested	Average Percent Approved	Effective Date
<u>Public Health Law Article 44 HMOs</u>			
Health Now			
Direct Pay Mandated Products	83.9%	28.6%	1/1/98
Capital District Physicians Health Plan			
Riders	28.4%	21.1%	1/1/98
Health Services Medical Corp. of Central New York, Inc.			
Group HMO & POS contracts (Large & Small)	13.5%	13.5%	1/1/98
Standard Individual HMO & POS contracts	13.5%	13.5%	
Dental contracts	13.5%	13.5%	
Prescription Drug Riders	41.0%	41.0%	
Independent Health Association, Inc.			
Western New York Division			
Drug Riders	35.5%	35.5%	1/1/98
Hudson Valley Division			
Basic contracts & Riders	6.6%	6.6%	
Metro New York Division			
Basic contracts and Riders	28.9%	19.1%	
North American Healthcare, Inc.			
Drug Riders	16.4%	16.4%	1/1/98
North Medical Community Health Plan, Inc.			
Group HMO contracts (Large & Small)	11.4%	11.4%	1/1/98
Prescription Drug Riders	42.9%	42.9%	
Vision Riders	23.8%	23.8%	
Rochester Area HMO (Preferred Care)			
Drug Riders	23.1%	0%	1/1/98
Empire Healthnet			
Direct Pay Mandated Products	45.8%	0.0%	4/1/98

Oxford Health Plans of New York			
Standard Individual HMO contracts(all counties)	50.2%	0%	4/1/98
Standard Individual POS contracts			
Non-Manhattan Region	60.4%	0%	
Standard Individual POS contracts			
Manhattan Region	69.3%	0%	
Managed Health, Inc.			
Small Group contracts	50.8%	15.0%	7/29/98
Large Group contracts	(3.9%)	(3.9%)	
Standard Individual HMO contract	55.2%	15.0%	
Standard Individual POS contract	95.3%	15.0%	
Prescription Drugs Riders	2.7%	2.7%	
Empire Healthnet			
Blue Choice group contract			
New York Region	19.8%	19.8%	10/1/98
Dutchess & Putnam Counties	32.5%	32.5%	
Orange, Sullivan & Ulster Counties	2.5%	2.5%	
Albany Region	31.2%	31.2%	
Overall	20.8%	20.8%	
<u>Insurance Law Article 43 Health Service Corporations</u>			
Integrated Benefits Corporation			
Hudson Valley Region	6%	6%	4/1/98
Metro New York Region	25%	6%	

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b. The following tables show aggregate figures on assets, liabilities, surplus funds, premium income and membership for years 1995-1997:

**Table 46**  
**HEALTH SERVICE CORPORATIONS\***  
**Selected Data, New York State**  
**1995-1997**  
**(in millions)**

	1997	1996	1995
Number of Companies	14	13	12 <sup>f</sup>
Admitted Assets	\$3,740.1	\$3,742.4	\$3,998.3
Liabilities	2,748.1	2,850.1	3,184.1
Surplus Funds	992.0	892.3	814.2
Net Premium Income			
Hospital	\$4,922.7	\$4,941.6	\$5,539.6
Medical/Dental	3,910.2	4,172.5	4,184.5
Number of Contracts & Riders in Force:			
Hospital	2.7	2.8	3.0
Medical/Dental	2.7	3.2	2.7

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

<sup>f</sup> Revised

Source: New York State Insurance Department

**Table 47**  
**MEDICAL & DENTAL EXPENSE INDEMNITY CORPORATIONS**  
**Selected Data, New York State**  
**1995-1997**  
**(in millions)**

	1997	1996	1995
Number of Companies	3	3*	4 <sup>r</sup>
Admitted Assets	\$11.3	\$8.5	\$77.9
Liabilities	7.0	5.3	43.9
Surplus Funds	4.3	3.2	34.0
Net Premium Income	8.9	6.8	132.9
Number of Contracts in Force	**	**	0.2

\* On July 2, 1996, Finger Lakes Medical Insurance Company, Inc. was issued an amended license to change from a medical expense indemnity corporation to a health service corporation. As such, the financial data of Finger Lakes Medical Insurance Company, Inc. for 1996 was reported in Table 46.

\*\* There were 430 and 490 contracts in force for the years 1996 and 1997, respectively.

<sup>r</sup> Revised

Source: New York State Insurance Department

**Table 48**  
**HEALTH MAINTENANCE ORGANIZATIONS**  
**That Are a Line of Business of a**  
**Health Service Corporation\***  
**Selected Data, New York State**  
**1995-1997**  
**(in millions)**

	1997	1996	1995
Number of Companies	5	5	5
Net Premium Income	\$2,892.0	\$2,652.2	\$2,579.1
Participants	1.9	1.7	1.6

\* Figures shown in this Table are included in the corresponding figures shown in Table 46.

Source: New York State Insurance Department

**Table 49**  
**HEALTH MAINTENANCE ORGANIZATIONS**  
**That Are Not a Line of Business**  
**Selected Data, New York State**  
**1995-1997**  
**(in millions)**

	1997	1996	1995
Number of Companies	32	32	29 <sup>r</sup>
Admitted Assets	\$2,904.5	\$2,355.8	\$2,040.7
Liabilities	2,188.7	1,674.3	1,346.1
Surplus Funds	715.8	681.5	694.6
Net Premium Income	8,411.6	6,963.6	5,547.7
Participants	4.7	4.4	3.6

<sup>r</sup> Revised

Source: New York State Insurance Department

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

The Health Bureau processed 8,482 accident and health policy forms in 1998.

**Table 50**  
**ACCIDENT & HEALTH**  
**POLICY FORMS PROCESSED**  
**1998**

Individual Accident and Health	920
Group Accident and Health	4,552
Blanket	686
Article 43 Organizations (group)	482
Article 43 Organizations (individual)	26
HMO	1,302
Franchise	84
Combined Group A&H & Life	430
<b>TOTAL</b>	<b>8,482</b>

Of the 8,482 total, 3,843 forms were approved for use both in and out of state; 2,660 forms were either disapproved or withdrawn; 1,551 forms were filed for use in states other than New York; and 418 forms were filed for reference purposes or otherwise processed and closed during 1998.

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

The Accident and Health Rating Section received 1,585 rate filings and processed 1,523 rate filings during 1998. These include initial rate filings for new policy forms submitted by commercial insurers and Article 43 and Article 44 corporations and HMOs, and rate adjustment filings for commercial insurers.

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

In conjunction with the policy form and premium rate review process, the Bureau processes pre-filings submitted in accordance with section 52.32 of Regulation 62 (11 NYCRR 52.32) and responds to inquiries and complaints. The Bureau processed 33 pre-filings of policy form submissions in 1998 and provided written answers to 284 formal consumer inquiries and complaints concerning policy forms or related issues.

## **7. Procedural Changes in the Approval Process**

On August 1, 1997, the Department issued Circular Letter No. 14 to advise insurers of procedural changes in the approval process, which are designed to prevent unnecessary delays and to ensure that new products reach the market as expeditiously as possible.

The Circular Letter permits the Department to return all product and rate submissions that are incomplete or that are not drafted to comply with New York's statutory and regulatory requirements. The circular letter also permits the Department to return submissions prior to completing the initial review, if the submission is poorly organized or difficult to understand or if the policy form contains several noncomplying provisions or fails to include several required provisions. Submissions may also be closed if a complete written response to Department correspondence is not received within 45 days. The return of incomplete or noncomplying submissions is intended to ensure that insurance companies submitting complying products are not penalized by lengthy delays caused by the disproportionate amount of time needed to review poorly drafted submissions. It is anticipated that these steps will improve the quality of submissions made to the Department.

The Health Bureau closed 352 policy form submissions during 1998 based on the provisions of this circular letter. An additional number of submissions were rejected and returned to insurers prior to being entered into our record keeping system.

## **8. Alternative Approval Procedure**

Chapter 616 of the Laws of 1997 amended Section 3201 of the Insurance law to add an alternative policy form approval procedure for accident and health insurance forms. The new procedure imposes time constraints on both the Department and the submitting insurer and deems policy forms to be approved or denied if either the Department or the submitting insurer fails to act in a timely manner.

To elect the alternative approval procedure, the submitting insurer must submit a complete filing package with all required forms and necessary supporting material as well as a certification of compliance signed by an officer of the insurer. Pursuant to Section 3201(b)(6), the Department must return the submission within 60 days if it is incomplete or fails to comply with applicable requirements and must provide comments within 90 days to prevent the form from being approved. The submitting insurer must respond to the Department's request for additional information and objections within 45 days or the submission will be deemed denied. Thereafter, the Department and submitting insurer have 45 days to reply to the most recent correspondence and prevent the submission from being deemed approved or denied.

The Bureau processed 16 submissions under the alternative approval procedure during 1998.

## **9. Regulatory Amendments Promulgated in Accordance with the Health Insurance Portability and Accountability Act of 1996 and Chapter 661 of the Laws of 1997**

Amendments to Insurance Department Regulations 62, 145 and 146 were promulgated as emergency measures in 1998. The 23rd Amendment to Regulation 62 adopted revised minimum standards for the form, content and sale of health insurance, including standards of full and fair disclosure. The 4th Amendment to Regulation 145 adopted revised minimum standards to assure the continued orderly implementation and ongoing operation of open enrollment, community rating and portability of individual and small group health insurance. The First Amendment to Regulation 146 amended the definition of small group health insurance policy set forth in the rule providing for the establishment and operation of market stabilization mechanisms for individual and small group health insurance policies. Final adoption of the Amendments was effective July 29, 1998.

This regulatory amendment action was required pursuant to Congressional action taken in the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191) and New York legislative action taken in Chapter 661 of the Laws of 1997. The Health Insurance Portability and Accountability Act of 1996 (HIPAA) created federal standards for the individual and group health insurance markets, providing for improved access, portability and renewability of health insurance in both of those 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 federal Act with respect to insured plans, however, provisions of state law which prevent the application of the new federal requirements are preempted by the Act. The amendments to the Insurance Law and Public Health Law contained in Chapter 661 of the Laws of 1997 bring state law into compliance with federal law, enhance existing state enacted reforms and protections and preserve state regulation of health insurance policies issued in New York State. The amendments to Regulations 62, 145 and 146 were necessary to make existing regulatory requirements consistent with the new federal and state laws and thereby provide guidance to insurers as to the minimum standards that must be met so as to facilitate implementation and ensure compliance with the new laws. As a result of the legislation and the regulatory amendments, insurers and HMOs amended their policy forms to conform to the new requirements.

## **10. Health Care Reform Act of 1996 (HCRA)**

Chapters 639 and 640 of the Laws of 1996 amended the Public Health Law to modify reimbursement to the majority of New York State's health care providers. This law was enacted to respond to changes in the organization and delivery of health care services, reflecting a movement towards a more competitive health care system for the State, while continuing to provide for certain "public goods." The pools which go to support these "public goods" are funded through a variety of assessments – the bad debt and charity care pool through a percentage assessment on expenditures for hospital inpatient and outpatient services, comprehensive diagnostic and treatment center services, freestanding ambulatory surgery and freestanding lab services, and the graduate medical education pool primarily through an assessment determined on a per-covered-life basis.

In response to possible shortfalls in the bad debt and charity care pool, the Superintendent sent a questionnaire in December 1998 to the top 100 payors into the pool to determine compliance with the laws governing payment to the pool, and overall practices in regard to pool payments. This comprehensive questionnaire has allowed the Department to identify areas of confusion faced by the payors, as well as some areas of non-compliance. The Department is working with the Department of Health to ascertain the impact of any identified problems, and to clarify areas of confusion.

## **11. External Review**

Chapter 586 of the Laws of 1998 amended the Insurance Law and the Public Health Law to allow health care consumers to obtain an external review of determinations made by insurers and health maintenance organizations (HMOs) regarding both medical necessity and coverage of certain experimental treatments. The legislation establishes procedures and timeframes for external appeals of health plan determinations. To be eligible for an external appeal, the consumer must have first received a final adverse determination from the plan's internal appeal process, or both the plan and the consumer have agreed to waive their rights to the internal review and move directly to an independent external review. The new law further protects consumers by imposing a penalty for companies that fails to observe the existing time limits for evaluating internal appeals. This means that if a company fails to evaluate an appeal within the required time frame, then the appeal is automatically decided in the consumer's favor.

External appeal agents must make a determination on a consumer's appeal within 30 days for standard appeals or within three days if an attending physician has stated that a delay would pose a threat to a consumer's health. Health plans may charge consumers who are not recipients of medical assistance a fee of up to \$50 for an external appeal as long as the fee does not pose a hardship to the consumer. The fee must be refunded if the health plan's determination is overturned by the external appeal agent.

The legislation establishes standards for certification of external appeal agents by the Health and Insurance Departments and protect against external appeal agent and clinical peer reviewer conflicts of interest. The legislation also imposes requirements for oversight of the external appeal process by both Departments. The legislation requires the Superintendent and the Health Commissioner to report annually the number of external appeals requested and the outcomes of such appeals to the Governor and to the Legislature.

In addition to establishing an external review process, the legislation permits insurers to enter into risk-sharing arrangements with providers, but prohibits both insurers and HMOs from entering into contracts with health care providers that transfer financial risk in a manner inconsistent with Section 4403(1)(c) of the Public Health Law. The legislation requires provider contracts to include an explanation of provider payment methodologies, the time periods for provider payments, the information to be relied upon to calculate payments and adjustments, and the process to be employed to resolve disputes concerning provider payments. Chapter 586 of the Laws of 1998 took effect immediately, however, the provisions establishing the external review process and provider contract requirements take effect July 1, 1999.

## **12. Medicare Risk Terminations**

On October 2, 1998, eight New York HMOs notified the federal Health Care Financing Administration (HCFA) of their intention to terminate their Medicare risk contracts in part or all of their respective service areas effective December 31, 1998. The terminations resulted in the displacement of nearly 60,000 senior citizens throughout New York State. The Department responded immediately to assist seniors by providing timely information and alternative coverage via the website and toll-free number.

In addition, the Department contacted each of the eight HMOs to continuously monitor the termination process. State legislators for the affected counties were also contacted and information packets were given to these legislators interested in providing assistance to their constituents. The Department also worked closely with HCFA to ensure orderly transition of the terminated members to alternative coverage.

### **13. Voucher Insurance Program**

During 1998, the Department took significant steps toward implementing the Voucher Insurance Program – a demonstration project designed to determine whether access to a personal primary care provider reduces inappropriate use of the emergency room. Rensselaer and Westchester counties have been chosen as the sites of the pilot.

A Request for Proposals (RFP) was issued for an administrator(s) for the Program and a Bidder's Conference held. The Department selected MDI, Inc. as its administrator for both counties and entered into contract negotiations. The contract was delivered to the Office of the State Comptroller in December 1998 for approval.

Subsequent to issuance of the RFP for the administrator, the Department issued a Circular Letter to all insurers and HMOs asking for insurers to participate in the Voucher Insurance program. As result, Fidelis Care New York will provide coverage to eligible persons in both counties and Community Choice Health Plan will provide coverage in Westchester County only.

### **14. Child Health Plus**

The Department played an active role in the negotiation and implementation of Chapter 2 of the Laws of 1998, which significantly expanded the Child Health Plus program. Chapter 2 added inpatient mental health and substance abuse coverage, dental, vision and hearing care services and coverage of non-prescription drugs. It also eliminated all copayments and coinsurance for covered services. Department representatives met several times with the Department of Health during 1998 to establish parameters for the expanded benefits and develop guidelines for the Child Health Plus carriers.

The Department reviewed for approval revised subscriber contracts, enrollment forms and member handbooks for the insurers. The Department also reviewed premium rate increase applications from the existing insurers, premium rate filings for new benefits and contract and rate filings for three new Child Health Plus insurers. The Department also participated in three half-day meetings with Child Health Plus insurers to discuss implementation of Chapter 2 and issues on an on-going basis.

### **15. Bureau/Industry Workgroups**

During 1998, The Health Bureau held a series of meetings with representatives of the health insurance industry. Industry representatives and Bureau staff met to discuss the current form and rate review process in order to determine ways of improving the product filing process. As a result of these meetings, the Bureau has put together a series of documents to assist insurers in preparing product filings, including a listing and description of mandated and make available benefits that must be included in or offered with various types of insurance products, an analysis of the permissible types of groups that may become covered under group or blanket insurance products, and a complete and detailed discussion and listing of the submission requirements for various types of forms. The Bureau has also created a quarterly quality survey form that will be sent to insurers so that meaningful feedback can be provided to Bureau management. This document will provide Bureau management

with a tool to assess progress in eliminating backlogs and to monitor areas in the approval process that need to be reviewed and improved.

The workgroup agreed that a series of regional meetings held periodically in various parts of the state would assist both the Bureau and the industry in deciding on ways to improve the forms filing process. The Bureau plans to hold meetings in both Albany and New York City in early 1999 as a first step toward implementing this proposal.

#### **16. Distributions from Market Stabilization Pools Under Regulation 146**

Special distribution of certain available funds from the New York State Market Stabilization Pools established under Regulation 146 were made in 1998. Approximately \$93.1 million was distributed to pool participants which include insurers and HMOs participating in the small group and individual markets. An additional \$21.4 million remains to be distributed pending regulatory amendment to certain pools. An additional \$9.2 million will be distributed to insurers in the Medicare supplement insurance market. All monies were directed to be used to mitigate rate increases in the applicable markets.

#### **17. Long-Term Care**

Chapter 42 of the Laws of 1997 amended Section 1117 of the Insurance Law as well as Section 612 of the Tax Law and Section 11-1712 of the Administrative Code of the City of New York to permit favorable tax treatment for certain types of long-term care plans. To qualify for this treatment, a policy must be determined by the Superintendent to meet applicable minimum standards, including minimum loss ratio standards, and must qualify under Section 7702(B) of the Internal Revenue Code.

At the end of 1998, there were 18 companies offering individual long-term care insurance policies and four companies offering group long-term care insurance policies which qualified for favorable tax treatment.

#### **18. Managed Long-Term Care Demonstration Programs**

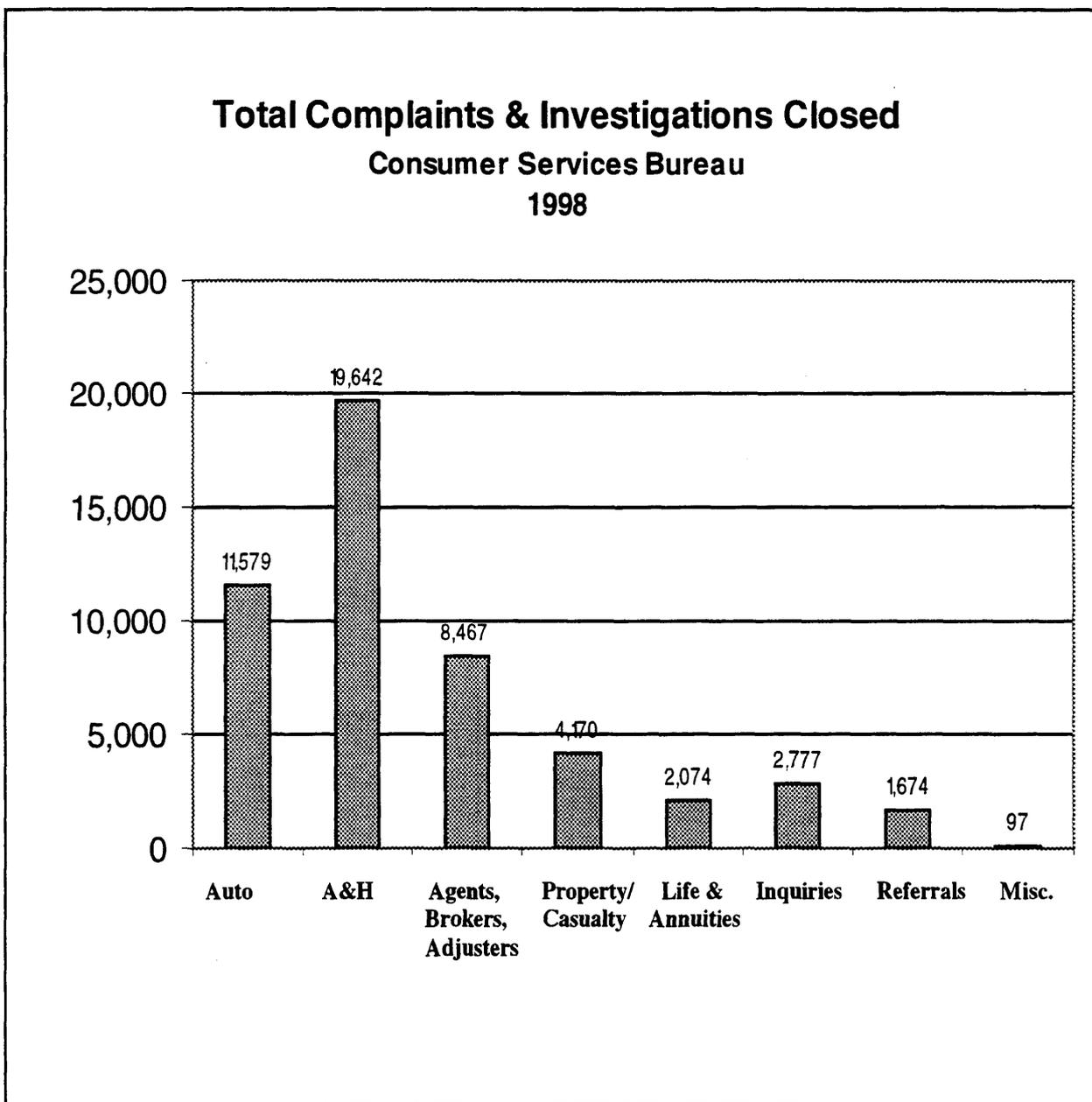
Chapter 659 of the Laws of 1997 established a legislative and regulatory framework for designing and implementing demonstrations of managed long-term care approaches. The demonstrations will study the cost-effectiveness, quality of services and ability to integrate long-term care services associated with managed long-term care plans. The legislation gave the Insurance Department responsibility for oversight of several aspects of the program.

The Health Bureau is responsible for evaluating, approving and regulating matters relating to enrollee contracts which set forth the rights and obligations of the managed long-term care entity and enrollees. Contracts must comply with federal and state statutes and regulations. The Health Bureau is also responsible for evaluating, approving and regulating matters relating to premium rates charged to enrollees under the program. Rates are reviewed for reasonableness, sufficiency and compliance with laws and regulations. The Bureau also consults with the Commissioner of Health in establishing payment rates for services provided to enrollees eligible under Title XIX of the federal Social Security Act. In addition, the Insurance Department's Health Bureau is responsible, in consultation with the Commissioner of Health, for oversight of the fiscal solvency of managed long-term care entities.

At the end of 1998 no managed long-term care demonstration programs had been approved. The Health Bureau continues to work closely with the Health Department to implement the legislation and to make managed long-term care plans operational.

### D. CONSUMER SERVICES BUREAU

The Consumer Services Bureau is responsible for responding to consumer complaints and inquiries and investigating the actions of licensed producers. The Bureau closed a total of 50,480 cases in 1998. Of these, 37,562 involved loss settlements or policy provisions, of which 31% were automobile complaints, 52% were accident and health complaints, 11% were property and liability complaints and 6% were life and annuity complaints. Another 8,467 cases involved complaints against agents, brokers and adjusters. Written inquiries and miscellaneous complaints accounted for 2,874 and referrals accounted for an additional 1,674 cases. In total, the Bureau received 57,794 cases during 1998.



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 agency services representative. The Bureau also maintains a toll-free line that offers a multi-lingual telephone service. This interpretive service, provided by AT&T Language Line Services, can translate 140 languages.

In addition, the Bureau, through a dedicated toll-free line, responded to approximately 6,400 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 Legislature in 1989. Private insurers began offering Partnership contracts in March of 1993. The Partnership 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.

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

The Consumer Services Bureau responded to the various natural disasters that occurred during 1998. The North Country Ice Storm in January generated the most consumer inquiries, prompting the Bureau to delegate a record amount of resources. The Consumer Services Bureau received approximately 400 consumer complaints from these victims and was in constant contact with the major insurers writing business in the North Country. The Bureau also responded and provided assistance to consumers for other disasters occurring during 1998, including the Memorial Day tornadoes and the Labor Day windstorms. In addition, Bureau representatives actively participated in the State Emergency Management Office's (SEMO) Long Island and Albany disaster preparedness conferences. Consumer toll-free hotlines were staffed daily and on weekends and Bureau examiners assisted SEMO staff. Bureau examiners also staffed the Disaster Recovery Centers that were opened in six North Country counties for a total of 74 working days.

The Superintendent issued Circular Letter No. 3 (1998) cautioning insurers with regard to cancellations and non-renewals of policies in the affected areas. The Department submitted various recommendations to the Governor's office for future disaster preparedness and mitigation of losses.

## **2. Prompt Payment Statute**

Section 3224-a of the New York Insurance Law, known as the "Prompt Payment Bill," became effective January 22, 1998. Under the statute, insurers and HMOs are required to pay undisputed health insurance claims within 45 days of receipt. To ensure the prompt payment of claims to doctors, hospitals and insureds, and to ensure compliance with all other provisions of this statute by health insurers and HMOs, the Consumer Services Bureau committed significant resources to the handling of complaints regarding the delay in payment of health insurance complaints. As a result of this effort, the Bureau investigated and closed more than 13,400 complaints regarding a delay in payment of health insurance claims in 1998. In addition, 12 companies were fined a total of \$72,200 in 1998 for violating the statute. These companies have now agreed to take the prescribed steps to prevent future violations. The Consumer Services Bureau will continue to enforce the prompt payment statute by investigating complaints and levying penalties where appropriate.

### **3. Other Bureau Activities**

#### **Health**

The Bureau is continually called upon by both our licensees and the general public to verify that health plans are licensed and operating according to State rules and regulations. 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, and it has developed a productive working relationship with the U.S. Department of Labor to aid in the regulation of these alternative plans. 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.

These cooperative efforts have not been limited to the health area and there are cases in progress that involve all lines of insurance. The Bureau conducts investigations involving life and property/casualty agents which, in cooperation with the Insurance Frauds Bureau, have resulted in arrests or indictments.

#### **Prudential**

The Bureau continues to respond to inquiries concerning the Alternate Dispute Resolution (ADR) Process of the Prudential Class Action Settlement and cooperates with this Department's Life Bureau in its regulatory oversight of the ADR process. The ADR process resolves consumer complaints concerning agent sales practices for whole life policies sold by Prudential between 1982 and 1995.

#### **Imaging**

The Bureau has accomplished its goal of fully automating imaging and automating processes for complaints, investigations, inquiries and correspondence. 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 while reducing paper and storage space. In addition, rewriting the Department's current mainframe application in the client/server environment will allow the Department to take full advantage of new technologies, efficiencies and imaging software. The project has been named CIIMS or the Consumers' Information and Imaging Management System.

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

Bureau examiners staffed the Department's information booth at the State Fair held in Syracuse from August 27 through September 7, 1998. The examiners answered consumer questions, took complaints and distributed various Department consumer guides and booklets. Although Labor Day windstorms affected the Bureau's staffing of the Department's information booth due to the fairgrounds being damaged by the windstorms, approximately 12,000 publications were distributed to the public.

The Bureau also participated in and staffed information booths at the Black and Puerto Rican Legislators Annual Conference, the African American Cultural Festival, the Puerto Rican/Hispanic Legislators Annual Conference and the Governor's Conference on Assistive Technology, which was sponsored by the Advocate's Office for Persons with Disabilities.

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

### **Miscellaneous**

The Bureau provided speakers as part of its program of assistance to senior citizens and groups for whom Medicare supplement (Medigap) and long-term care insurance were the issues of primary concern. Bureau staff participated in educational and training seminars on these issues for social workers and senior citizen representatives. Bureau staff also participated in many presentations to consumer groups on managed care, homeowners, property and casualty insurance and the consumer assisting operations of the Department.

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 Department's Long Island office, located at 200 Old Country Road, Mineola, continues to service policyholders. The 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 towards resolving their problems. The Department's Buffalo office is located at the Walter Mahoney Office Building, 65 Court Street, Buffalo, NY.

**Table 51  
CONSUMER SERVICES BUREAU CASES  
INVOLVING LOSS SETTLEMENTS OR POLICY PROVISIONS  
CLOSED IN 1998**

Line of Business	Total Processed	Upheld	Adjusted in Consumers Favor	Not Upheld	Other Action Taken <sup>a</sup>
TOTAL	37,562	9,193	3,731	16,029	8,609
Life and Annuities, Total	2,074	406	437	826	405
Individual Life	1,762	355	376	666	365
Individual Annuity	163	32	42	73	16
Group Life & Annuity	148	19	19	86	24
Viatical Settlements	1	0	0	1	0
Accident & Health, Total	19,643	6,388	1,197	8,644	3,414
Individual Accident & Health	483	81	64	224	114
Group Accident & Health	3,262	486	265	1,214	1,297
Article 43 Corps & HMOs	15,620	5,760	836	7,099	1,925
Medicare	50	11	7	10	22
Medigap	132	25	16	64	27
Long Term Care	35	9	3	16	7
Health Alliance	1	1	0	0	0
Medicaid	29	3	2	8	16
Municipal Co-Ops	29	12	3	9	5
Credit Disability/Disability Income	2	0	1	0	1
Auto, Total	11,578	1,568	1,513	4,720	3,777
Auto, Liability (B.I.)	1,189	191	112	755	131
Auto, Liability (P.D.)	3,228	345	452	1,140	1,291
Auto, Physical Damage	2,829	280	345	1,441	763
No Fault	4,332	752	604	1,384	1,592
Other Property & Liability, Total	4,170	814	567	1,796	993
Liability Other Than Auto	332	51	28	128	125
Professional Malpractice	20	1	2	10	7
Fire & Extended Coverage	80	12	11	38	19
Homeowners	1,805	232	191	937	445
Inland Marine/Ocean Marine	62	5	5	24	28
Workers' Compensation	1,348	461	253	447	187
Commercial Multiple Peril	391	35	57	162	137
Burglary & Theft	1	0	0	1	0
Fidelity & Surety	74	9	11	25	29
Flood	8	1	0	6	1
Title	43	5	6	18	14
GAP	0	0	0	0	0
Service Contracts	6	2	3	0	1
Miscellaneous	97	17	17	43	20

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

**Table 52**  
**CONSUMER SERVICES BUREAU CASES NOT INVOLVING**  
**LOSS SETTLEMENTS OR POLICY PROVISIONS**  
**1998**

Subject of Cases or Investigations	Total Processed	Fines Revocations & Other Actions <sup>a</sup>	Upheld	Not Upheld
Total	8,467	7,293	203	971
Misleading Advertising	60	35	11	14
Application for License	1,410	1,393	9	8
Acting without License	21	13	1	7
Aiding Unauthorized Company	19	13	1	5
Misappropriation of Premium	154	137	2	15
Issuing Bad Checks	568	505	13	50
Commingling	1	1	0	0
Rebating	6	3	0	3
Misrepresentation of Coverage	340	182	39	119
Excess Comp without Contract	40	18	1	21
Twisting	157	53	43	61
Public Adjust, Prohib Practice	4	4	0	0
Violation of NYAIP/NYPIUA Rules	375	310	9	56
Commission Disputes	24	10	6	8
Return Premium-Producer	111	50	6	55
Other Violations of Insurance Law	547	259	35	253
Violations of Other Law	27	23	1	3
Fraudulent NYAIP Application	435	244	1	190
Incorporators and/or Directors	3,597	3,595	2	0
Discrimination/Redlining	0	0	0	0
Illegal Insurance Enterprise	1	1	0	0
Ending of Agency/Broker Acct.	98	64	13	21
Miscellaneous Complaints	94	44	0	50
Delay in Issuing Policy	7	5	0	2
Policy Status	1	1	0	0
License Status-Company	0	0	0	0
Voluntary Surrender of License	144	136	1	7
Misleading Sales, Life	9	8	0	1
Other	217	186	9	22

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

## **E. INSURANCE FRAUDS BUREAU**

### **1. General Overview**

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 that commit insurance fraud and related crimes. IFB staff consists of 29 investigators, organized in eight units: Arson, Automobile, Fraudulent Cards, General, Medical, Organized Fraud, Upstate, and Workers' Compensation, each of which is headed by a Supervising Investigator. Investigative oversight is performed by the Chief Investigator with the assistance of one Principal Investigator. The investigative staff are designated by the Superintendent as "peace officers" as defined in Section 2.10 of the New York State Criminal Procedure Law.

The IFB also has a staff of three insurance examiners who work under the supervision of a Principal Examiner. There are six support staff who report to the Secretary to the Director. The IFB has its headquarters in New York City, and has offices in Albany, Buffalo, Mineola, Oneonta, Rochester and Syracuse.

### **2. Administration**

The past year was marked by a number of changes in Bureau personnel, including the hiring of a new Director and Deputy Director. Charles DeRienzo joined the Bureau as Director on June 30 after years of investigative and administrative experience with the New York Police Department (NYPD). Deputy Director George Johansen came to the Bureau on September 3 from the office of the Special Commission of Investigation for New York City School System, where he spent eight years as an Investigation Supervisor and Director of Training. Mr. Johansen also has a strong investigative and administrative background with the New York State Police. In addition, a new Deputy Superintendent, Louis Pietroluongo, was appointed on June 29 to oversee the activities of the Bureau and coordinate various administrative programs and management initiatives. Deputy Pietroluongo's strong administrative and program development skills will be a great asset to the Bureau.

The new team will work together to strengthen the IFB in all areas of its operations. They will review the investigative process itself as well as all administrative processes to ensure that the Bureau is working efficiently and that they are maximizing all available resources. Staff training will be a top priority in order to enhance the skills necessary to meet the challenges of the future.

### **3. 1998 Highlights**

The year's accomplishments include:

- A record 371 arrests for insurance fraud. This is a 34% increase over 1997 and a 223% increase since 1994.
- Undercover sting operations were an unqualified success leading to the arrests of 100 people for selling and possessing fraudulent auto insurance identification cards. These targeted efforts are aimed at getting uninsured vehicles off the roads.
- The number of suspected insurance fraud cases the Department received in 1998 dropped to 21,070 from a peak of 23,113 in 1997.

- A pilot electronic fraud reporting system was launched allowing insurance companies to file fraud reports on-line. This allows for ease in tracking cases and reviewing prior fraud case submissions. The Department plans to expand this program in 1999.

#### **4. Regulation 95**

During 1998 a new regulation strengthened the partnership between the Department and insurance companies to make fraud-fighting efforts more efficient and effective. The Second Amendment to Regulation 95 requires all insurers in the State that write a minimum number of specified policies to file a fraud prevention plan with the Department and establish a Special Investigations Unit (SIU). The SIU is the insurance company's internal mechanism for investigating fraud so that fraud can be detected quickly and referred to the Insurance Department promptly for further action.

The first step in creating a cohesive Department/industry team to combat insurance fraud throughout New York State is to educate insurers about their role. To accomplish this, the Bureau has developed a schedule of regular meetings with representatives of insurers' SIUs which are designed to enhance the flow of information and ideas. In addition, the Bureau is holding a series of off-site fraud conferences for the insurance industry and prosecutors for the purpose of sharing information and fraud-fighting techniques.

Using the provisions contained in Regulation 95, the Bureau will examine each insurance company to monitor its progress in identifying and combating fraud. The Bureau will build databases of information, enabling us to assess how each company compares with others in terms of combating fraud.

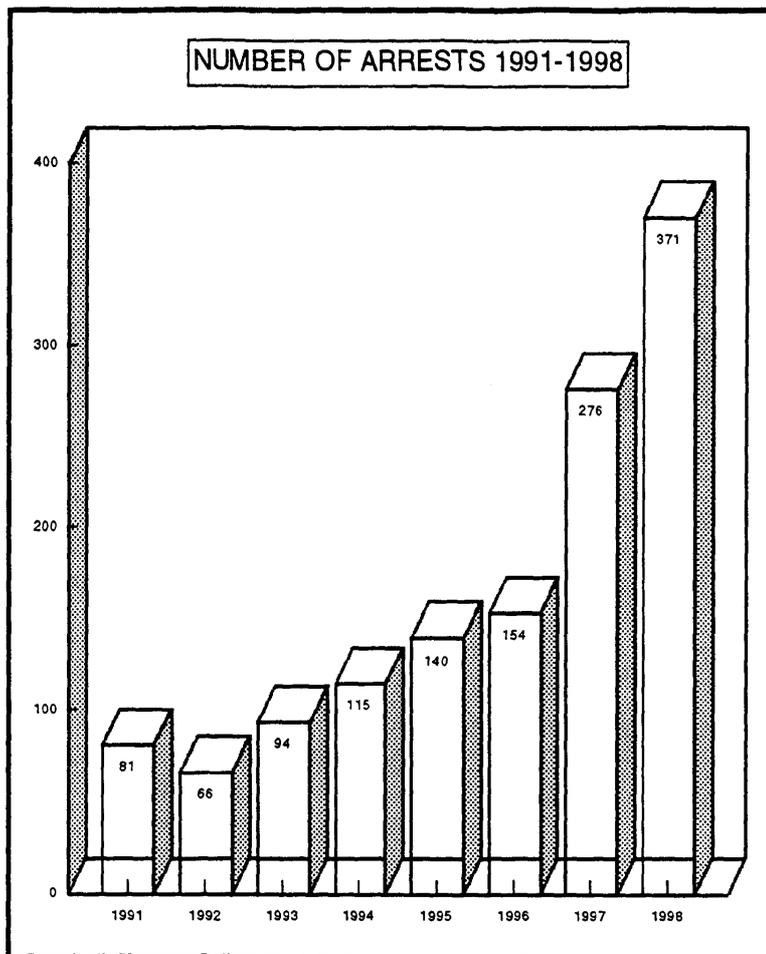
#### **5. Investigations**

In 1998 the IFB received a total of 21,170 reports of suspected insurance fraud. Of these, 21,090 reports were received from licensees required to submit such reports to the Department, and 80 reports were received from other sources such as consumers and anonymous tips. During the year, the Bureau opened 1,317 new investigations and continued its work on cases pending from prior years. These efforts led to 133 cases being referred to prosecutorial agencies for criminal prosecution and 53 being civilly settled or referred to the Department's Office of General Counsel (OGC) for civil proceedings.

#### **6. Arrests and Prosecutions**

The Bureau participated in investigations leading to the arrests of 371 individuals for insurance fraud and related crimes in 1998—the highest number in the 18-year history of the Bureau. This number reflects a 34% increase in arrests over the previous year and an overall 223% increase in arrests during the first four years of the current Administration. This significant increase in criminal prosecutions reflects the strong support the Bureau has received from Governor Pataki and the Legislature. This support has enabled IFB to add investigators, to establish new units focusing on particular kinds of fraud, and to strengthen relationships with the industry, with law enforcement and with prosecutors. During the course of the year, prosecutors obtained 101 criminal convictions and 99 individuals were sentenced in connection with IFB cases.

IFB activities resulted in hefty fines against 42 individuals who were sentenced to pay nearly \$4 million in court-ordered restitution. In 12 cases, individuals made voluntary restitution to insurance companies amounting to an additional \$221,641. In 47 instances, insurance companies were able to achieve savings totaling \$3.5 million with respect to fraudulent claims under investigation by IFB.



**7. Workers' Compensation Unit**

In 1996, Governor Pataki signed into law historic reforms in New York State's workers' compensation system aimed at reducing employer costs and improving workplace safety. The law also included significant anti-fraud provisions designed to root out fraud across all lines of insurance and increase penalties against offenders. Under the provisions of the legislation, the IFB established a Workers' Compensation Unit which began operation in mid-February 1997. Since then, the Unit has begun examining every report of suspected workers' compensation fraud received from the industry and the public. The Unit has been working closely with the Workers' Compensation Inspector General and his investigative staff to coordinate efforts.

In September, the culmination of a team effort of the IFB, the Workers' Compensation Inspector General, the insurance industry and various upstate prosecutors led to the arrest of 18 individuals who committed crimes involving workers' compensation insurance fraud. The State Insurance Fund and a number of insurers—CGU Group, Royal, Erie, Travelers, St. Paul and Great American—uncovered instances of possible insurance fraud, reported these instances and assisted the IFB and the Workers' Compensation Inspector General in furthering the investigation. The arrests included claimants, medical providers and employers and covered a full range of workers' compensation insurance fraud. Those arrested had already collected more than \$225,000, with another \$1.5 million in potential exposure.

## 8. Major Cases of 1998

The following are examples of major IFB cases investigated and prosecuted in 1998 that involve workers' compensation as well as various other types of insurance fraud:

### a. Automobile Insurance

- ◆ A Nassau County couple was arrested on charges of insurance fraud. During the period October 1992 through April 1997, the defendants conspired with others to defraud numerous insurance carriers by staging accidents. In connection with these alleged accidents, the defendants submitted fraudulent documentation to the insurers and received benefits totaling \$500,000. The case was investigated with cooperation from the U.S. Postal Investigative Services and is being prosecuted by the Office of the U.S. Attorney, Eastern District.
- ◆ A joint investigation by the IFB, the Manhattan District Attorney's Office, the U.S. Department of State and American International Group resulted in the arrest of a major Manhattan insurance broker for fleet auto insurance purchased by foreign countries. The broker was charged with stealing nearly \$400,000 in two different insurance scams. In the first scam, which ran from 1990 to 1998, the broker sold auto insurance to countries that stationed diplomatic personnel in the New York area. He inflated the premium charged to these countries and pocketed the amount in excess of the appropriate premium, more than \$300,000. The broker conducted the second scam, this time involving marine insurance and reinsurance, in the same way, illegally pocketing more than \$50,000. The charges against the broker—grand larceny in the second and third degrees—carry penalties of up to 15 years in prison; grand larceny in the fourth degree and scheme to defraud in the first degree are punishable by up to four years.
- ◆ A new IFB initiative with the Department of Motor Vehicles (DMV) Auto Theft Unit and the NYPD resulted in two arrests and the recovery of stolen vehicles valued at more than \$200,000. Members of the Frauds Bureau and DMV visited parking garages and parking lots seeking the recovery of stolen vehicles. When a stolen vehicle was discovered, the IFB began an investigation. So far, seven stolen vehicles have been recovered, one valued at more than \$70,000. The two suspects, one a New York City school custodian from New Windsor, NY, the other a truck driver from Pennsylvania, surrendered to members of the NYPD and were charged with insurance fraud based on the IFB investigation.
- ◆ A Nassau County broker, acting on behalf of two principals of a rental car company, secured policies on vehicles registered to shell corporations over a period of a few years. The cars allegedly were for private use by valued employees. The names listed as operators on the policies were those of people who had previously rented cars from the company and had allowed the company to copy their drivers' licenses. As a result of the false operators listed on the policies, the company was paying one-quarter of the premium it should have. When confronted with the results of the IFB investigation, the broker confessed to cheating the insurers out of \$2 million in earned premium. Charges are pending in the Nassau County District Attorney's Office.
- ◆ A Queens resident identified as the kingpin of a group perpetrating insurance fraud was arrested and minimally charged to prevent him from fleeing the country. His group staged approximately 20 vehicle accidents over a period of about one year. There were no bodily injuries and the damages averaged \$5,000 per accident for a total of \$100,000 claimed, about half of which was paid by the insurers. The Queens District Attorney subsequently ordered his re-arrest on more serious charges. Six or seven of his co-conspirators also face arrest.

- ◆ "Operation Targeting Auto Related Insurance Fraud" was a joint investigation involving the IFB, the NYPD Auto Crime Division, the New York State Attorney General's Office and other local prosecutors. The investigation targeted individuals who willingly disposed of their vehicles in order to collect insurance money on a false theft claim. A covert chop shop named Starlight Exports was set up to receive the "stolen" vehicles. A total of 72 cars were recovered and 54 arrests were made. Additional arrests are expected in New Jersey. The sting also led to two salvage yards in Queens that had ties to Russian organized crime. Another 21 arrests were made at those locations in addition to the recovery of over \$750,000 worth of auto parts.
- ◆ A joint investigation by the IFB and the NYPD Auto Crime Division named PICS Turkey Inc. ("Phony Insurance Card Scam") uncovered numerous Queens and Brooklyn residents who bought bogus insurance cards to register their vehicles. Each person was mailed a coupon indicating that they were winners of a free turkey as part of a promotion. While they awaited the arrival of their Thanksgiving turkey, they were instead arrested on charges of taking part in a phony insurance card scheme.
- ◆ An undercover operation with the IFB and the NYPD Street Crime Unit resulted in two arrests in New York City. This two-man scam began in 1990 and records obtained through a search warrant indicated they were operating a phony insurance card business estimated at \$1 million to \$2 million.
- ◆ A joint operation by the IFB and the NYPD Auto Crime Division resulted in ten arrests. Records obtained through a search warrant indicated that a Brooklyn location had been used since 1990 for a scam estimated at \$2 million involving the sale of fraudulent insurance cards.
- ◆ A total of 86 arrests were made in connection with a phony insurance card business following a joint investigation by the IFB and the NYPD. A search warrant at a Brooklyn location uncovered records indicating that phony insurance cards had been sold there since 1986. As a result of the investigation, an operation estimated at \$1.5 million was shut down.

#### **b. Workers' Compensation Insurance**

- ◆ A Massapequa man was arrested and charged with insurance fraud in the third degree and offering a false instrument for filing in the first degree. His wife was charged with insurance fraud in the fourth degree. It is alleged that the man, the principal owner of Cross Island Fence Incorporated, had his workers' compensation policy cancelled by the State Insurance Fund for nonpayment of premiums in the amount of \$34,600. However, 22 days after the cancellation, his wife, under her maiden name, applied to the State Insurance Fund for insurance coverage for a new company, American Chain Link and Construction.
- ◆ A Massapequa man was arrested for grand larceny in the fourth degree and perjury in the first degree. It is alleged he made a false injury claim while working for the A-1 Tree and Shrub Service. While receiving benefits, he lied to the Workers' Compensation Board, stating that he could not work. However, he was videotaped working for a carpet installer.

#### **c. Commercial Insurance**

- ◆ As a result of a joint investigation by the IFB, the Nassau County Arson Squad, U.S. Postal Inspectors and members of the Alcohol, Tobacco and Firearms Bureau, two Long Island brothers, one a former police officer, were arrested by the U.S. Attorney's Office. They were charged with and subsequently convicted of arson, mail fraud and conspiracy for the burning down of a nightclub they owned in an unsuccessful attempt to collect \$1 million in insurance benefits.

- The owner of B & M Auto in Newfane, NY reported that his business had been burglarized. He submitted a claim to Travelers Insurance for about \$40,000 worth of allegedly stolen tools and computer equipment. He subsequently received an insurance settlement check for approximately \$22,000. However, the IFB discovered information indicating that no burglary had occurred and the suspect had actually moved the tools and equipment out of his shop pending the insurance company investigation. Search warrants revealed that after receiving the insurance money, he returned the tools to his shop. Furthermore, the computer equipment had never been in his shop, but at his home. The suspect has been indicted on felony charges of insurance fraud and grand larceny.

#### **d. Health Insurance**

- ◆ An employee of Empire Blue Cross and Blue Shield was arrested for submitting fraudulent medical claims to her employer. The defendant used the names and particulars of legitimate medical plan members to submit 24 claims and subsequently received benefits in the amount of \$24,000. The defendant took advantage of her position with the insurance carrier to obtain the names of subscribers, which she used to defraud the carrier. The defendant entered a guilty plea and is awaiting sentencing.

#### **e. Disability Insurance**

- ◆ A Suffolk County man was arrested for submitting a fraudulent federal tax return in support of his lost wage claim. This information was discovered during divorce proceedings and was subsequently provided to the IFB. The investigation, conducted in cooperation with the U.S. Postal Service, disclosed that the defendant had submitted a disability and lost wage claim to his insurer after being involved in an auto accident. The defendant received \$64,731 over a three-year period. He pled guilty to federal charges and was ordered to reimburse the carrier for \$29,845 in claim benefits to which he was not entitled.

#### **f. Surety**

- ◆ A Long Island general contractor, his construction company and his phony surety bond company were charged with various grand larcenies, insurance fraud and scheme to defraud for engaging in a construction and surety bond fraud that caused the loss of over \$629,000 on various government construction projects in Nassau County. It is alleged that the contractor defaulted on the projects, stole money from the projects which was supposed to be paid to subcontractors, and submitted fraudulent surety bonds. The surety bonds that were written for the projects were worthless. Two other subjects were subsequently arrested for offering a false instrument for filing in connection with this scheme.

#### **g. Life Insurance**

- ◆ An insurance agent from Irondequoit, NY pled guilty to grand larceny in the third degree for stealing \$33,000 from his clients' policies between August 1996 and March 1997. He admitted that he authorized loans against policies without the owners' knowledge and kept the proceeds. Prudential Life Insurance Company reinstated all of the policies at their full value and the insurance agent was ordered to make full restitution. This case was brought to the attention of the IFB by the Monroe County Sheriff's Department after being notified by a bank teller who became suspicious after the agent made a deposit into his account.

#### **h. Homeowners Insurance**

- ◆ After moving from California to upstate New York with all his belongings, a Darien, NY resident filed a claim with Prudential indicating that all the items then in this home in Darien had been stolen in California. After receiving a tip, FBI agents and IFB investigators got a search warrant and seized the "stolen" property. The suspect is now under federal indictment for charges of mail fraud and interstate transportation of stolen property.

#### **i. Miscellaneous Insurance**

- ◆ A Far Rockaway woman was arrested for grand larceny in the fourth degree and two counts of scheme to defraud in the first degree. The suspect is alleged to have taken insurance deposits from customers and failed to remit them to the appropriate insurance companies.
- ◆ A mailroom clerk at Empire/Allcity Insurance Company and another individual were charged with bank fraud and obstruction of correspondence by the U.S. Postal Inspectors. The mailroom clerk stole incoming checks from Empire Insurance Company and was paid \$200 per check by the other individual. The checks were distributed to various outside individuals who then deposited the checks in various bank accounts. As a result of this scheme, approximately \$29,000 was stolen from the insurer. Additional arrests are expected.
- ◆ Two licensed insurance brokers collected \$90,000 in insurance premiums from insureds which they failed to remit to the appropriate insurance companies. These failures left numerous clients unaware that they did not have insurance coverage. The brokers were charged with grand larceny and their licenses have been revoked by the Insurance Department.

### **9. Cooperative Enforcement Efforts**

a. The Western New York Insurance Task Force, comprised of federal, state and local law enforcement agencies, has been focusing on the insurance-related criminal conduct of a segment of a middle-eastern ethnic group that resides in Western New York State and Eastern Michigan. Members of this group have been submitting fraudulent no-fault auto accident, personal disability and hospital indemnity claims. The members have been identified and a medical provider and a participant have been arrested. The investigation is large scale and ongoing.

b. The Western District of New York Health Care Task Force is also comprised of federal, state and local law enforcement agencies. This Task Force has pooled its resources and has focused on physicians and certain durable medical-goods providers who treat Medicare, Medicaid and private insurance patients. Several medical providers have been investigated and arrests are expected in 1999.

c. The Central New York State Health Care Task Force, established in 1995 to investigate health care provider fraud, is comprised of federal, state and local law enforcement agencies. The Frauds Bureau participates in bi-monthly meetings with an eye toward identifying private insurance medical provider fraud, through the evaluation of trends and insurance fraud activity at both the federal and state level.

d. The Utica Arson Task Force, comprised of representatives of the City of Utica as well as state and federal arson investigators, was established in 1997 to combat the arson problem in Utica. The Task Force has proven very successful with the arrests of more than 12 subjects in the past year. Because of the Task Force's success, its geographical area has been expanded to include the entire County of Oneida.

e. The IFB and the Workers' Compensation Inspector General have formed a team to work with various insurance carriers and self-insureds to identify individuals who defraud the workers' compensation system at all levels. The targets of the investigations include claimants, insureds and medical providers. As a result of this team effort, 18 subjects were arrested in a September 1998 upstate workers' compensation frauds sweep. It is expected that 1999 will bring a continuation of these joint accomplishments.

f. As part of the ongoing cooperation between the Insurance Department and the New York State Office of Fire Prevention and Control (OFPC), the First Deputy Superintendent and members of the Frauds Bureau have worked together on arson-related subjects, including training and education in the detection and prevention of arson fraud, as well as sharing information through updated computer indices. This cooperation will continue throughout 1999.

g. The Frauds Bureau is a founding member of the Arson Task Force which includes the OFPC and the U.S. Treasury Department's Alcohol, Tobacco and Firearms Bureau. As a result of cooperation among the members, several arrests have been made involving arsons to large commercial buildings. The expertise of the members of this Task Force is available to all federal, state and local police and fire department arson agencies upon request. Such requests should be made through the OFPC and must meet certain criteria.

## **10. Civil Enforcement Program**

In 1992, the Legislature enacted Section 403 of the Insurance Law which authorizes the Insurance Department to impose civil penalties of up to \$5,000 plus the amount of the claim on individuals who commit fraudulent insurance acts. Section 2133 of the Insurance Law permits a fine of up to \$1,000 for possession of a fraudulent automobile insurance identification card and up to \$5,000 for each additional card possessed. These civil penalties give the IFB the authority to impose sanctions in cases where the monetary value is not sufficient to justify criminal prosecution, or in which the extremely high burden of proof required in a criminal case cannot be met.

In 1994, the first full year of the civil enforcement program, a total of \$184,414 in civil fines was imposed in a total of 197 cases, and \$35,039 in penalties was collected. In 1995, a total of \$1.1 million in civil penalties was imposed in connection with a total of 691 cases, and \$271,563 in penalties was collected. In 1996, a total of \$993,399 in civil penalties was imposed in connection with a total of 473 cases, and \$265,009 in penalties was collected. In 1997, a total of \$564,579 in civil penalties was imposed in a total of 217 cases, and \$109,607 in penalties was collected. In 1998, a total of \$313,398 in civil penalties was imposed in a total of 118 cases, and \$93,904 in penalties was collected. A goal of the IFB in 1999 is not only to levy fines but to place greater emphasis on collecting fines as well.

IFB's emphasis continues to be on criminal prosecutions. In 1998, the Bureau saw a significant increase in the number of cases that state and federal prosecutors were willing to accept. This is reflected in the significant increase in arrests reported for 1998. However, this emphasis has impacted on the civil enforcement program. Despite recent legislation that permits the enforcement of civil penalties imposed by the Superintendent in the same manner as a civil judgment, resources have not been available to enforce the many hundreds of small penalties that have been imposed. The cost effectiveness of devoting significant resources to such small-scale collections is questionable. The IFB will continue to explore alternative collection methods. Furthermore, the IFB believes the civil enforcement program would benefit from additional staff in the Department's Office of General Counsel to properly adjudicate a larger volume of civil penalty hearings.

**Table 53  
CIVIL ENFORCEMENT PROGRAM ACTIVITY  
1994-1998**

	1994	1995	1996	1997	1998
Fines Proposed	\$7,206,616.05	\$1,841,349.26	\$839,559.78	\$728,275.00	\$365,070.74
Reduction After Proposal	<u>( 184,717.87)</u>	<u>( 17,692.00)</u>	0	0	0
Gross Fines Proposed	\$7,075,898.18	\$1,823,657.26	\$839,559.78	\$728,275.00	\$365,070.74
Pending Criminal	<u>( 5,238,700.00)</u>	<u>( 1,000,700.00)</u>	0	0	0
Net Fines Proposed	\$1,837,198.18	\$ 822,957.26	\$839,559.78	\$728,275.00	\$365,070.74
Settlements With IFB	\$ 35,039.00	\$ 271,563.40	\$265,009.41	\$109,607.07	\$ 93,9 04.12
Hearing Determinations	<u>149,375.00</u>	<u>820,633.00</u>	<u>728,390.23</u>	<u>454,972.50</u>	<u>219,4 94.11</u>
Total Fines Imposed	<u>\$ 184,414.00</u>	<u>\$1,092,196.40</u>	<u>\$993,399.64</u>	<u>\$564,579.57</u>	<u>\$313,398.23</u>
Proposals Sent by IFB	197	691	553	157	118
Settlements With IFB	29	273	375	109	44
Cases Forwarded –					
OGC	66	206	186	181	53
Hearings Held	6	27	98	176	67
Determinations	6	20	96	108	65
Cases Referred to AG for Collection	0	14	49	69	28

## 11. Fraud Reports by Fax

The Department issued Circular Letter No. 13 on May 14, 1998 to announce the installation of a dedicated fax machine in the Frauds Bureau. Insurers can now fax their required reports of suspect activity. Bureau personnel monitor the machine's output throughout the business day, eliminating mailing and handling time. The fax number is (212) 480-7148 and is available 24 hours a day.

## **Electronic Fraud Reporting**

The IFB launched a pilot electronic fraud reporting system in May with the cooperation of GEICO and Progressive Insurance Companies. Their combined feedback led to several system modifications. Electronic reporting allows a company to access the Bureau's computer system through the IBM Advantis Network. Once on-line, an electronic version of the required reporting form may be completed and transmitted. A log number is instantly provided for every report. Participating insurers are also able to review all their prior submissions. The Bureau anticipates expanding this pilot program in 1999.

There is also a proposal pending that would upgrade the system to alert reporting insurers of prior reports on the same suspect(s). This feature is in current use for Bureau supervisors and could be expanded to participating carriers. The initial response from the industry has been enthusiastic.

### **13. 1998 Director's Award**

The Director's Award was created by the Insurance Department to honor prosecutors, law enforcement officials, and insurance industry representatives who have rendered outstanding service to the Department's Frauds Bureau in its mission to fight insurance fraud. This year the award was presented to Vincent P. Coyne, New York Special Investigations Unit (SIU) Manager for Progressive Insurance Company. Mr. Coyne distinguished himself by organizing a regional SIU group which meets quarterly to confront common issues. He has also been instrumental in providing assistance, equipment and support for the Bureau's undercover operations. Through his efforts, Progressive was one of the first carriers to utilize the new electronic fraud reporting system. His involvement has led to program changes that improved the system for all current and future users. Past recipients of the Director's Award have included Monroe County Prosecutor Charles Calexar and Empire Blue Cross and Blue Shield's Vice President of Fraud Investigation and Detection Louis Parisi.

### **14. Directions for 1999**

The Bureau's 1999 goals include the following:

- Conduct more undercover sting operations;
- Work closely with local law enforcement departments and their undercover operations to attack fraud on a proactive basis;
- Maximize the resources of the entire Insurance Department most immediately to identify areas of fraud on which Bureau investigative teams can concentrate;
- Use the Insurance Department website to solicit information and intelligence from the general public as well as the insurance industry so that stronger cases can be developed for prosecution; and
- Continue to work with the Office of General Counsel to strengthen and expand the ability to levy and collect civil fines.

The Bureau is planning the direction it will take in order to accomplish these goals and continue to improve its effectiveness and efficiency. The major projects the Bureau will be involved in during 1999 include:

**a. Fraud Plan Implementation**

A major challenge for 1999 is the implementation the provisions of Section 409 of the Insurance Law requiring insurers to submit fraud prevention plans to the Department and to establish Special Investigations Units. As of the end of 1998, the Bureau had received plans from more than 300 companies, with many more expected over the coming weeks and months. These plans must be evaluated to determine their compliance with the law. We expect to work closely with the various companies in developing their SIUs and in helping them to become an integral part of the fraud team.

There are a number of critical areas that each company will be responsible for in the continuing effort to reduce fraud. Training employees to detect and report fraud is the cornerstone of a strong anti-fraud program and the IFB will very closely review how insurers handle this issue. Getting the message out to the general public as well as their own policyholders and claimants is another important part of each insurer's plan. The Bureau will monitor the way in which each company is communicating the fraud-prevention message to ensure its effectiveness.

The quality and conduct of each SIU—whether the SIU is established by the insurer or contracted to an outside provider of such services as permitted under specific conditions by Regulation 95—is critical. It is the strength of the investigative arm of each company that will determine the company's ability to prevent fraud. The top-level support that each SIU receives from its own firm will in many cases determine its ability to function. The Bureau will closely review the ways in which each company is providing support to its fraud unit and prioritizing that unit's efforts.

In addition to reviewing each company's plan, the Bureau has developed an end-of-year report to be submitted by insurers which is aimed at assessing the progress of each company's SIU. The Bureau will compare company operations to ensure they are devoting sufficient resources to their SIUs and that SIUs are operating effectively. Bureau staff will visit each company to audit their activities and verify the information being reported in the fraud prevention plans submitted to the Department.

The Bureau has made a priority of ensuring that all the companies are fully committed to the new law in the belief that if each company seriously pursues fraud, the industry as a whole will be united in its effort to eliminate this growing problem.

**b. Continuing Education**

In December 1998, the IFB held the first in a series of fraud conferences for Department personnel as well as those in the industry. It was very well received and IFB plans to expand our schedule in 1999. The Bureau will bring together insurance companies and prosecutors to meet with IFB staff. The meetings will include presentations on current fraud schemes, scams and other issues of mutual concern.

In addition, the Bureau has joined with a number of insurance companies to conduct quarterly meetings to discuss mutual areas of concern. Members of the IFB attend these meetings to share information and discuss the activities of the Bureau. An open exchange of ideas is beginning to take place. Committees are being formed to work toward solutions to issues that need to be addressed if there is to be an effective fraud investigation team. These meetings are held on a rotating basis at various insurance company offices. The meetings will continue in the future and will include more insurers.

**c. Re-evaluation of Bureau Operations**

The Insurance Frauds Bureau will take a close and critical look at its own operations, especially the process for handling incoming IFB fraud reports. By streamlining the process, we hope to centralize the quality assurance aspect of the reports, thereby eliminating as early in the process as

possible those reports that lack substance. Bureau staff will review case management procedures to ascertain how we can improve the investigative process. Training and adherence to revised procedures will increase staff effectiveness. The goal is to conduct timely investigations that produce strong cases for presentation to a prosecutor for criminal or civil action.

The Bureau plans to expand its sting operations to include new areas of insurance fraud. In addition to initiating undercover operations, IFB will continue to cooperate with local law enforcement agencies on joint endeavors.

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

- Creating a class E felony for unlicensed activity by certain previously licensed individuals and entities that are no longer licensed at the time of the violation.
- Subjecting unlicensed activity to civil penalties after notice and hearing before the Insurance Department.
- Modifying the reporting date for the Annual Frauds Bureau Report (required by Section 405 of the Insurance Law) from January 15 to March 15 of each year.
- Providing for automatic revocation of licenses under Article 21 of the Insurance Law for conviction of the licensee for felony larceny or felony insurance fraud.
- Requiring that life insurance policy applications include a permanent record of identification of the insured.
- Extending immunity to persons who provide assistance to the Insurance Frauds Bureau in connection with its investigations or in connection with investigations conducted jointly by the Bureau and other law enforcement agencies.
- Facilitating the collection of fraud data by providing that the Insurance Frauds Bureau shall act as the collection resource for such data.
- Increasing civil penalties for knowing possession, transfer or use of fraudulent insurance documents.
- Defining a new series of crimes relating to insurance fraud that involve false entries upon the books of account of insurers or in reports or documents submitted to regulatory officials or embezzlement from insurers, and also of new crimes involving threats or force or the use of threatening letters or communications to corruptly influence, obstruct or impede the proper administration of the Insurance Law.
- Prohibiting the participation of individuals in the insurance business who have been convicted of felonies involving dishonesty, breach of trust or other violations of Article 176 of the Penal Law unless such persons first obtain the written consent of the Superintendent of Insurance for such activities.
- Including the Superintendent of Insurance as a member ex-officio of the Motor Vehicle Theft and Insurance Fraud Prevention Board and permit state agencies to be eligible for grants from the fund administered by such board.

- Amending Section 2111 of the Insurance Law to prohibit a revoked licensee from becoming employed in any capacity by an entity subject to the provisions of Article 21 without the prior written approval of the Superintendent.
- Requiring a periodic certification of continued eligibility by recipients of workers' compensation or disability benefits.
- Increasing penalties in the Vehicle and Traffic Law to reduce the number of uninsured or unlicensed motorists driving in New York State.
- Requiring no-fault and workers' compensation insurers to provide explanations of benefits in response to claims filed for health care services under those programs.
- Upgrading status of Insurance Frauds Bureau investigators from peace officers to police officers, enabling them to act independently in the execution of such tasks as search and arrest warrants, court orders relating to surveillance and summary arrests.

Section 405(d) of the New York Insurance Law requires the Superintendent to submit to the Governor and the Legislature on January 15 each year a comprehensive summary and assessment of the operations of the Frauds Bureau. The 1998 *Insurance Frauds Bureau Annual Report* is available on the Department's website at [www.ins.state.ny.us](http://www.ins.state.ny.us). Hard copies may be obtained through the Department's Publications Unit at 1-800-342-3736.

## F. INFORMATION SYSTEMS & TECHNOLOGY BUREAU

The Information Systems & Technology Bureau (Systems) supports the Insurance Department's technical infrastructure, and provides information technology services to the 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 a variety of support services, such as troubleshooting, training, consulting, maintenance and research and development. Help and Information Centers have been created in the Albany and New York City offices to support Department-wide 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 (OCR) and electronic data interchange (EDI).

The Bureau has two offices, one located in New York City and the other in Albany. The Bureau has developed a flexible organizational structure based on functional, not geographical location. Using this approach, the Bureau has eliminated duplicative efforts and redundant management structures, as well as recognizing the Department's common, not geographically isolated, needs.

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

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

The Applications Services Unit (ASU) develops, enhances, maintains, purchases, supports and customizes all the applications that do not fall 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 implemented to incorporate changes in the New York State Insurance Law, rules and regulations and to respond to industry crises. Other projects and changes are initiated as a result of updated business procedures or the need to eliminate inefficient and/or duplicate procedures.

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

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

The Project Office uses a team approach to accomplish large, complex projects as well as those of a special or unique nature. Examples include website and Intranet development, field examination IT support, Y2K readiness, work on joint agency initiatives (Office for Technology Joint HRM, DMV Insurance Enforcement, etc.), IT Strategic Planning, and Consumer Imaging and Information Management System (CIIMS) and Licensing Information Online Network (LION).

Systems operates an IBM ES9000/260 and several powerful servers which comprise our Local Area Network (LAN) environment. Components of the LAN include file and print servers, Lotus Notes e-mail servers, Sybase servers, and imaging and document management servers. Other application servers include a fax gateway and a batch-processing server. Two Novell NetWare Token Ring (16 megabit) networks are now maintained. TSU also supports a wide-area network (WAN), connecting Albany, New York City, Buffalo, and Mineola to the LANs. In 1999 the Department will be migrating to 100 megabit ethernet connectivity with fiber optic backbone.

One of the most significant achievements of the past year was the growth and use of the Department's website. Feedback from consumers, members of industry, lawyers and legislators has been extremely positive - they have come to depend upon the information that our site provides and they frequently use it as a resource to conduct their business. As the online face of the Department, our website has created a powerful image and marketing tool for the Department.

Highlights of the progress on the Department's website include the development of a new Home Page, consumer-oriented Auto and Health Insurance Resource Centers that feature the latest available rates and complaint rankings. Other significant additions include a section for Holocaust victims, producer and insurer licensing instructions; a regulation section (that required issuing related Departmental procedures) and a Year 2000 (Y2K) section. All new circular letters, Department/Industry meeting notices, studies, reports, disciplinary actions, employment opportunities and press releases are placed on the Web site in a timely fashion.

The Consumers Imaging and Information Management System (CIIMS) was successfully moved into production on November 10, 1998. Working with the Consumer Services Bureau, Systems has improved the original design of the system, resulting in a more efficient and productive system. The Consumer Services Bureau is entering most of its new cases into this application, and even though production continues to work well, enhancements are still being made. A major enhancement is to upgrade to a 32-bit version and to add newly required functionality - Officers & Directors and Par Provider.

The bureau continues its efforts on the Licensing Information Online Network (LION). Significant progress has been made on the Intelligent Voice Response (IVR) component, OCR scanning, report generation, data migration, and interfacing to other applications and outside vendors. A phased-in approach is planned with full implementation later in 1999.

Other accomplishments in the applications area during 1998 included the implementation of WorkPlace Manager. This commercial application allows Systems to track requests for services in a client/server environment and eliminated the need to re-engineer an existing application. A template was developed for performance evaluations and we acquired the PR-75 Form Filler Tool that expedites the process of providing Civil Service and Budget with personnel information. ASU also developed procedures to load the ELANY Affidavit submissions into the Property and Casualty Regulation 41 System. This enhancement eliminates a large part of the data entry work performed by the Property Bureau. A Taxes and Accounts Travel Verification Database was created to accommodate recent changes to the Department's travel verification procedure and streamlined a mandated process.

With the full support of the Superintendent, the Insurance Department technology platform continues to keep pace with the industry. We implemented a leasing agreement in order to provide the necessary flexibility and to facilitate future upgrades at a reasonable cost via a technology upgrade option. The Department fully understands that Information Technology is critical and intends to stay in touch with the business needs of our clients.

Using our newly established lease agreement, we upgraded our PC hardware fleet by replacing in excess of 400 desktop 486 processors and 14" monitors with Pentium 200MHZ processors and 17" monitors. In conjunction with the hardware upgrade, we migrated all desktops from Windows 3.1 to Windows NT running Microsoft Office 97, Dr. Solomon Anti-virus, Lotus Notes 4.6, Lotus Organizer 97GS and Internet Explorer 3.0.

We also upgraded our laptop fleet by replacing every laptop (215) and acquiring 111 additional laptops at the minimum platform of Pentium 166 with 48 MB RAM, 2.5 GB hard drive, 3.5" floppy and CD-ROM drives. For the first time, every field examiner has a laptop. Like the office desktops, the laptops run Windows NT and utilize the same suite of software tools as the office staff. We established remote connectivity so our field examiners can regularly communicate via e-mail with Department staff.

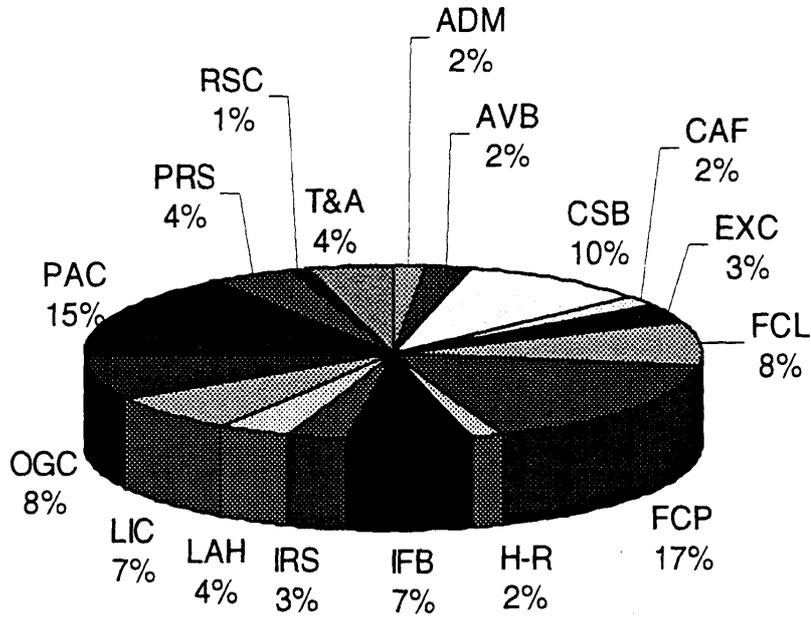
In support of the Windows NT rollout and distribution of new PC's, Systems coordinated training for all staff in NT, Word 97 and Excel 97. In addition, all newly hired examiners received introductory computer training as well as in-house training from Systems staff in a variety of applications. Systems also coordinated and scheduled a variety of more advanced computer classes throughout the year for the Department. From May 1998 through January 1999 we invited the NAIC to come to the Insurance Department in both Albany and New York City to teach various Common User Interface (CUI) classes. During this period, the NAIC provided 3 1/2 weeks of training. We were able to fill about 542 slots.

During 1998, the Department continued aggressive measures to attain Year 2000 (Y2K) readiness for its computer infrastructure and software applications. In early 1998, the Department obtained independent confirmation of its assessment, and by the second quarter had contracted for remediation of its legacy software applications and for validation of in-house remediation efforts. Similarly, vendors of proprietary hardware and software have been contracted to bring specific products to Y2K ready levels. Additionally, most of the software and hardware comprising the computer infrastructure has been upgraded or replaced to attain version levels certified by the various vendors. Wherever possible, the bureau seeks to verify the readiness of the Department's information systems with advance date testing. This type of testing provides a preview into the problems (or lack thereof) that may be encountered by the change in century. The Department actively participates with the Office For Technology's Y2K Task Force, the State Emergency Management Office, the NAIC's Y2K Working Group and with such other entities as the Federal Reserve Bank of New York.

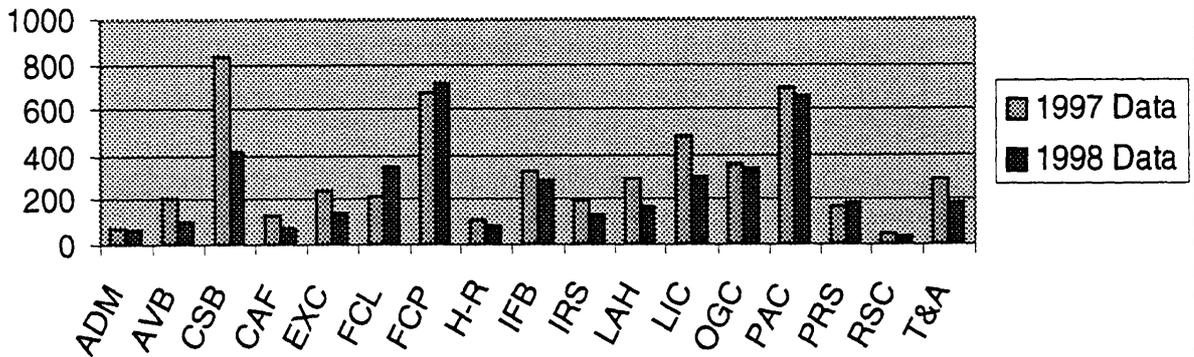
Systems completed 300 FOIL requests that generated revenue of nearly \$ 35,000.

Systems is in the process of reengineering its Help Center. The goal is to provide the best and most timely service to all of our customers. Below are two graphs showing the distribution and number of calls received by bureau over the past year.

### DISTRIBUTION of CALLS by BUREAU



### Help Desk Calls By Bureau



The Systems Bureau represented the Department on various National Association of Insurance Commissioners (NAIC) task forces and working groups during 1998. Highlights include:

- Financial Database Reengineering (FDR) Task Force of the Information Services (EX7) Subcommittee (reviewing and recommending policy issues regarding the Annual Statement Re-engineering initiative.)
- Information Services (EX7) Subcommittee's working groups:
  - System for Electronic Rate and Form Filing (SERFF) Working Group (addressing the needs of the states and industry as regards the SERFF application);
  - Systems Strategic Planning Working Group (determining the best short- and long-term technology initiatives to benefit the NAIC, the states and industry); and
  - Producer Information Network (PIN) 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).
- Served as a Board member on the SERFF Board of Directors (determining policy for the SERFF application infrastructure, process, funding, etc.).
- (Ex) Special Committee on Regulatory Re-engineering's E-Commerce and Regulation Working Group (working to identify and eliminate the barriers to e-commerce in the states).

## G. 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.

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

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

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

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

During 1998, MVAIC opened 4,299 new files. A total of 3,060 cases were settled with payment in 1998 at a moving average cost per claim of \$9,223. In 1996 and 1997, the average settlement per claim was \$6,598 and \$8,064, respectively. An additional 1,645 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 1998 was 9,190, up from 9,108 in 1997.

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 54**  
**SOURCES OF FUNDS**  
**Motor Vehicle Accident Indemnification Corporation**  
**1996-1998**

Source	1998	1997	1996
Net assessments	\$ 24,750,000 <sup>a</sup>	\$ 16,000,000 <sup>b</sup>	\$ 28,000,000 <sup>c</sup>
Self-Insurers' fees	109,619	110,186	100,277
Investment income & profit	4,187,413	4,331,023	3,998,494
Subrogation recoveries	3,058,807	3,292,011	3,350,199
Total	\$ 32,105,839	\$ 23,733,220	\$ 35,448,970

<sup>a</sup> originally assessed for \$33,000,000; waived 4th quarter assessment; total 1998 assessment--\$24,750,000.

<sup>b</sup> originally assessed for \$32,000,000; waived 3<sup>rd</sup> & 4th quarter assessment; total 1997 assessment--\$16,000,000.

<sup>c</sup> originally assessed for \$32,000,000; waived 50% 4th quarter assessment; total 1996 assessment--\$28,000,000.

**Table 55**  
**TRANSACTIONS**  
**Motor Vehicle Accident Indemnification Corporation**  
**1996-1998**

Transaction	1998	1997	1996
	<u>Number of Cases</u>		
Pending at beginning of year	9,108	10,050	10,026
Total opened cases	4,787	4,374	5,685
Reported qualified	-0-	-0-	-0-
Reported tort and no-fault <sup>a</sup>	4,299	3,949	5,291
Reopened <sup>a</sup>	488	425	394
Total closed cases <sup>a</sup>	4,705	5,316	5,661
Cases closed without payment	1,645	1,714	2,038
Settled cases with payment	3,060	3,602	3,623
Qualified persons	-0-	-0-	-0-
No-fault and tort	3,060	3,602	3,623
Pending at end of year <sup>a</sup>	9,190	9,108	10,050
	<u>Payments of Settled Claims (Before Subrogation)</u>		
Payments to claimants	\$24,306,029	\$22,895,605	\$24,169,705
Qualified persons	-0-	-0-	-0-
No-fault and tort	24,306,029	22,895,605	24,169,705
Allocated claims expense <sup>b</sup>	\$ 3,664,843	\$ 3,616,344	\$ 3,736,370
	<u>Reserves Year End (in 000s)</u>		
Total reserves <sup>c</sup>	\$ 45,705	\$ 50,391	\$ 48,201
On pending claims	26,325	24,760	28,657
On claims (IBNR)	16,500	22,500	16,500
Special expense reserve	2,617	2,836	2,709
On unallocated claims expense	263	295	335

<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 \$4,456,482 in 1998, \$4,852,719 in 1997 and \$4,389,998 in 1996 for operations and maintenance (unallocated expenses).

<sup>c</sup> Surplus was \$7,487,664 at year-end 1998, \$3,433,365 at year-end 1997 and \$12,912,228 at year-end 1996. In 1998, the Corporation established a reserve of \$836,000 in accordance with the FASB 106 (Insurance Benefits for Retirees/Revised). In 1997, the FASB reserve was \$649,000.

Source: Motor Vehicle Accident Indemnification Corporation

The following table distributes, by type of case, the 4,299 claims newly reported during 1998. The uninsured New York automobile driver represents 51.72% of the total reported cases compared with 52.65% for the previous year, a decrease of 0.93 percentage points.

**Table 56**  
**NEWLY REPORTED CASES BY TYPE**  
**Motor Vehicle Accident Indemnification Corporation**  
**1998**

<u>Type of Cases<sup>a</sup></u>	<u>Number Of Claimants</u>	<u>Percent of Total</u>
Total qualified, <sup>b</sup> no-fault PIP	4,299	100.00%
Uninsured out-of state automobiles	561	13.05
Uninsured hit-and-run drivers	1,412	32.84
Uninsured New York automobiles	2,223	51.72
Stolen automobiles	29	0.67
Automobiles operated without consent of owners	1	.02
Insured automobiles where the insurance is inapplicable to the accident	49	1.14
Unregistered automobiles	24	0.56

<sup>a</sup> This classification of case by type is made at the time claim is received. On subsequent investigation, a large portion of these cases is closed without payment, while others are reclassified because the initial determination was not supported by the facts.

<sup>b</sup> The Statute of Limitations on qualified cases has now run out; consequently, no such cases were reported in 1998. 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 1998 and provides the amount paid. Unidentified hit-and-run drivers, while representing only 40.29% of all cases, accounted for 50.22% 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 57**  
**SETTLED CASES WITH PAYMENT BY TYPE**  
**Motor Vehicle Accident Indemnification Corporation**  
**1998**  
**(dollar amounts in thousands)**

<u>Type of Case</u>	<u>Number of Claimants</u>	<u>Percent of Total</u>	<u>Amount Paid*</u>	<u>Percent of Total</u>
Total	3,060	100.00%	\$24,306	100.00%
Uninsured out-of-state autos	251	8.20	2,239	9.21
Unidentified hit/run drivers	1,233	40.29	12,207	50.22
Uninsured New York automobiles	1,503	49.13	9,248	38.05
Stolen automobiles	22	0.72	274	1.13
Automobiles operated without consent of the owner	0	0	0	0
Insured automobiles where the insurance is inapplicable to the accident	27	0.88	168	0.69
Unregistered automobiles	24	0.78	170	.70

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

Source: Motor Vehicle Accident Indemnification Corporation

### III. INSURANCE LEGISLATION ENACTED

**(Legislation is presented in numeric order based on 1998 Chapter Law)**

This portion of the report covers bills enacted at the 1998 regular Session amending the Insurance Law. Where a bill amends laws other than the Insurance Law, only provisions of interest are noted. *These brief descriptions of the laws are intended only to provide highlights of the legislation and should under no circumstances be used in place of the full text of the law or regarded as interpretation of legislative intent or of Insurance Department policy.* A more detailed Legislative Summary, in two parts, is available through the Department's Public Affairs and Research Bureau. Part I covers new statutes amending the Insurance Law (many of these new statutes contain provisions amending other laws as well). Part II details new statutes amending laws other than the Insurance Law that are of general interest to the Insurance community.

**1. Chapter 2 of the Laws of 1998** amends the Insurance Law, the Criminal Procedure Law, the Penal Law, the Public Health Law, the Social Services Law, the State Finance Law and the Tax Law as follows:

- Amends Section 409(a) of the Insurance Law to require certain entities licensed pursuant to Article 44 of the Public Health Law to file with the Superintendent of Insurance a plan for the detection, investigation and prevention of fraudulent insurance activities.
- Amends Sections 460.10(1)(a) and 190.26 of the Penal Law and Section 700.05(8)(b) of the Criminal Procedure Law to deal with criminal diversion of prescription medications and prescriptions to provisions relating to criminal enterprise activities.
- Amends Sections 364-i and 366 of the Social Services Law to extend eligibility for Medicaid to children under the age of nineteen whose families have incomes equal to or less than 100% of the federal poverty level.
- Amends Section 145-b of the Social Services Law to define "statement or representation" under provisions relating to filing a false claim to clarify when public funds are involved with any claims, to amend the method of calculating treble damages and to increase the penalty to \$7,500 for certain repeat offenses.
- Adds a new Section 4414 to the Public Health Law to require the Commissioner of Health, in consultation with the Superintendent of Insurance, to establish by regulation standards and criteria for health care compliance programs to be implemented by persons providing coverage or coverage and service pursuant to any public or governmentally sponsored or supported plan for health care coverage or services.

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

**2. Chapter 44 of the Laws of 1998** amends the Insurance Law as well as Chapter 42 of the Laws of 1996 as follows:

- Extends Sections 5411 and 5412(g) of the Insurance Law to April 30, 1999. thereby permitting the New York Property Insurance Underwriting Association to operate for an additional year.
- Extends for one year (to April 30, 1999) Section 2351 and Section 3425(n) and (o) of the Insurance Law.

- Requires the Superintendent of Insurance to establish by regulation disclosure requirements concerning the operation of any deductible in a homeowner's insurance or dwelling fire personal lines policy which applies as the result of a windstorm.
- Adds six members to the temporary panel on homeowners coverage and requires an evaluation of the feasibility of establishing a state-wide catastrophe insurance fund.

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

**3. Chapter 65 of the Laws of 1998 amends the Insurance Law as follows:**

- Amends Section 1113(a) to add a new paragraph 29 entitled "Legal services insurance" meaning insurance providing legal services or reimbursement of the cost of legal services.
- Amends Section 1116(a) and (c) of the Insurance Law to extend the current "experimental" program of prepaid legal services plans to April 1, 1999.
- Effective April 1, 1999, amends Section 1116 of the Insurance Law to authorize the writing of prepaid legal services plans and legal services insurance. The amendment in new Section 1116(a)(2) provides that the prepaid legal services plan may include legal services insurance as part of the plan, provided, however, no more than an incidental amount of the premium with respect to such prepaid legal services plan shall be attributable to legal services for defense only coverages for commercial or other business related lawsuits or arbitration proceedings commenced against the business entity that purchased the policy. Legal services insurance may be, in accordance with the regulation by the Superintendent, written as part of a liability policy, if it is not more than an incidental part of such policy.
- Section 1116(a)(1) is amended to include insurers licensed to write financial guaranty insurance as among those insurers which may not issue legal services insurance policies.
- Section 1116(b) is amended to provide that the contracts shall be subject to Article 23 of the Insurance Law.
- Amended Section 1116 contains additional language concerning the range of legal services to be provided by the plan; requirements for written disclosure to contract holders; the length of the policy period; and cancellation or non-renewal of the plan. The amendment also provides that the contracts may be issued on a group basis subject to regulations promulgated by the Superintendent.
- The new Insurance Law Section 1116 is subject to an April 1, 2003 sunset.

**4. Chapter 122 of the Laws of 1998 amends the Insurance Law as well as Chapter 630 of the Laws of 1988 as follows:**

- Amends Section 2130(e) of the Insurance Law, relating to the Excess Line Association of New York (ELANY), to amend ELANY's qualified immunity provisions to cover the performance of duties and exercise of powers under Section 2118, in order to conform with amendments to Section 2118 made by Chapter 225 of the Laws of 1997.
- Extends the provisions of Chapter 630 of the Laws of 1988, regarding ELANY and related matters, from July 1, 1998 to July 1, 2001.

**(A Department Bill)**

**5. Chapter 134 of the Laws of 1998** amends the Insurance Law as follows:

- Amends the Insurance Law to continue file-and-use rate review for those coverages and markets currently subject to competitive rating. Also retains the flex-rating system established by Section 2344 of the Insurance Law, in order to continue to encourage rating discipline and market stability in commercial risk insurance markets.
- Extends Sections 2305 and 2344 of the Insurance Law, regarding competitive and flex rating, from June 30, 1998 to June 30, 2001.
- Repeals Section 2327 which relates to product liability insurance rates. Section 2327 was obsolete since its subject matter is now covered by Section 2344 dealing with flexible rate limitations.

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

**6. Chapter 135 of the Laws of 1998** amends the Insurance Law, the Tax Law and the Workers' Compensation Law as follows:

- Amends Section 2304 of the Insurance Law to provide that the calculation of workers' compensation insurance premiums for employees working in a construction trade covered by Section 220, Section 240, and Section 242 of the Labor Law (except employments engaged in the construction of one or two family residential dwellings) shall be subject to a payroll limitation.
- Amends Section 89 of the Workers' Compensation Law, which applies to the State Insurance Fund. The amendment provides that premiums paid to the Fund on behalf of employees working in a construction trade covered by Section 220, Section 240 and Section 242 of the Labor Law (except employments engaged in the construction of one or two family residential dwellings) shall be subject to a payroll limitation.
- The specific limitation on the payroll per employee used to calculate such premiums will be subject to a transition program, which by October 1, 2002, will be the greater of \$750 per week or the weekly payroll amount upon which the maximum weekly benefit is based. Rates placed in effect by the New York Compensation Insurance Rating Board beginning October 1, 1999, shall reflect separate geographic territorial differentials for (1) New York City; (2) the counties of Dutchess, Nassau, Orange, Putnam, Rockland, Suffolk and Westchester; and (3) all other counties within the State.
- Amends Section 95 and Section 131, respectively, of the Workers' Compensation Law to require employers engaged in the construction trades subject to the payroll limitations to maintain true and accurate records of hours worked for all construction classification employees. Employers who willfully fail to keep, or knowingly falsify, such records, would be guilty of insurance fraud in accordance with Section 176.05 of the Penal Law.
- Adds Section 171-j to the Tax Law to authorize the Commissioner of Taxation and Finance to enter into agreements with the State Insurance Fund or other insurance carrier writing workers' compensation insurance to verify the records of employers engaged in the construction trades with respect to the number of construction classification employees by location, and the gross wages paid, total hours worked, and total annual gross wages subject to withholding, of such employees. This section includes measures to safeguard the confidential nature of such information, and exempts such information from the provisions of the Freedom of Information Law.
- Amends Section 674 of the Tax Law to provide for the submission by employers in the construction classification on a quarterly basis, of information relating to the aggregate number of hours worked and the geographic locations where such work was performed.

- Provides for the establishment by the Governor of a task force, chaired by the Executive Director of the State Insurance Fund, to evaluate the premium basis for workers' compensation insurance in the construction industry, and to report its findings by July 1, 2001.

- Provides for the establishment of a committee, chaired by the Superintendent of Insurance, to report to the Governor, by June 30, 1999, on ways to implement audits of employers' weekly payment records.

**7. Chapter 136 of the Laws of 1998** amends the Insurance Law as follows:

- Continues the current procedures regarding review of motor vehicle insurance rates for an additional three years, to June 30, 2001. Similarly continues provisions concerning excess profits procedures related to motor vehicle insurance and the provisions of Section 3425 regarding cancellation and non-renewal.

**8. Chapter 146 of the Laws of 1998** amends the Insurance Law as follows:

- Amends Section 7403(b)(4) of the Insurance Law to extend (to July 1, 1999) provisions 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.

- Amends Section 7403(b)(6) to postpone until July 1, 1999 the effectiveness of the provision which prohibits any advance made by the Commissioner of Taxation and Finance to the Superintendent of Insurance which would cause the amount of assets in the Fund to be below \$195 million.

**9. Chapter 147 of the Laws of 1998** amends Chapter 19 of the Laws of 1994 which amended the Insurance Law as follows:

- Extends Section 3442 of the Insurance Law which provides for the marketing by banks and other credit issuers of coverages such as rental car loss damage waivers and loss of personal property, as part of their members' benefit packages to December 31, 2002.

**(An amended version of a Department Bill)**

**10. Chapter 148 of the Laws of 1998** amends the Insurance Law as well as Chapter 161 of the Laws of 1997 and Chapter 266 of the Laws of 1986 as follows:

- Amends Section 5502(c) of the Insurance Law to extend the provision relating to the Medical Malpractice Insurance Association (MMIA) for one year, from June 30, 1998 to June 30, 1999.

- Amends Section 5517-a of the Insurance Law to require the Superintendent to direct MMIA to return premiums to the hospital excess liability pool in an amount equal to the estimated cost of the program for policy year July 1, 1998 through June 30, 1999 upon a finding that such funds are not required to satisfy the standards that premiums shall be fixed at the lowest possible rates consistent with the maintenance of solvency and of reasonable reserves and surplus.

- Amends Section 5516-e(e) of the Insurance Law to change the basis for calculating the surplus of the Medical Malpractice Insurance Association in order to ascertain if repayment of any amounts previously paid to the State's General Fund by the Association is required.

- Amends Section 9111-b of the Insurance Law to modify provisions that impose a temporary franchise tax on certain insurers, which is waived in the event that the return of MMIA premium takes place, to impose such a tax for the policy year July 1, 1998 through June 30, 1999.
- Amends Section 18(1)(a) of Chapter 266 of the Laws of 1986 to extend the excess medical malpractice program through June 30, 1999.

**11. Chapter 152 of the Laws of 1998** amends the Insurance Law as follows:

- Repeals the existing subsection (c) of Section 2335, pertaining to the prohibition of surcharges for accidents that occur while emergency personnel are responding to an emergency and renumbers subsection (d) as Section 2335(c).
- Enacts a new Section 2335-a to set forth the identical language of the repealed Section 2335(c).

**12. Chapter 257 of the Laws of 1998** amends the Insurance Law as follows:

- Amends Section 7901(b) of the Insurance Law by adding a new paragraph (4) to exempt warranties, service contracts and maintenance agreements from Article 79, which regulates and governs the sale of service contracts in New York when such warranties, contracts, or agreements are conditioned upon or otherwise associated with the sale or supply of heating fuel.

**13. Chapter 259 of the Laws of 1998** amends the Insurance Law as follows:

- Adds a new Article 27 to the Insurance Law, "Holocaust Victims Insurance Act of 1998", to provide insurance claims assistance to Holocaust victims (defined as "person, claimant, or the estate, heir, legatee, descendent, survivor, beneficiary, or other such successor in interest") who lost their lives or property as a result of certain discriminatory laws, policies or actions arising from an occurrence during the period between 1929 to 1945 in areas under Nazi influence.

- Section 2702 directs the Superintendent of Insurance to arrange for a toll-free telephone number available in English and other appropriate languages, to assist any person seeking to recover proceeds from an insurance policy issued to or covering the life or property of a Holocaust victim.

- Section 2703 directs insurers organized, registered, licensed or accredited to do an insurance business in this state, in receipt of a claim against it from a Holocaust victim arising from an occurrence during the period between January 1, 1929 and December 31, 1945 to diligently investigate and resolve such claims.

- Section 2704, allows victims to sue to recover proceeds of policies issued to or covering the property of a Holocaust victim prior to December 31, 1945, provided the action is commenced within 10 years from the effective date of the Act.

- Section 2705(a) requires affected insurers or their holding companies to file, within 120 days of the effective date of the Act, a report under oath setting forth the insurer's plan for complying with the provisions of Article 27. In addition Section 2705(b) requires affected insurers to report under oath with respect to themselves and all entities in its holding company system that might have issued policies to a Holocaust victim between January 1, 1920 and December 31, 1945, certain information concerning: the approximate number and total value of such policies; the number of claims that have been paid or denied and the steps taken to locate beneficiaries of such policies for which no claims of benefits have been made; and additional information that may be requested by the Superintendent.

- Section 2706 requires the Superintendent to report to the Governor and the Legislature in 1999 and annually for ten years thereafter various information and data developed under Section 2705.

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

**14. Chapter 262 of the Laws of 1998 amends the Insurance Law as follows:**

- Adds a new item (ii) to Section 403(c) of the Insurance Law to create liability for a civil penalty for any person who knowingly and with intent to defraud files, makes, or assists, solicits or conspires with another to file or make an application for a reduction in the cost of automobile insurance pursuant to Section 2336(a) of the Insurance Law (which requires insurers to provide a discount for persons who complete a motor vehicle accident prevention course as therein described), which contains any materially false information or which for the purpose of misleading, conceals information concerning any fact material thereto. However, unlike the case with a fraudulent insurance act which is defined in the Penal Law, there would be no criminal liability for the newly designated fraudulent conduct.

**15. Chapter 264 of the Laws of 1998 amends the Insurance Law as follows:**

- Amends Insurance Law Section 2108 to require public adjusters to have a minimum of one year of experience in the insurance business or to have completed a formal training course and to establish continuing education requirements.
- A conforming amendment is made to Insurance Law Section 2132.

**16. Chapter 282 of the Laws of 1998 amends the Insurance Law as follows:**

- Amends Section 2118(f) of the Insurance Law by adding paragraphs 7 and 8 to provide authority to excess line brokers to bind coverage on risks located both within and outside New York State, and authorizes excess line brokers to issue notices of cancellation resulting from non-payment of premium, material increase in the insured hazard, or discovery of material misrepresentation in the application for insurance.

**17. Chapter 392 of the Laws of 1998 amends the Insurance Law, the Banking Law and Chapter 3 of the Laws of 1997 as follows:**

- Extends for an additional two-year period (to September 10, 2000) the effective date provision in Chapter 3 of the Laws of 1997 regarding Banking Law Section 14-g, empowering the Banking Board to authorize State-chartered banks and trust companies to exercise the rights, powers, privileges or benefits, or to engage in any activity or to enter into any loan, investment or transaction which a national bank, acting either directly or through a subsidiary or subsidiaries, may lawfully exercise or into which it may lawfully engage or enter. Also extends to September 10, 2000 the Insurance Law amendments relating to tying arrangements and bank insurance sales disclosure.
- Adds a new Section 14-h to the Banking Law empowering the Banking Board to authorize State-chartered savings banks and savings and loan associations to engage in the insurance business to the extent that a bank or trust company has been authorized to engage pursuant to Section 14-g.
- Amends Section 2123(e) and (f) and subsections (a), (d), and (e) of Section 2502 of the Insurance Law to include savings banks and savings and loan associations in the tying arrangement and bank insurance sales disclosure provisions to which banks and trust companies are presently subject in regard to the sale of insurance products.

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

**18. Chapter 475 of the Laws of 1998** amends the Insurance Law as follows:

- Adds a new subsection (h) to Section 2336 of the Insurance Law to require insurers of commercial motor vehicles weighing in excess of 10,000 pounds to provide an actuarially appropriate reduction in premium charges for bodily injury liability, property damage liability, personal injury protection, medical payments and collision coverage with respect to motor vehicles equipped with factory installed auxiliary running lamps. The Superintendent shall, after consulting with the Departments of Motor Vehicles and Transportation, promulgate rules and regulations establishing the qualifications and standards for the approval, utilization and installation of such lamps.

**19. Chapter 476 of the Laws of 1998** amends the Insurance Law as follows:

- Repeals Section 4227 relating to limitation of new business for life insurance companies.  
**(A Department Bill)**

**20. Chapter 495 of the Laws of 1998** amends the Insurance Law as follows:

- Amends the Insurance Law to conform the Insurance Law to related provisions of the Education Law with respect to midwives.
- Amends Sections 3216(i)(10)(A)(i), 3221(k)(5)(A)(i) and 4304(c)(1)(A) of the Insurance Law, which is applicable to individual accident and health insurance policies written by commercial insurers, in order to delete the reference, within the maternity coverage mandate, to a “certified nurse midwife” operating “under qualified medical direction” and replace it with a reference to a “midwife licensed pursuant to Article One Hundred Forty of the Education Law, practicing consistent with a written agreement pursuant to Section Sixty-Nine Hundred Fifty-One of the Education Law” to conform to amendments to the Education Law.

**21. Chapter 499 of the Laws of 1998** amends the Insurance Law as follows:

- Amends Section 1401(a)(5)(B)(v) of the Insurance Law to provide that prior approval of the Superintendent for acquisition of real property or improvement of real property by a domestic non-life insurer is required only if the value of the real property acquired is greater than one percent of the insurer’s admitted assets or if the annual expenditure for an improvement on any such building will exceed the greater of ten percent of its book value or one percent of the insurer’s admitted assets.

**22. Chapter 508 of the Laws of 1998** amends the Insurance Law as follows:

- Amends Section 2307(b) of the Insurance Law, which pertains to the requirement that policy forms may not be used in this State without the prior approval of the Superintendent to provide that with regard to residual value insurance, the policy forms and any amendments thereto shall be filed with the Superintendent within 30 days of their use by the insurer. For the purposes of this provision, such insurance shall only be utilized for commercial purposes and not for personal lines or commercial auto insurance. Further requires that the applicants for the insurance must sign a statement that the applicants have an appropriate level of knowledge and understanding of the use of residual value insurance.

**23. Chapter 509 of the Laws of 1998** amends the Insurance Law and the Vehicle and Traffic Law as well as Chapter 678 of the Laws of 1997 as follows:

- Amends Section 317 of the Insurance Law to authorize the Superintendent, upon notice and opportunity to be heard, to impose a fine in an amount not to exceed \$500 for each failure to timely and properly report information required by Article 6 of the Vehicle and Traffic Law or the regulations of the Commissioner promulgated thereunder. In the event of a persistent and willful violation, the Superintendent, upon notice and opportunity may impose a fine in an amount not to exceed \$500 per day for each day the violation continues.
- Amends Vehicle and Traffic Law Section 313(4) concerning the Department of Motor Vehicle ("DMV") pilot program to maintain an up-to-date insured vehicle identification database to assist in identifying uninsured motor vehicles, to provide that such program may also be implemented pursuant to standards prescribed by the Commissioner of Motor Vehicles. Conforming changes are made to other portions of this section.
- Amends Section 7 of Chapter 678 of the laws of 1997 to eliminate the temporary panel on registry of insurance and to direct the Superintendent of Insurance and the Commissioner of Motor Vehicles to undertake the tasks and report that formerly was required of the panel concerning the feasibility of establishing an instant on-line registry that can accurately identify uninsured vehicles, so that law enforcement officials can remove uninsured vehicles from the State's roads. In the report, the Superintendent and Commissioner must also determine the feasibility of establishing by January 1, 2000 (instead of 1999) a pilot program for an instant on-line registry database for insuring writing policies of livery vehicles.
- In preparing the report there shall be consultation with insurers, agents, brokers that sell motor vehicle insurance, computer and systems technicians and members of the motor vehicle insurance buying public. The report and necessary legislative proposals shall be submitted to the Governor and the Legislature by February 1, 1999.

**24. Chapter 528 of the Laws of 1998** amends the Insurance Law as follows:

- Adds a new Section 3445 to the Insurance Law to permit employer sponsored group personal excess insurance to be written in New York and establishes standards for such insurance.
- Defines various terms applicable to this kind of insurance, and also provides for the manner in which premiums may be collected and paid; requires that each policy must contain individual coverage limits for each group member, and that the policy and certificates be delivered and distributed to individual insureds; sets forth the terms for cancellation, non-renewal or condition renewal; and sets a standard one-year policy period.

**25. Chapter 540 of the Laws of 1998** amends the Insurance Law and the Banking Law as follows:

- Makes various amendments to the Banking Law and, adds a new Section 7316 to the Insurance Law, to allow the conversion of the life insurance business conducted by all savings and insurance banks into a mutual life insurance company, pursuant to a plan approved by both the Superintendent of Insurance and the Superintendent of Banks.

- Prior to submission of the plan to the Superintendents, it must be approved by a vote of at least three-fourths of the trustees of the Savings Bank Life Insurance Fund and then by a vote of three-fourths of all the savings and insurance banks. The Superintendents may approve the plan if it is found to conform to the requirements of law and is fair and equitable to policyholders.

**26. Chapter 551 of the Laws of 1998** amends the Insurance Law as follows:

- Amends Section 1113(a)(17) to add a new subparagraph (E) to include within the definition of credit insurance the indemnification of professional sports participants or teams, entertainers and the entities with which they are under contract to perform, and business executives and the companies with which they have employment contracts, where contracts between such persons and teams or entities cannot be fulfilled due to a sports participant's, entertainer's, or business executive's death, personal injury by accident, sickness, or ailment, or bodily injury that causes disability, where the indemnification is for the amount of financial loss that is sustained by the insured party or parties due to the inability to fulfill the contract.

**27. Chapter 554 of the Laws of 1998** amends the Insurance Law as follows:

- Amends Section 2319 of the Insurance Law by modifying the procedures by which employers may obtain policy rating information and address grievances with workers' compensation rate service organizations. A new subsection (c) is added that requires workers' compensation rate service organizations to establish a procedure to enable employers aggrieved by a rating classification to make a written request for a review thereof. Rate service organizations would be required to furnish all pertinent information in their file or in relation to application of the classification to anyone affected by such classification within a reasonable time, and to respond to the review request in writing within 60 days. Failure to respond would allow an insured to treat the classification challenged as though disapproved by the rate service organization. If the rate service organization is unable to make such a determination or advise the insured that an inspection, an audit, or a study is required, the rate service organization must submit a written request to the Superintendent, within the 60-day period, requesting a reasonable extension of time to make its determination.

**28. Chapter 559 of the Laws of 1998** amends the Insurance Law as follows:

- Amends Section 4216(f) of the Insurance Law to add a provision that a group credit life insurance policy may provide coverage for a spouse of the insured employee or member. Makes a corresponding change to Section 4235(c)(1)(E) with respect to group credit disability coverage.

**29. Chapter 579 of the Laws of 1998** amends the Insurance Law as follows:

- Amends Section 210(a) of the Insurance Law to advance the publication date of the Department's annual health insurance guide from December 15 to September 1 (commencing in 1999) and require that the guide contain information regarding complaints made to both the Insurance and Health Departments. Subsection (a) is also amended to require a ranking from best to worst of insurers including Article 44 Public Health Law entities
- Adds a new subsection (c) to Section 210 of the Insurance Law requiring that the guide contain the following information: the percentage of physicians who are either board certified or board eligible; primary care provider turnover rates; the percentage of enrollees seen for care visits during the three previous years of enrollment; the methods utilized to compensate providers; the national accreditation status of insurers and entities; indices of quality of care such as rates of mammography, prostate and cervical cancer screening, prenatal care, well-child care, immunization and other information obtained by the Commissioner of Health. Additionally, new subsection (c) provides that the guide will contain the

results of a consumer satisfaction survey (to be conducted by the Superintendent of Insurance and Commissioner of Health) among enrollees of various health insurers and entities and requires that toll free telephone numbers be provided for each insurer or plan and that toll free telephone numbers at the Insurance and Health Departments be provided to which consumers can direct complaints regarding insurers or entities.

- Adds a new subsection (e) to Section 210 of the Insurance Law requiring the Superintendent of Insurance to contract with a national organization (which has actual experience in preparing a similar guide for at least one other state) for the purposes of drafting and designing the guide. Further, this new subsection gives the Superintendent of Insurance (in consultation with the Commissioner of Health) the discretion to contract with one or more national organizations to assist the Commissioner of Health in the collection of data.
- Repeals Section 334 of the Insurance Law requiring the Superintendent of Insurance to publish an annual commercial property/casualty report.

**30. Chapter 586 of the Laws of 1998** amends the Insurance Law and the Public Health Law as follows:

- Amends Article 49 of the Public Health Law to establish a right to an external appeal. Enrollees may request an external appeal when coverage of a health care service is denied on the grounds that either the health care service is not medically necessary, or on the basis that such service is experimental or investigational. Enables enrollees to obtain an external review for a denial of coverage on the basis that the service is experimental or investigational if the enrollee has a life threatening or disabling condition or disease for which standard health services have been ineffective, or for which there does not exist a more beneficial standard procedure covered by the health plan, or for which there exists a clinical trial.
- Also provides the Commissioner of Health the authority to grant and revoke certifications of external appeals agents and sets forth the standard for certification of external appeals agents. Prohibits external appeals agent conflicts of interest and provides procedures for external appeals of adverse determinations.

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

**31. Chapter 598 of the Laws of 1998** amends the Insurance Law as follows:

- Amends Section 1705(a) of the Insurance Law to increase the quantitative limitations governing the percentage of admitted assets a life insurer may invest in any one subsidiary from 2% to 15%, and in all subsidiaries (aggregate limit) from 10% to 30%, but not more than 20% (instead of the current 5%) with respect to subsidiaries not having their principal operations in New York.

**32. Chapter 650 of the Laws of 1998** amends the Insurance Law as follows:

- Amends section 1401(a) of the Insurance Law to renumber certain paragraphs and to add definitions of "derivative instrument", "derivative transaction", "hedging transaction" and other terms.
- Amends Section 1403(c) of the Insurance Law to change the reference to new Section 1410 authorizing derivative transactions for domestic insurers and repeals existing provisions in Section 1403(d) of the Insurance Law relating to the authority of domestic insurers to engage in derivative transactions.

- Further amends Section 1403 of the Insurance Law to authorize domestic insurers, other than those permitted to engage in derivative transactions, to engage in the selling of covered call options. The authority to engage in covered calls options would apply to domestic title insurers, Article 43 corporations, fraternal benefit societies, charitable annuity societies, retirement systems, and accident and health insurers.
- Amends Sections 1405(a)(8) and 1407(a)(5) of the Insurance Law to remove the authority for domestic life insurers to invest in derivative instruments under this paragraph (the "basket provision").
- Adds a new Section 1410 of the Insurance Law entitled "Derivative transactions and derivative instruments."
- 1410(a) provides that the section shall apply to domestic life, property/casualty, reciprocal, mortgage guaranty, co-operative property/casualty and financial guaranty insurers.
- 1410(b)(1) and (b)(2) provides that an insurer may only engage in derivative transactions pursuant to and in compliance with this section. Derivative transactions may only be used for hedging and certain income generation transactions.
- 1410(b)(3) provides that prior to entering into any authorized derivative transaction the insurer's board of directors must authorize the derivative transaction activities, appoint qualified individuals for all derivative activity and approve a "derivative use plan" for such derivative transactions (or an amendment to a previously adopted derivative use plan); and the insurer must submit the derivative use plan or amendment thereto to the Superintendent for approval.
- Section 1410(b)(4) provides that an insurer which engages in hedging transactions shall only maintain its position in the hedging transaction for as long as it continues to be an effective hedge. In addition, the insurer must be able to demonstrate to the Superintendent that any derivative transaction or combination of derivative transactions entered into continues to be an effective hedging transaction.
- Section 1410(b)(5) provides that, as part of the CPA review required by Section 307(b) of the Insurance Law, the CPA shall file a statement describing the assessment of internal controls relative to derivatives and, if the internal controls are deemed deficient, a description of the deficiencies and any remedial action taken by the company to correct the deficiencies.
- Section 1410(c) provides that an insurer may enter into hedging transactions, if as a result of and after giving effect to the transaction: (1) the aggregate statement value of options, swaptions, caps, floors and warrants purchased does not exceed seven and one-half percent of its admitted assets; (2) the aggregate statement value of options, swaptions, caps, and floors written does not exceed three percent of its admitted assets; and (3) the aggregate potential exposure of collars, swaps, forwards and futures entered into and options, swaptions, caps and floors written does not exceed six and one-half percent of its admitted assets.
- Section 1410(d) provides that an insurer may sell call options for income generation purposes. There is no limitation on the amount of call options that can be written; however, all such calls written by the insurer must be covered (i.e., the insurer must hold the securities subject to call).
- Section 1410(e) provides that derivative instruments entered into in order to close out existing positions in derivative transactions may be entered into without application of the quantitative limitations set forth in subsection (c).

## IV. REGULATIONS PROMULGATED OR REPEALED

The following is a summary of Insurance Department Regulations promulgated or repealed in 1998. 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.

*First Amendment to Regulation 38 (11 NYCRR 201); Third Amendment to Regulation 41 (11 NYCRR 27); Seventh Amendment to Regulation 64 (11 NYCRR 216); Second Amendment to Regulation 71 (11 NYCRR 241); Twenty-Fifth Amendment to Regulation 83 (11 NYCRR 68); Fifth Amendment to Regulation 90 (11 NYCRR 218); Sixth Amendment to Regulation 96 (11 NYCRR 62-4.2); Twenty-Third Amendment to Regulation 101 (11 NYCRR 70); First Amendment to Regulation 116 (11 NYCRR 242); Second Amendment to Regulation 131 (11 NYCRR 162): (Promulgated 1/13/98; Effective 2/4/98)*

The New York State Insurance Department relocated the New York City Office and the Buffalo Office in 1997.

Insurers are required by law to submit certain reports, notices and other documents to the Department. In addition insurers are required to include advice to insureds and claimants of their right to contact the Department if they are dissatisfied with the manner in which a claim is processed. Therefore, these Amendments were promulgated to advise insurers and the public of the Department's new addresses.

These Amendments, previously promulgated on 10/31/97 on an emergency basis, were made final effective February 4, 1998.

*Third Amendment to Regulation 35-D (11 NYCRR 60-2): Supplementary [Uninsured] Uninsured/Underinsured Motorists insurance (Promulgated 6/2/98 as an emergency measure; Effective 6/12/98; Promulgated 8/28/98 as an emergency measure; Effective 9/3/98; Promulgated 11/23/98 as an emergency measure; Effective 11/23/98)*

The Third Amendment to Regulation 35-D, which implements Chapter 568 of the Laws of 1997, increases the amounts of supplementary uninsured/underinsured motorists (SUM) coverage that must be offered to an insured. In addition, the Amendment revises the specific information that must be included in the mandatory availability notices and retitles the mandatory SUM coverage endorsement.

*Fourth Amendment to Regulation 41 (11 NYCRR 27): Excess Line Placements Governing Standards (Promulgated 3/9/98 as an emergency measure; Effective 3/18/98; Promulgated 6/1/98 as an emergency measure; Effective 6/11/98; Promulgated 8/28/98 as an emergency measure; Effective 9/3/98; Promulgated 12/1/98 as an emergency measure; Effective 12/1/98)*

Chapter 225 of the Laws of 1997 amended Sections 2117 and 2118 of the Insurance Law to provide that a licensed excess line broker may exercise binding authority and execute an authority to bind coverage on behalf of an insurer not licensed or authorized to do business in this State. Excess Line brokers are required to file an authority to bind coverage with the Excess Line Association of New York before they may exercise this new power.

The Fourth Amendment to Regulation 41 specifies the information that must be included in the authority filed by the excess line broker. In addition, this Amendment requires the Excess Line Association to submit to the Insurance Department monthly reports including this information. It is necessary that the Insurance Department have the ability to review this information on a periodic basis in order to prevent misuse of the binding authority and to protect the insuring public. These procedures were to be in place by January 17, 1998.

In addition, the Amendment contains a provision that permits the Superintendent, subject to certain factors, to lower the amount of monies required to be maintained in a syndicate's trustee account.

*Third Amendment to Regulation 57 (11 NYCRR 160): Responsibilities in Construction and Application of Rates (Promulgated 10/22/98; Effective 11/10/98)*

The Third Amendment to Regulation 57 establishes standards for actuarially appropriate reductions in rates of homeowners' and commercial and public entity insurance premiums applicable to real property fitted or retrofitted with hurricane resistant laminated glass windows or doors and to residential real property fitted or retrofitted with hurricane/storm shutters or equipped with deadbolt locks.

*Regulation 60 (11 NYCRR 51): Replacement of Life Insurance Policies and Annuity Contracts (Promulgated 7/27/98; Effective 11/10/98)*

Regulation 60, originally promulgated on August 4, 1971, has been repealed and a new Regulation 60 has been promulgated.

New Regulation 60 implements the Insurance Law by regulating the acts and practices of insurers, agents and other licensees of the Department with respect to the internal and external replacement of life insurance policies and annuity contracts.

In addition, Regulation 60 protects the interest of the public by establishing minimum standards of conduct to be observed in the replacement or proposed replacement of life insurance policies and annuity contracts by making available full and clear information on which applicants can make decisions in their own best interests. These standards also reduce the opportunity for misrepresentation and incomplete comparison in replacement situations. (commonly referred to as twisting) and preclude unfair methods of competition and unfair practices.

*Twenty-Second Amendment to Regulation 62 (11 NYCRR 52): Minimum Standards for Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure (Promulgated 3/31/98; Effective 4/15/98)*

The Twenty-Second Amendment to Regulation 62 sets the minimum standards for specified disease policies, such as cancer insurance. Specified disease policies pay benefits on an indemnity basis for the diagnosis and treatment of a specifically named disease that is life threatening in nature and could otherwise cause an individual substantial out-of-pocket expenses.

*Twenty-Third Amendment to Regulation 62 (11 NYCRR 52): Minimum Standards for Form, Content and Sale of Health Insurance, Including Standards of Full and Fair Disclosure (Promulgated 2/10/98 as an emergency measure; Effective 2/10/98; Promulgated 5/11/98 as an emergency measure; Effective 5/11/98; Promulgated 7/14/98; Effective 7/29/98)*

The Twenty-Third Amendment to Regulation 62 establishes revised minimum standards for the form, content and sale of health insurance, including standards of full and fair disclosure. The Amendment brings the requirements of the Regulation into compliance with the new federal and state laws, while retaining and enhancing consumer protections present in the Regulation as originally adopted.

*Regulation 74 (11 NYCRR 53): Life and Annuity Cost Disclosure and Sales Illustrations (Promulgated 3/30/98 as an emergency measure; Effective 3/30/98; Promulgated 6/25/98 as an emergency measure; Effective 6/30/98; Promulgated 9/28/98 as an emergency measure; Effective 9/28/98; Promulgated 12/22/98 as an emergency measure; Effective 12/28/98)*

Regulation 74, which supersedes the original Regulation 74 promulgated on December 30, 1982, establishes new rules for the form and content of the preliminary information documents, policy summaries and sales illustrations for life insurance policies and annuity contracts as required by Chapter 616 of the Laws of 1997.

*First Amendment to Regulation 86 (11 NYCRR 16): Special Risk Insurance (Promulgated 4/8/98; Effective 4/29/98)*

The First Amendment to Regulation 86 provides a current list and description of coverages that may be written as Class 2 risks in the Free Trade Zone.

*Second Amendment to Regulation 95 (11 NYCRR 86): Report of Suspected Insurance Frauds to Insurance Frauds Bureau; Required Warning Statements (Promulgated 5/11/98; Effective 7/1/98)*

The purpose of the Second Amendment to Regulation 95 is to require insurers to implement programs designed to detect, investigate and prevent insurance fraud. Among other provisions, the Amendment requires insurers that write a certain minimum number of policies in specific lines of insurance in any given year to develop and file with the Superintendent a plan for the detection, investigation and prevention of insurance fraud. Insurers are also required to establish a Special Investigations Unit (SIU) separate from the underwriting or claims functions for the insurer to be responsible for such investigations. (Insurers may also contract with a provider to perform all or part of this function.)

In addition, this Amendment establishes the minimum requirements for those to be employed as investigators in the SIUs and requires insurers to file with the Insurance Frauds Bureau an annual report describing the performance and cost effectiveness of implementing the plan.

*Twenty-Second Amendment to Regulation 101 (11 NYCRR 70): Medical Malpractice Insurance: Required Notices and Rate Modifications (Promulgated 1/23/98; Effective 2/11/98)*

The Twenty-Second Amendment to Regulation 101, previously promulgated as an emergency measure on August 13 and November 10, 1997, has been made final effective February 11, 1998.

This Amendment establishes physicians and surgeon's medical malpractice insurance rates for the policy year July 1, 1997 through June 30, 1998 as well as rules to collect and allocate surcharges to recover deficits based on past experience.

*Twenty-Fourth Amendment to Regulation 101 (11 NYCRR 70): Medical Malpractice Insurance: Required Notices and Rate Modifications (Promulgated 12/7/98; Effective 1/6/99)*

Part 70 establishes the framework for the rates and forms of policies of physicians medical malpractice insurance. This Amendment permits insurers, not specifically mentioned by name in this Part, to use the rates established by the Superintendent for the Medical Liability Mutual Insurance Company ("MLMIC"), modified by any differences in expenses incurred by the insurer as opposed to those incurred by MLMIC. Currently these insurers must use the rates which have been established for MLMIC without any such modification.

*Twenty-Fifth Amendment to Regulation 101 (11 NYCRR 70): Medical Malpractice Insurance: Required Notices and Rate Modifications (Promulgated 10/7/98 as an emergency measure; Effective 10/14/98)*

This Amendment establishes physicians and surgeons medical malpractice insurance rates and appropriate surcharges for the policy year July 1, 1998 through June 30, 1999.

*Second Amendment to Regulation 124 (11 NYCRR 152): Physicians and Surgeons Professional Insurance Merit Rating Plan (Promulgated 7/17/98; Effective 8/5/98)*

Regulation 124, promulgated June 12, 1986, established a physicians and surgeons merit rating plan that all insurers were required to utilize, unless the Superintendent approved the use of an alternative plan. A subsequent amendment established the use of risk management programs.

The Second Amendment to Regulation 124 updates the territories and classifications used in the Department's merit rating plan; expands the use of alternative merit rating plans and other credits; allows risk management credits to become effective in accordance with the insurer's billing cycles; changes the time frames for scheduling of risk management courses for easier administration; and provides that information contained in the required annual report be broken down by territory.

*Regulation 131 (11 NYCRR 162) was repealed.*

Regulation 131 contained instruction to insurers regarding the type of statistical data and the form of submission for the annual report on commercial property/casualty insurance. Section 2 of Chapter 579 of the Laws of 1998 repealed the enabling legislation for this regulation and consequently the regulation was repealed.

*Fourth 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 2/10/98 as an emergency measure; Effective 2/10/98; Promulgated 5/11/98 as an emergency measure; Effective 5/11/98; Promulgated 7/14/98; Effective 7/29/98)*

The Health Insurance Portability and Accountability Act of 1996 created federal standards for the individual and group health insurance markets. Chapter 661 of the Laws of 1997 was enacted to bring the Insurance law into conformity with the federal act with respect to availability, portability and renewability of health insurance issued by insurers, including health maintenance organizations, in the individual and group markets.

The Fourth Amendment to Regulation 145 establishes revised minimum standards to assure the continued orderly implementation and ongoing operation of open enrollment, community rating and portability of individual and small group health insurance. The Amendment brings the requirements of the Regulation into compliance with the new federal and state laws, while retaining and enhancing consumer protections present in the Regulation as originally adopted.

*Fifth 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 11/2/98; Effective 11/18/98)*

This Regulation clarifies that specified disease coverage is exempt from the requirements of open enrollment and community rating of individual and small group health insurance. Specified disease coverage is also exempt from the requirements of the market stabilization mechanisms applicable to individual and small group health insurance.

*First Amendment to Regulation 146 (11 NYCRR 361): Establishment and Operation of Market Stabilization Mechanisms for Individual and Small Group Health Insurance and Medicare Supplement Insurance (Promulgated 2/10/98 as an emergency measure; Effective 2/10/98; Promulgated 5/11/98 as an emergency measure; Effective 5/11/98; Promulgated 7/14/98; Effective 7/29/98)*

The Health Insurance Portability and Accountability Act of 1996 created federal standards for the individual and group health insurance markets. Chapter 661 of the Laws of 1997 was enacted to bring the Insurance law into conformity with the federal act with respect to availability, portability and renewability of health insurance issued by insurers, including health maintenance organizations, in the individual and group markets.

The First Amendment to Regulation 146 amends the definition of a small group health insurance policy.

*Second Amendment to Regulation 146 (11 NYCRR 361): Establishment and Operation of Market Stabilization Mechanisms for Individual and Small Group Health Insurance and Medicare Supplement Insurance (Promulgated 11/2/98; Effective 11/18/98)*

This Regulation clarifies that specified disease coverage is exempt from the requirements of open enrollment and community rating of individual and small group health insurance. Specified disease coverage is also exempt from the requirements of the market stabilization mechanisms applicable to individual and small group health insurance.

*Regulation 155 (11 NYCRR 390): Service Contracts (Promulgated 3/25/98 as an emergency measure; Effective 3/27/98; Promulgated 6/19/98 as an emergency measure; Effective 6/23/98; Promulgated 9/17/98; Effective 9/18/98; Promulgated 12/17/98 as an emergency measure; Effective 12/17/98)*

Chapter 614 of the Laws of 1997 added a new Article 79 to the Insurance Law which exempts the business of service contracts from all other provisions of the Insurance Law and establishes a framework by which service contract providers must be registered with, and subject to the jurisdiction of, the Superintendent. Chapter 614 also established a new kind of insurance – service contract reimbursement insurance - which may be used by the service contract provider to demonstrate financial responsibility. Regulation 155 implements, interprets and clarifies Chapter 614.

*Regulation 156 (11 NYCRR 400): Certified Capital Companies Under Section 11 of the Tax Law (Promulgated 1/22/98 as an emergency measure; Effective 1/26/98; (Promulgated 4/16/98 as an emergency measure; Effective 4/20/98; Promulgated 7/13/98 as an emergency measure; Effective 7/16/98; Promulgated 10/9/98 Effective 10/28/98)*

Chapter 389 of the Laws of 1997 added a new Section 11 of the Tax Law which provides for the establishment of certified capital companies and confers on the Insurance Department the authority to certify and regulate these companies. Regulation 156 implements Chapter 389.

*This Regulation contains the application procedure for becoming a certified capital company, the procedure for requesting tax credits, the method of allocation of such tax credits and the requirements which a certified capital company must abide by in order to continue its certification as such and avoid decertification and recapture of its certified investors' tax credits.*

*Regulation 159 (11 NYCRR 74): Homeowner's Insurance Disclosure Information (Promulgated 8/6/98 as an emergency measure; Effective 8/10/98; Promulgated 9/4/98 as an emergency measure; Effective 9/10/98; Promulgated 12/7/98 as an emergency measure; Effective 2/7/98)*

Chapter 44 of the Laws of 1998 added a new Section 3445 to the Insurance Law requiring the Superintendent to establish by regulation disclosure requirements with respect to the operation of any deductible in a homeowner's insurance policy or dwelling fire personal lines policy applies as the result of a windstorm.

Regulation 159 provides standards for the uniform display of windstorm deductibles, which consist of hurricane and nonhurricane deductibles, in the policy declarations. The Regulation also provides the minimum provisions to be contained in the policy holder disclosure notice, which will explain the purpose and operation of the hurricane deductible and must accompany new and renewal policies containing such deductibles.

*Regulation 160 (11 NYCRR 220): Holocaust Victims Insurance Claims and Reports (Promulgated 10/15/98 as an emergency measure; Effective 10/15/98)*

This regulation implements the provisions of Chapter 259 of the Laws of 1998, entitled the Holocaust Victims Insurance Act of 1998, which added a new Article 27 to the Insurance Law to provide a framework for the expeditious and equitable resolution of insurance claims by Holocaust victims (as defined in Section 2701(a) of the Insurance Law). The regulation contains the standards for diligent and expeditious investigation of claims; reporting requirements imposed on insurers organized, registered, accredited or licensed to do business in New York; standards for the making and assessment of claims; provisions for the use of alternative documentation; and methods for computing interest on proceeds.

## V. CIRCULAR LETTERS ISSUED\*

<b>NUMBER</b>	<b>DATE</b>	<b>ADDRESSED TO</b>	<b>SUBJECT</b>
1	1/15/98	All Insurers, Including Article 43 Corporations and Health Maintenance Organizations, Authorized to Write Accident and Health Insurance, Workers' Compensation Insurance or Automobile No-Fault Insurance in New York State	Electronic Acceptance of Health Insurance Claims, Including Workers' Compensation and No-Fault
2	1/15/98	All Insurers Authorized to Write Life Insurance, Annuities or Accident and Health Insurance in New York State, Including Article 43 Corporations and Health Maintenance Organizations	Preliminary Guidance Regarding the Expected Approval Procedure in Section 3201(b)(6) of the Insurance Law
3.	1/21/98	All Authorized Property/Casualty Insurers	Cancellation/Nonrenewal of Policies in Counties Affected by Ice Storms
4	2/9/98	All Licensed Property and Casualty Insurers in New York State	Department of Motor Vehicles Three Digit Code Numer
5	2/17/98	All Automobile Self-Insurers, and Insurers Licensed to Write Automobile Insurance in New York State	Revision of the No-Fault Denial of Claim Form - NYS Form N-F10
6	3/6/98	All licensed life insurers, fraternal benefit societies, charitable and segregated gift annuity societies, employee welfare funds, retirement systems, viatical settlement companies, governmental supplemental annuity funds, savings bank life insurance departments, accredited life reinsurers, property/casualty insurers, co-operative property/casualty insurers, financial guaranty insurers, mortgage guaranty insurers, reciprocal insurers, accident and health insurers, Article 43 Corporations, Public Health Law Article 44 health maintenance organizations, title insurers, the State Insurance Fund, the Medical Malpractice Insurance Association and accredited property/casualty reinsurers, rate service organizations;all hereinafter referred to as "licensees".	Year 2000

7	4/30/98	All Property/Casualty Insurers Authorized to Write Homeowners' Insurance and All Rate Service Organizations	The Use of Computer Simulation Models in Homeowners' Insurance Rate Development
8	4/3/98	All Insurers Authorized to Write Life Insurance and Annuities	Issues Resulting from the Enactment of Section 4228 of the Insurance Law
Supplement 1 to CL No. 18 (1997)	5/6/98	All Licensed Property/Casualty Insurers Authorized to Write Workers' Compensation Insurance In New York State	Workers' Compensation Policies Reporting Requirements for Preferred Provider Organization - Subpart 325-8.4 of Title 12 NYCRR
9	5/7/98	All Insurers Licensed to Write Accident and Health Insurance in New York State and Article 43 Corporations (Excluding Health Maintenance Organizations)	Managed Care Grievance and Utilization Review Appeal Data
10	5/8/98	All Insurers Licensed to Write Accident & Health Insurance in New York State, Article 43 Corporations, and Health Maintenance Organizations	Call for Participation in New York's Voucher Insurance Program
11	5/7/98	All Authorized Property/Casualty Insurers and Rate Service Organizations	Procedures for the Filing of Policy Forms, Rules and Rates
12	4/28/98	All Insurers Authorized to Write Accident and Health Insurance, Including Article 43 Corporations And Health Maintenance Organizations	Newly Approved Impotency Drug Viagra
Supplement 1 to CL No. 8 (1997)	5/21/98	All Companies Licensed to Write Liability Insurance	Policies Covering Injury to Economic Interest
Supplement 11 to CL No.9 (1988)	6/5/98	All Property/Casualty Insurance Companies; Co-operative Property/Casualty Insurance Companies; Reciprocal Insurers; Financial Guaranty Insurance Corporations; and the Medical Malpractice Insurance Association	Property/Casualty Insurance Security Fund

Supplement 8 to CL No. 3 (1986)	6/29/98	All Licensed Property/Casualty Insurance Companies and Insurance Producer Organizations	1998 Insurance Availability Survey
13	5/14/98	All Insurers and Self Insurers	Fraud Reporting and Cooperation with the Insurance Frauds Bureau
14	7/1/98	All Insurers Writing Private or Commercial Automobile, Workers Compensation, or Individual, Group or Blanket Accident and Health Insurance Policies	Compliance with the Second Amendment to Regulation 95 (11NYCRR 86) and Filing of Plans for the Detection, Investigation and Prevention of Fraudulent Insurance Activities
15	12/4/98	All Licensed Insurers	Hyper-Links to Department's Website
16	9/14/98	All Authorized Life Insurance Companies, Accredited Life Reinsurers, Fraternal Benefit Societies and Charitable Annuity Societies	Maximum Reserve Valuation and Maximum Life Policy Nonforfeiture Interest Rates
17	7/23/98	All insurers organized, registered, accredited or licensed to do an insurance business in New York State (including all licensed life Insurers, fraternal benefit societies, savings bank life insurance departments, accredited life Reinsurers, property/casualty Insurers, co-operative property/Casualty insurers, financial Guaranty insurers, mortgage Guaranty insurers, reciprocal Insurers, accident and health Insurers, Article 43 Corporations, Public Health Law Article 44 health maintenance organizations, title insurers, the State Insurance Fund, And accredited property/casualty reinsurers	Holocaust Victims Insurance Act of 1998
18	8/6/98	All Insurers Licensed to Write Motor Vehicle Insurance in New York State	Increased Minimum Limits for Bodily Injury Liability and Personal Injury Protection for Public Autos Subject to the Rules of the New York City Taxi and Limousine Commission

20	8/17/98	All Insurers Licensed to Write Accident and Health Insurance in New York State, Including Article 43 Corporations and Health Maintenance Organizations	Requirements for Prescriptions to Bear a Federally Issued Registration Number
22	8/25/98	All Licensed Brokers and Property/Casualty Insurers	Disclosure of Brokers' Compensation
23	9/28/98	All Insurers Authorized to Write Accident and Health Insurance in New York State, Including Article 43 Corporations	Medical Savings Account High Deductible Health Insurance Policies
24	9/4/98	All Insurers Licensed to Write Commercial Liability Insurance	Suspension of Regulation 131 Filing Requirements
25	9/9/98	All authorized motor vehicle Insurers and insurance producer organizations	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
26	10/2/98	All insurers organized, registered, accredited or licensed to do an insurance business in New York State (including all licensed life Insurers, fraternal benefit societies, savings bank life insurance departments, accredited life Reinsurers, property/casualty Insurers, co-operative property/ Casualty insurers, financial guaranty insurers, mortgage guaranty insurers, reciprocal insurers, accident and Health insurers, Article 43 Corporations, Public Health Law Article 44 health maintenance organizations, title insurers, the State Insurance Fund, and accredited property/ Casualty reinsurers; all hereinafter referred to as "insurers")	Insurers' Initial Reports Setting Forth Plans for Compliance with Article 27 (Holocaust Victims Insurance Act of 1998)
27	10/8/98	All Insurers Authorized to Write Life Insurance and Annuities	Section 4228 - Conditions Under Which Additional First Year Commissions May be Paid in Renewal Years
29	10/22/98	All Insurers Licensed to Write Motor Vehicle Insurance in New York State	Rate Filings for Taxi and Livery Public Automobiles

30	10/21/98	All licensed life insurers, fraternal Benefit societies, charitable and segregated gift annuity societies, employee welfare funds, retirement systems, viatical settlement licensees, governmental supplemental annuity funds, savings bank life insurance departments, property/casualty Insurers, co-operative property/ Casualty insurers, financial guaranty insurers, mortgage guaranty insurers, reciprocal insurers, accident and Health insurers, Article 43 Corporations, Public Health Law Article 44 health maintenance organizations and integrated delivery systems, municipal cooperative health benefit plans, accredited reinsurers, title insurers, the State Insurance Fund, the Medical Malpractice Insurance Association, the New York Property Insurance Association, the Motor Vehicle Accident Indemnification Corporation and rate service organizations	Update on Year 2000
31	10/29/98	All licensed life insurers, fraternal Benefit societies, charitable and segregated gift annuity societies, employee welfare funds, retirement systems, viatical settlement licensees, governmental supplemental annuity funds, savings bank life insurance departments, property/casualty Insurers, co-operative property/ Casualty insurers, financial Guaranty insurers, mortgage Guaranty insurers, reciprocal Insurers, accident and health Insurers, Article 43 Corporations, Public Health Law Article 44 health maintenance organizations and integrated delivery systems, municipal cooperative health benefit plans, accredited reinsurers, title insurers, The State Insurance Fund, the Medical Malpractice Insurance Association, The New York Property Insurance Association, the Motor Vehicle Accident Indemnification Corporation and rate service organizations	Insurance on the Internet

32	10/30/98	All Insurers Writing Private or Commercial Automobile, Workers Compensation, or Individual, Group Or Blanket Accident and Health Insurance Policies, and every Entity licensed pursuant to Article 44 Of the Public Health Law	Effective Date for the Filing of Plans for the Detection, Investigation and Prevention of Fraudulent Insurance Activities
Supplement 1 to CL No. 11 (1998)	11/10/98	All Authorized Property/Casualty Insurers and Rate Service Organizations	Procedures for the Filing of Policy Forms, Rules and Rates: Optional Procedure for Obtaining Acknowledgements of Filings
33	11/23/98	All Life Insurers	Dollar Cost Averaging Accounts

**\*Circular Letters No. 19, 21 and 28 were not issued in 1998.**

## VI. MAJOR LITIGATION/HEARINGS & STIPULATIONS

### 1. Litigation

#### New York State Conference of Blue Cross Blue Shield Plans v. Muhl I

#### New York State Conference of Blue Cross Blue Shield Plans v. Muhl II

Both cases in Supreme Court, Appellate Division, Third Department

Petitioners in these Article 78 proceedings are associations of Blue Cross and Blue Shield Plans and Health Maintenance Organizations and their constituent members throughout New York State. Pursuant to the Medical Malpractice Reform Act, Chapter 266 of the Laws of 1986, the Superintendent of Insurance and the Commissioner of Health are charged with purchasing excess medical malpractice insurance policies for the benefit of hospital affiliated physicians and dentists. The cost of the premium payments for these policies is paid by the health insurers. Each year the Superintendent, by regulation and in accordance with Section 40 of the Reform Act, establishes such premium rates as a percentage of the premium rates which he approves for the Medical Malpractice Insurance Association's (MMIA) primary malpractice insurance.

The Petitioners contended that the rates set for the 1995-1996 and 1996-1997 calendar years were excessive and unreasonable and requested a judgment granting certain relief, including a declaration that 11 NYCRR 70.17 and 11 NYCRR 70.18, which contain the rates, are null and void and an injunction preventing the Superintendent from implementing the regulation, imposing, collecting or enforcing the premium rates for those years.

In July 1997 the Supreme Court, Albany County, issued a decision in the earlier case regarding the 1995-1996 rates. In that case the Court held that the determination made by the Superintendent in setting the rates was arbitrary and capricious and declared the rates null and void. Appeal was taken to the Third Department

Relying on its reasoning in the earlier case, the Supreme Court, Albany County, concluded that the determination made by the Superintendent in establishing the 1996-1997 rates was arbitrary and capricious and declared the determination null and void and of no force and effect. A Notice of Appeal was filed.

On January 21, 1999, the Appellate Division handed down an opinion and order in the Department's appeal from the judgment of the Supreme Court, Albany County, which annulled the Superintendent's establishment of excess medical malpractice premium rates for the 1995-1996 policy year (Case I cited and discussed above). The Appellate Division, in a unanimous decision on the law, reversed the judgment of the Supreme Court, confirmed the determination of the Superintendent which established the rate levels and dismissed the petition. Appeal is still pending concerning the 1996-1997 policy year rates (Case II cited and discussed above).

**City of New York v. Aetna Casualty & Surety Company**  
**City of New York v. Insurance Department**

Both cases in Supreme Court, New York County

The Court in Aetna, a case in which the Department was not a party, determined that under the filed rate doctrine the City could not challenge automobile insurance rates. Subsequently, the City brought an action against the Department for a judgment, pursuant to CPLR Article 78, directing the Department to review the automobile insurance rate filings of four insurers to ensure that the rates are neither excessive nor unfairly discriminatory and, upon such review to lower any rate that is found to be excessive or unfairly discriminatory. The petition alleges that the personal automobile rates approved by the Department for these four insurers do not reflect the drop in automobile theft losses in New York City or the lower rates needed to cover losses attributable to other automobile insurance coverages.

The Department has filed a motion to dismiss in the second case cited above.

**Allstate Insurance Company v. Muhl**  
**GEICO v. Muhl**

Both cases in United States District Court, S.D. NY

The plaintiffs in these two actions are property and casualty insurers. They are seeking declaratory judgments that Insurance Law §2610(a), relied upon by the Department to disapprove an endorsement submitted by GEICO that would have allowed it to designate automobile repair shops, improperly restricts their commercial speech in violation of both the United States Constitution and the New York State Constitution. Discovery is proceeding in both these actions.

**State Farm Mutual Automobile Insurance Company v. Speroni II,**  
Supreme Court of the United States

The State of New York submitted a brief amicus curiae in support of the petition for a writ of certiorari by State Farm Mutual Automobile Insurance Company asking the Court to review the decision to certify a nationwide class in this matter. It was argued that allowing the matter to proceed as a nationwide class action would set up the potential for conflict between the extraterritorial application of Illinois law and each state's own regulatory scheme to the detriment of the sovereign right of every state to regulate the business of insurance within its borders. The Supreme Court denied certiorari.

**Preferred Physicians Mutual Risk Retention Group v. Pataki,**  
**United States District Court, Southern District of New York**

The Plaintiff, a risk retention group writing medical malpractice insurance, filed this action in 1991 alleging that the New York Excess Insurance Law, which provides for "free" excess malpractice coverage for qualifying physicians who have their basic coverage with New York licensed insurers, violated and was preempted by the Federal Liability Risk Retention Act. In 1994 the District Court granted partial summary judgment to the plaintiff and enjoined enforcement of the Excess Insurance Law in a manner which treated physicians and dentists insured by risk retention groups differently from those insured by insurers licensed in New York. In 1996 the United States Court of Appeals vacated the order of the District Court and remanded the case. On October 28, 1998 the parties entered into a stipulation discontinuing the action.

## **2. Regulatory License Hearings and Stipulations Executed in 1998**

After hearings in the Insurance Department, 141 licensees suffered revocations, 6 persons had their license application denied, 4 had their license application approved, 7 licensees had charges against them dismissed, and 26 licensees were fined a total of \$70,250.

In addition, 242 licensees agreed through stipulations to pay fines totaling approximately \$3,575,000. Thirty-five licensees agreed to surrender their licenses

With regard to civil fraud proceedings under Article 4 of the New York Insurance Law, 25 persons were assessed penalties in the amount of \$188,243. Charges were dismissed for an additional 35 persons. (Additional civil penalties are collected by the Frauds Bureau without initiating an administrative proceeding.)

## VII. 1999 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 1999

#### 1. Homeowners Insurance/Catastrophe Coverage/New York Property Insurance Underwriting Association: Program Bill No. 47

To extend Sections 5411 and 5412(g) of the Insurance Law to April 30, 2000, thereby permitting the New York Property Insurance Underwriting Association (NYPIUA) to operate for an additional year.

To extend for one year (to April 30, 2000) certain provisions which were included in Chapter 42 of the Laws of 1996 and which currently have an April 30, 1999 expiration date. The provisions are Section 2351 (pertaining to multi-tier programs for homeowners' insurance policies) and amendments to Section 3425 (subsections (o) and (n) pertaining to withdrawal from the homeowners' insurance market) which would otherwise expire on April 30, 1999.

To continue the Temporary Panel on Homeowners' Insurance Coverage one year.

NYPIUA, a joint underwriting association made up of insurers writing property insurance in New York, affords the following coverages to commercial and residential policyholders unable to obtain such coverage in the voluntary market: Fire and extended coverage (such as windstorm); vandalism and malicious mischief; sprinkler leakage; loss of rent; and business interruption insurance. Rates are generally 20%, 30% or 40% higher (according to class of business) than voluntary rates.

The continuation of NYPIUA is important to continue its original purpose of orderly community development in inner-city areas by providing the needed property insurance protection for dwellings and business concerns, and in continuing its stand-by authority to write in several commercial markets. The insurance provided by the Association, therefore, assists in attracting the investment of private capital in such areas and helps prevent economic deterioration.

Chapter 220 of the Laws of 1986 added a new Section 5412 to the Insurance Law and granted standby powers to the Association to write commercial risk insurance, public entity insurance, and professional liability insurance. The Association will write these coverages only if the Superintendent determines, after a public hearing that it is necessary due to the unavailability of meaningful coverage in a particular voluntary market. If meaningful insurance coverage thereafter becomes readily available in the voluntary marketplace, the Superintendent is empowered to direct the Association to suspend writing such business. However, the Superintendent has never deemed it necessary to invoke these additional powers under Section 5412.

The continuation of NYPIUA is critical as it is now also serving to provide coverage in New York's coastal areas. Over the past several years, NYPIUA has been increasing the number of fire insurance policies it issues to coastal homeowners because these residents were unable to obtain needed homeowners' insurance in the voluntary market.

Chapter 42 of the Laws of 1996 also added Section 2351 to the Insurance Law, permitting insurers to have multi-tiered programs for homeowners' insurance. It amended Section 3425(o) of the Insurance Law to require a homeowners' insurer that intends to materially reduce the volume of such policies it issues in New York, as specified in the statute, to file a plan with the Department (for

approval), at least 60 days in advance. It further requires that the plan must evidence that the withdrawal will be done in a manner which will minimize market disruption. The legislation also amended Section 3425(n) to require that where an insurer materially reduces its volume of homeowners' policies issued in New York, commissions shall be payable for an additional year beyond the required policy. These mechanisms were created to enhance the availability of homeowners' insurance in New York, and to address the problems faced in attempting to properly insure structures in coastal areas. All of these provisions are due to expire on April 30, 1999. They should be extended in order to give these measures the opportunity to be successful.

The Temporary Panel on Homeowners' Insurance Coverage has been in existence since 1996 and has made a number of reports to the Governor and the Legislature, the last of which was made on February 1, 1999. The bill continues the Panel to April 30, 2000.

*Senate Bill 4651 (Sen. Seward); Assembly Bill 8026 (Rules at request of Mr. Grannis)*

## **2. Commercial Insurance Deregulation; Risk-Based Capital; Penalties; Various Improvements: Program Bill No. 46**

To amend Article 63 of the Insurance Law to establish guidelines for the exemption of policies written to insure large commercial risks from certain provisions of the Insurance Law, to amend Section 309 to provide for examination of insurers writing such policies; and to amend Section 1411 relating to the supervision of the investment practices of such insurers.

Section 1 of the bill amends Article 63 of the Insurance Law, which currently applies to special risk insurance. The bill expands the scope of this article by adding new provisions regarding insurance for all commercial risks. It also amends existing language by deleting references to special risks and other requirements that have been in effect since 1978. A summary of changes by section of the Insurance Law follows:

Section 6301 of the Insurance Law is amended to provide that a policy of insurance insuring commercial risks shall be exempt from certain provisions of the Insurance Law. The section also sets forth a list of kinds of insurance that are ineligible for such exemption.

Section 6303 (previously 6304), relating to special regulations, is amended to delete a reference to "licensing" which was previously applicable to special risks under the old law but is no longer relevant to the article as amended.

Section 2 of the bill amends Section 309 of the Insurance Law, relating to examinations of insurers, to provide that the Superintendent shall make an examination into the affairs of every authorized insurer that writes insurance pursuant to Article 63 of the Insurance Law at specified intervals that in the Superintendent's judgment may vary based upon the insurer's RBC level.

Section 3 of the bill adds a new subsection (i) to Section 1411 of the Insurance Law, relating to authorization of and restrictions on investments. Subsection (i) sets forth the various responsibilities of the board of directors of an authorized insurer (or of a committee thereof). Prior to writing insurance pursuant to Article 63, the board must authorize the writing of such insurance, assure the competence of the individuals responsible for such insurance, and approve a written plan for acquiring and holding investments and for engaging in investment practices. New subsection (i) also provides for additional oversight by the board of directors of various factors relating to the investment practices of insurers engaged in underwriting of commercial risks under Article 63, including the relationship between the insurer's products and pricing and its investment strategy. Moreover, new section (i) requires that the board of directors determine the validity of such insurer's investment practices at least quarterly, and exempts certain filings made with the Superintendent relating to an insurer's investment plan and practices from disclosure under the Freedom of Information Law.

This legislation will enhance the competitive environment for commercial insurance. Some commercial risks are currently insured by either the offshore, non-licensed market, or through alternative insurance mechanisms. New Article 63 will allow insurers to negotiate policy terms and prices for many commercial policyholders so that the licensed market can more rapidly respond to competitive forces, the needs of the buyer, global markets and conditions, as well as other economic forces. The bill also represents a paradigm shift with respect to the regulation of commercial risks in New York State. The new model will permit the reallocation of finite public resources from intrusive and time-consuming supervisory activities, such as prior filing and review of rates and forms, to more effective supervisory efforts which stress the monitoring of insurer solvency and market conduct issues in the commercial risks market. The bill provides important new tools to assist the Insurance Department in achieving these regulatory goals.

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 enact RBC standards for health organizations licensed under Article 43 of the Insurance Law or granted a certificate of authority under Article 44 of the Public Health Law.

To create a new Section 1326 of the Insurance Law to authorize domestic property/casualty insurance companies and financial guaranty insurance corporations to issue capital notes within certain statutory limits upon approval by the Superintendent of Insurance.

To amend the penalty provisions of Section 109 of the Insurance Law by increasing the maximum amount thereof to \$5,000 per violation, and adding specific additional penalty provisions and procedures applicable to violations by insurers that write policies pursuant to Article 63.

To streamline the alternative policy form filing procedure set forth in Section 3201 of the Insurance Law and the policy form filing procedure set forth in Section 2307 of the Insurance Law.

To eliminate unnecessary/costly paperwork in connection with the renewal of property insurance policies, by adding a new subsection (h) to Section 3403 to allow the Superintendent to suspend or waive the requirements of subsection (f) of such section if substantially equivalent information is available by other means.

To amend Section 307 to provide more uniform requirements with respect to the filing by insurers of annual statements, by providing that the same requirements govern the filing by insurers of annual statements when they are filed with an agent designated by the Superintendent as when they are filed with the Superintendent's office itself.

*Senate Bill 5525 (Sen. Seward); Assembly Bill 7686 (Mr. Grannis)*

### **3. Modifying Criteria for Formation of Captive Insurance Company: Program Bill No. 14**

To amend the Insurance Law to allow a broader range of sophisticated financial entities to form pure and group captive insurance companies in New York State, to clarify what entities are "affiliated" to the owner of a captive insurance company in order to determine which entities are eligible to be insured by a captive insurance company, and to permit captive insurance companies to write title insurance; to amend the Public Authorities Law and the Workers' Compensation Law to allow the State Dormitory Authority and the State Insurance Fund, respectively, to form a captive insurance company;

and to amend the Tax Law to exempt from taxation captive insurance companies formed by public entities not subject to taxation.

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." The current provisions of Article 70 of the New York Insurance Law only allow an entity to form a captive insurance company if the prospective parent (or an entity in its corporate structure) has a net worth in excess of \$100 million. In addition, the statute specifically allows the Metropolitan Transportation Authority (MTA) to form a captive insurance company in New York.

Captive insurance companies are subject to less stringent regulation than conventional insurance companies on the basis these insurers are established to self-fund the owner's risks and, as such, do not market or sell direct insurance to parties outside of their corporate structure. The net worth threshold contained in the law is intended to serve as a measurement of financial sophistication. The owner(s) of such captives currently have to maintain a net worth of \$100 million in order to ensure that such owner(s) have the financial strength and business acumen to self-fund its risks; and thus do not require the regulatory protection afforded other insureds.

The current threshold for owning a captive is somewhat arbitrary and may be too restrictive given the trend towards more self-funding of risk by entities in today's business world. First of all, the current statute does not permit the formation of captive insurers by public entities, except for the specific authority afforded the MTA. (This specific authority was provided due to the fact that during development of the legislation authorizing captive insurers, the MTA was exploring the feasibility of a self-insurance vehicle. At that time they could not form a captive insurer in New York and were forced to consider domiciling the entity outside of New York. In order to allow the MTA to self-insure in New York, they were given authority under the law to form a captive, and they did become the first licensed captive insurer in New York.) Other state authorities and public entities looking at options to better manage their risk have approached the Insurance Department in exploring the feasibility of forming captive insurers. Under current law, they are unable to do so in spite of the fact that some of these entities manage budgets that clearly evidence financial sophistication. The situation should be rectified by allowing equal treatment to all qualified public entities by permitting them to form a New York captive insurance company.

In addition to public entities, it has become evident since the enabling captive law passed in 1997 that many of the companies that meet the \$100 million threshold currently in the New York law for owning a captive insurer have either already formed a captive insurer elsewhere or are self-funding their risk without establishing a captive. Captives have been forming at a growing rate for the past two decades and most of the Fortune 500 companies have already incorporated their self-insurance mechanisms in their risk management strategy. The growth in the captive industry is at companies that, although sophisticated in the financial and risk management areas, do not meet the \$100 million net worth criteria. The current minimum may be too high for the entities, or group of entities, that are currently looking at self-insuring as part of an overall risk management strategy.

By amending Section 7002(e) to lower the threshold to \$50 million, allow revenues to act as an alternate to net worth as an barometer of financial sophistication and give the Superintendent discretion to allow or permit other scenarios as presented to him would greatly enhance the appeal of New York as a domicile for the new wave of captive insurers. The Department will be able to adequately regulate these insurers under the framework established by Article 70 of the Insurance Law. This bill can continue development of an appropriate regulatory environment in New York for the alternative insurance market.

The amendments in Section 4 and 5 of the bill amend the Public Authorities Law and the Workers' Compensation Law to enable the State Dormitory Authority and the State Insurance Fund, under their

governing authority, to form a captive insurance company under Article 70. The other amendments in the bill (to Section 7002(a), (g), (h) and (i)) are needed to expand the authority to form captive insurers to include not only the MTA, but also other public entities, for all the reasons indicated above.

The amendment to Section 7002(a) also provides guidance as to what entities are deemed "affiliated companies" for the purpose of allowing a captive insurance company to directly insure such risks. The amendment to Section 7002(f) clarifies that group captive insurance companies can insure companies affiliated with its owners.

The amendment to Section 7003()(3) allows captive insurance companies to self-insure their owners' title exposure.

*Senate Bill 4694 (Seward); Assembly Bill 7685 (Mr. Grannis)*

#### **4. Administrative Supervision of Article 43 Corporations and Health Maintenance Organizations: Program Bill No. 63**

To amend the Insurance Law, to authorize procedures for administrative supervision by the Superintendent of Insurance of certain corporations licensed pursuant to Article 43 of the Insurance Law or health maintenance organizations possessing a certificate of authority issued pursuant to Article 44 of the Public Health Law, in order to remedy the financial condition and management of such corporations or organizations.

The bill provides that an insurer may be subject to administrative supervision by the Superintendent if upon examination or at any other time it appears, in the Superintendent's discretion, that: (1) the insurer's condition renders the continuance of its business hazardous to the interests of its policyholders, creditors or the public; (2) the insurer has or appears to have exceeded its powers; (3) the insurer has failed to comply with the applicable provisions of the Insurance Law or Public Health Law of this state, any rules or regulations promulgated thereunder or any order of the Superintendent or the Commissioner of Health; (4) the business of the insurer is being conducted fraudulently; or (5) the insurer has consented to administrative supervision.

Existing provisions of law are sometimes not adequate or appropriate under all circumstances, to remedy the financial condition and the management of insurers that are corporations licensed pursuant to Article 43 of the Insurance Law or health maintenance organizations possessing a certificate of authority issued by the Commissioner of Health pursuant to Article 44 of the Public Health Law. The premature initiation, with respect to such insurers, of a proceeding pursuant to Article 74 of the Insurance Law may impair or diminish one or more of the following values or assets of the insurer: (a) the value of the insurance account or in-force business of the insurer, (b) the value of the insurer as a going concern, (c) the value of its marketing operations, and (d) the value of its other assets.

It is the purpose of this legislation to encourage the rehabilitation of such insurers by authorizing the additional facility of supervision by the Superintendent, to authorize action to resolve whether an attempt should be made to rehabilitate an insurer, and to avoid, if possible and feasible, initiating a proceeding under Article 74.

The bill would also provide for protection of the assets of such insurers pending determination of whether or not the insurer can be successfully rehabilitated. It is realized that rehabilitation will not be accomplished in every case, but it is the purpose of this legislation to provide a facility for attempting the rehabilitation without immediate resort to the harsher remedies under Article 74. In the event that the initiation by the Superintendent of a proceeding pursuant to Article 74 ultimately becomes necessary, preliminary supervision is preventive of a dissipation of assets and will thus benefit policyholders, creditors and owners.

*Senate Bill (n/a); Assembly Bill (n/a)*

## 5. Miscellaneous Regulatory Improvements: Program Bill No. 39

To make a number of amendments of the Insurance Law that address miscellaneous regulatory issues, including proposals to:

- amend Article 66 to increase the authority of cooperative P/C insurers to invest in certificates of deposit;
- amend Section 1320 to impose a \$500,000 minimum deposit requirement on licensed alien insurers that do two or more lines of insurance, which is the same minimum that presently applies to alien insurers authorized to do only one kind of insurance;
- amend Section 1110 to expand the authority of charitable annuity societies to make or issue annuity contracts without having to have first obtained a special permit, by increasing the reserves threshold from \$80,000 to \$500,000;
- amend Section 7907(a)(6) to eliminate the requirement that service contract providers include with their registration applications to the Insurance Department, copies of each form of service contract they propose to use in New York State;
- amend Section 3211 regarding authorization for a senior citizen insured under a long-term care policy to designate a third party to receive premium notices;
- amend Section 1112 to change the calculation of the amount of estimated tax payments by insurers subject to retaliatory taxes;
- amend Section 2324 and Section 4224 to prohibit the inclusion of certain goods and services in the sale of certain insurance policies without the insured's informed consent, and to provide an enhanced penalty for violation of such provisions;
- amend Section 3201(c) to permit the Insurance Department to approve long-term care policy forms for general use rather than on a case by case basis;
- amend Section 1113(a)(28) to include indemnity insurance to benefit service contract providers;
- amend Section 4230 to eliminate the prohibition on employment contracts between a domestic life insurance company and its officers/salaried employees which currently cannot exceed 36 months in duration; and
- amend Section 4233 to revise information required to be reported regarding salaries for life insurers filing annual statement forms.

The need for the amendment to Section 6623 was occasioned by a 1992 amendment of Section 1409(a). When Section 1409(a) was amended by Chapter 324 of the Laws of 1992 (effective January 1, 1993), some small assessment corporations were forced to reduce their Certificates of Deposit in local banks to 10% of admitted assets. As these companies are located in rural areas, their investment/banking opportunities were thus significantly decreased by the 1992 amendment. The amendment of Section 6623 proposed in Section 1 of the bill will make it easier for assessment corporations to comply with investment statutes; improve their investment yields as interest rates tend to be higher on larger investments; decrease their investment costs as larger investments result in fewer transactions; and increase their local investment/banking opportunities.

The current Section 1320(a)(2) requirement of a minimum deposit from a licensed alien insurer doing two or more kinds of insurance, of the lesser of the capital to be maintained by a domestic stock insurer licensed to do the same kinds of insurance or \$1 million, may result in a deposit amount below the \$500,000 minimum amount required by Section 1320(a)(1) for a alien insurer licensed to do only one kind of insurance in this State. The amendment in Section 2 of the bill will correct that anomaly.

The current \$80,000 threshold in Section 1110(d) for reserves of a charitable annuity society was adopted nearly fifty years ago, and in view of the inflation that has taken place over the last fifty years this amount appears unrealistic. The change proposed in Section 3 of the bill to \$500,000 would exempt the smaller charitable annuity societies from the expenses of examination and annual statement filing.

The Department is not required to review or approve service contract forms, although the requirement in Section 7907 that the forms be filed with the Department (eliminated by Section 4 of the bill) might be misconstrued as a Department sanction similar to the approval of policy forms filed by insurance companies. A significant number of Service Contractor Registration applications must be returned because of the applicant's failure to submit all of the forms listed on its application, delaying the issuance of Registrations and increasing the time and resources required to be devoted to these applications. Should a complaint arise regarding contract compliance by a Service Contract provider registered with the Department, a copy of the contract could be obtained from the registered provider and the customer.

The proposed provisions in Section 3111 (added by Section 5 of the bill) regarding long-term care policies are patterned after existing provisions which similarly protect senior citizens insured under other types of policies.

The amendment of Section 1112(a) which is proposed by Section 6 of the bill would have the effect of reducing the large number of instances in which insurers are presently required to pay large estimated tax payments of retaliatory taxes, only to later receive refunds of overpayments. The new calculation would avoid many of these overpayments.

The amendments proposed in Sections 7 through 10 of the bill address the Department's most recent experience with the sale of products and services coupled with insurance products. The level of complaints indicates that this activity warrants enhanced penalties.

Section 11 of the bill repeals paragraph 11 of Section 3201(c) (and Section 12 makes conforming amendments), concerning the requirement of approval of a long term care policy for a specifically identified policyholder. Section 3201(c)(11) was added by Chapter 689 of the Laws of 1989 as part of the Life Care Community legislation. The concept of the 1989 legislation was that by requiring single case approvals, the Department could monitor proposed policyholders to prevent entities that might seek to emulate life care communities and avoid the requirements of the legislation through the purchase of long term care insurance. Legislative amendments to the Life Care Community legislation which have been enacted since 1989, such as recognition of Life Care Communities and Continuing Care Retirement Communities as eligible group policyholders, have reduced the need to review such policyholders on a case by case basis. Repeal of Section 3201(c)(11) would place long term care policies on the same footing as other types of group accident and health insurance which can be issued to any group recognized under Section 4235(c)(1) once the policy forms are approved. Repeal of Section 3201(c)(11) would also remove the burden imposed upon both licensees and the Department to review and extend one case approvals each and every time an insurer seeks to issue group long term care insurance to a new policyholder.

By expanding the scope of service contract reimbursement insurance under Section 1113(a)(28) to include the indemnification for service contract providers, such persons will be able to protect themselves against losses arising from service contracts which they insured.

With respect to the amendment of Section 4230 by Section 14 of the bill, the current legislation to restrict employment contracts originated as part of old Section 214, dating back to 1909. Old Section 214 imposed numerous restrictions on compensation to officers and employees of life insurance companies. Many of these restrictions have been repealed and there appears to be no reason at this time to maintain this remaining restriction.

The provisions of Section 4233(b) regarding reporting of salaries go back many years without any significant revision. The bill updates certain salary amounts to take cognizance of the effect of inflation. *Senate Bill 5119 (Sen. Seward); Assembly Bill 7687 (Mr. Grannis)*

## **6. Motor Vehicle No-Fault Insurance/Managed Care Alternatives: Program Bill No. 58**

To reduce the 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 permitting managed care alternatives for delivery of such services.

Section 1 of the bill adds a new Section 5109 to the Insurance Law, permitting insurers to establish relationships with Preferred Provider Organizations or Utilization Review Agents in order to effectively evaluate health care services compensable under the No-Fault law. It also contains licensing standards for Preferred Provider Organizations, which will be licensed by the Commissioner of Health. It provides for approval by the Superintendent of Insurance of insurer Preferred Provider Organization programs and Utilization Review programs.

Section 2 of the bill amends Section 2330 to enable appropriate premium reductions for cost savings attributable to Preferred Provider Organization or Utilization Review programs.

Section 3 of the bill adds a new subsection (i) to Section 5103 permitting insurers to provide Preferred Provider Organization programs or Utilization Review programs for personal injury protection (No-Fault) medical and other health care services in the event that certain covered persons are injured as a result of a motor vehicle accident.

Section 4 of the bill amends subsection (b) of Section 5108 to provide that payments under Preferred Provider Organization programs shall not exceed amounts otherwise payable by application of the fee schedules established by the Superintendent of Insurance or the Chair of the Workers' Compensation Board.

Due to the increasing medical and health care costs, it has become necessary to address these unabated costs before No-Fault motor vehicle insurance becomes unaffordable. The bill would allow appropriate programs for providing or reviewing health care treatment in order to help contain costs while enhancing the quality of health care delivery. Implementation of Preferred Provider Organization or Utilization Review programs will preserve the goal of providing reasonable and meaningful health care protection at an affordable price. This bill provides a measure of accountability of providers of health care services that does not exist today. Insurers that establish Preferred Provider Organizations will also be able to improve insurance cost containment efforts through the negotiation of medical fees and payments with health care providers.

To some degree, New York's No-Fault system has become a target for those who would engage in abuse. Essentially an unmanaged reparations system, No-Fault insurance has been targeted by some unscrupulous health care providers as an easy source of business. The result is an increasingly adversarial climate between health care providers and insurers. The establishment of one of the alternative approaches provided by this bill would help to solve the problems in the present system. It should result in a more cooperative approach that would bring better order and control to the No-Fault

reparations system. At the same time, costs should be reduced, resulting in lower auto insurance costs for New York's consumers.

This bill is designed, to a significant degree, to allow insurers to develop programs similar to those now permitted under the Workers' Compensation Law. These programs have been effective in reducing costs for workers' compensation insurers and those savings have been passed on to policyholders in the form of lower workers' compensation insurance premiums. This bill will allow New York's auto insurance consumers to realize similar, if not greater, savings.

*Senate Bill No. 5584 (Sen. Seward)*

## **B. INSURANCE DEPARTMENT BILLS FOR 1999**

### **1. Risk-Based Capital Requirements; Capital Notes**

(a) To expand the use of risk-based capital ("RBC") standards, currently applicable to life and accident and health insurers, to property/casualty insurers; to provide a more flexible and realistic statutory capital level that changes in relation to the size of the insurer and the level of risk inherent in an insurer's operations; to identify inadequately capitalized insurance companies that write property/casualty business; and to provide the Superintendent of Insurance with appropriate remedies as a property/casualty insurance company's financial condition deteriorates and its capital falls below thresholds established by the RBC formula.

(b) To also enact similar RBC standards for health organizations licensed under Article 43 of the Insurance Law or granted a certificate of authority under Article 44 of the Public Health Law.

(c) To create a new Section 1326 of the Insurance Law to authorize domestic property/casualty insurance companies and financial guaranty insurance corporations to issue capital notes with the approval of the Superintendent of Insurance within certain statutory limits.

The insurance industry is regulated to ensure that insurers maintain sufficient capital to fund policyholder obligations. In the past, the solvency of the property/casualty industry has raised concerns among consumers, legislators and regulators. In 1993, the New York Legislature applied RBC standards to life and accident and health insurers through the enactment of Section 1322 of the Insurance Law.

The amendments set forth in Sections 1, 4 and 5 will extend RBC standards to the property/casualty insurance industry. The new Section 1324 incorporates the use of a RBC formula that has been designed by regulators to establish minimum capital requirements based upon the risks applicable to the operations of individual insurers. It takes into consideration industry performance, individual insurer characteristics and the allocation of reserves and premiums in the property/casualty insurance industry.

Section 2 of the bill enacts a new Section 1325 containing similar provisions regarding health organizations. The proposal embraces the RBC standards contained in the NAIC's recently adopted Health Organization RBC Model Law. The health insurance marketplace has undergone a transformation over the past ten years from predominantly traditional indemnity based insurance carriers to predominantly pre-paid managed care organizations. As these organizations (NYIL Article 43 Insurers and PHL Article 44 health maintenance organizations) have increased their share of the health market, solvency concerns have been heightened among consumers legislators and regulators. In 1993, the New York legislature applied RBC standards to commercial health insurers through the enactment of Section 1322 of the Insurance Law. By adding the new Section 1325, Section 2 will extend these standards to the remainder of the health insurance industry. The new Section 1325 incorporates the use of an RBC formula that has been designed by regulators to establish minimum

capital requirements based upon the risks applicable to the operations of individual organizations. It also takes into consideration the arrangements by which these organizations share risk with the providers of health services. Conforming amendments with respect to health organizations are also included in Sections 5 and 6 of the bill.

The structure and methodology of the formula used to calculate the RBC have been developed by the National Association of Insurance Commissioners ("NAIC") and may be revised by that Association from time to time. However, the proposed bill would give the Superintendent the discretion to adopt or reject those changes when applying RBC to New York property/casualty insurers and health organizations, consistent with New York law, as was previously done in the legislation enacted in 1993 in Section 1322.

The bill also corrects an inadvertent error in Section 1322. Subsequent to the enactment of Section 1322 in New York in 1993, it came to the attention of the persons who developed the National Association of Insurance Commissioners Model Act, on which Section 1322 was based, that "regulatory" should be replaced with "company". The NAIC Model Act was corrected and, accordingly, the New York statute should also be corrected at this time.

The bill will require property/casualty insurers licensed in New York and health organizations licensed or issued a certificate of authority in New York to calculate their RBC and, in addition, will provide the Superintendent with appropriate remedies as an authorized insurer's or health organization's financial condition deteriorates (i.e. its capital falls below RBC standards). The revisions provide a new minimum level of capital at which the Superintendent must act to place an insurer under his or her control. The proposal effectively raises the statutory capital level from its current arbitrary and generally low fixed dollar amounts to a more flexible and realistic base that changes in relation to the size of the insurer and the level of risk inherent in an insurer's operations. In the case of health organizations, the proposal effectively changes the statutory capital level from its current flat percentage based calculation to a more flexible and realistic base that changes in relation to level of risk inherent in a health organization's operations.

RBC is intended to strengthen the safety net that statutory surplus currently provides for policyholder obligations. While RBC provides a threshold amount of capital, it does not set the precise amount of capital a property/casualty insurer or a health organization needs to operate in a competitive, dynamic and uncertain marketplace. It cannot address all the risks associated with the operations of an insurer or health organization. Accordingly, an excess of capital over the amount produced by the RBC requirements contained in this bill is desirable in the business of insurance, and insurers and health organizations should seek to maintain capital well above the RBC levels required by this bill. Furthermore, since RBC is not a precise amount of capital to be maintained, the proposed legislation specifically prohibits its use for ranking and advertising, or as a standard for the establishment of premium rates.

The proposed legislation provides the Superintendent with a powerful and effective new tool to measure capital adequacy of property/casualty insurance companies and health organizations. The proposed capital standard will enable the Superintendent to more effectively employ statutory remedies and, in conjunction with the array of other solvency tools, hasten intervention into troubled situations. RBC will not preclude in any way other powers and duties of the Superintendent. It will only supplement those powers. These standards will greatly enhance New York's strong, effective regulation of insurers companies and health organizations.

Section 3 of the bill expands the means by which property/casualty insurance companies and financial guaranty insurance corporations can raise capital. This section mirrors legislation enacted in 1996 for life insurers in New York. Like mutual life insurers, this authority can be important to mutual property/casualty insurance companies. Currently mutual property/casualty insurance companies can raise capital from investors only through surplus notes issued pursuant to Section 1307, which is a limited and costly capital raising mechanism. The ability to issue capital notes under the proposed new Section 1326 would give mutual and stock property/casualty insurance companies and financial guaranty insurance corporations additional flexibility to create a sound, diversified capital structure. That flexibility would still be disciplined by the limitation that the insurer generally cannot use capital notes, surplus notes and comparable financing to raise more than 25% of its total adjusted capital. These limits are intended to prevent a precipitous reduction in the insurer's capital when a capital note matures and has to be repaid. In addition, further protection is provided by requiring the insurer to start eliminating the effect of the capital notes on its total adjusted capital either five or ten years prior to maturity, depending on the term of the capital note. Also, payment of principal and interest can be suspended by the Superintendent if the insurer's total adjusted capital does not meet a multiple of its minimum required capital as calculated by the risk-based capital formula. In applying the foregoing limits to financial guaranty insurance companies, limits are based upon the existing capital requirements under Article 69 of the Insurance Law rather than the proposed new risk based capital limits under proposed new Section 1324.

*Senate Bill 3584-A (Sen. Seward); Assembly Bill 8121 (Rules at request of Mr. Grannis)*

## **2. Life Insurance Products**

(1) To amend Section 4221(n-2) of the Insurance Law so as to permit insurers to issue individual corporate owned or bank owned life insurance policies which provide for cash surrender benefits determined using market-value adjustment formulae which permit only downward adjustments to such benefits or using other such formulae which are acceptable to the Superintendent.

(2) To amend Section 4231(g)(1) of the Insurance Law so as to permit insurers to return to their policyholders excess expense charges on variable annuity and life insurance products without requiring the contract or policy to be participating.

(3) To amend Section 4238 to include as new permissible group annuity cases those groups recognized by Section 4216(b)(12), (13) and (14) for group life insurance and Section 4235(c)(1)(K), (L) and (M) for group accident and health insurance and to amend Section 1101(b)(2)(B) to prevent unlicensed insurers from taking advantage of the new permissible groups.

Section 4221 (n-2) currently provides for restrictions on the form of market-value adjustment formulae that may be used in individual life insurance policies. Such restrictions do not necessarily allow an insurer to protect itself against economic losses upon termination of a large number of policies simultaneously, as could be the case with corporate owned or bank owned life insurance where one employer may control many policies. In such cases, significant economic losses could occur since the insurer could be forced to sell assets such that the amount of cash paid out to the policyowner would exceed the market value of the supporting assets. This could occur if the market-value adjustment formula in a policy did not accurately provide for a reflection of the true market value of the assets supporting a policy due to the formula's simplified nature as required by the current law.

The bill would permit insurers to use market-value adjustment formulae, which provide more protection for insurers against economic losses due to the termination of a large case. It would allow the same types of market-value adjustment formulae currently used by insurers for group life business. The bill is supportive of business since it should lead to the increased availability of corporate owned or bank owned life insurance policies since more insurers would be willing to enter this market. The bill would also benefit employees since these types of life insurance programs are often used to fund employee benefit plans.

Insurers issuing variable annuity contracts and variable life insurance policies have begun to design products, which would reward contractholders and policyholders who heavily fund their contracts and policies. When these products are heavily funded, leading to higher returns for the insurer, it is only equitable for the insurer to return a portion of those earnings back to the contractholders and policyholders. Insurers, however, may want to utilize retrospective formulas, i.e., looking back at the performance of a policy during the prior year in order to determine eligibility for the enhancement. Such a retrospective formula currently has the effect whereby the policyholders would be participating in the company's profits, thereby making the contract or policy participating under Section 4231 of the Insurance Law.

Insurers which are stock companies and wish to offer these types of enhancements are unable to do so without applying for and obtaining a permit from the Superintendent authorizing such insurer to issue participating products. Many insurers are reluctant to go through this process.

The bill would allow New York contractholders and policyholders to be eligible for product enhancements and facilitate the offering of such enhancements by insurers in New York.

Under current law, licensed insurers cannot market group annuity certificates in the individual market under group annuity contracts delivered in this state unless the group is specifically described in Section 4238(b). As such, a licensed insurer cannot market such certificates under a group annuity contract issued to one of the new proposed groups situated in this state. However, the same licensed insurer can market such certificates if the group annuity contract is delivered outside of New York in a state in which the insurer is licensed to do business. Some licensed insurers are not licensed in other states and must either incur the additional expense of licensing in another state or forego marketing such annuity coverage through an increasingly common marketing option.

It makes no sense to force group business out of the state when the certificates covering New York residents under such groups would be subject to in state approval standards. Section 4238 already recognizes two non-true groups in Section 4238(b)(6) and (7) (i.e., IRA Groups and the Non-Taft Hartley Trust Groups) and no public policy is served by prohibiting the three other commonly recognized non-true groups. Section 4 of the bill would address this anomaly by specifically permitting such group cases to be written in this state.

Section 3 of the bill is needed to prohibit unlicensed insurers from engaging in transactions, such as issuance of a certificate of insurance, in New York when New York residents are covered under group annuity contracts issued out-of-state to non-true groups including the three proposed groups. The deletion of the phrase "providing a plan of retirement annuities" is necessary to conform to changes made to Section 4238(b) (former Section 223(2)) by Chapter 172 of the Laws of 1982 and to recognize that individual pay-all programs are savings vehicles as well as retirement programs.  
*Senate Bill 3559 (Sen. Seward); Assembly Bill 8089 (Rules at request of Mr. Grannis)*

### **3. Technical Corrections**

To make technical corrections in a number of sections of the Insurance Law.

To amend Section 2335 of the Insurance law in order to correct technical ambiguities in the surcharge provisions relating to motor vehicle liability insurance rates.

To amend Section 1104(c) of the Insurance Law ("Revocation or suspension of license; restriction of license authority or limitation on premium written") to: (i) make it applicable to financial guaranty insurance companies; and (ii) delete its applicability to Lloyd's underwriters;

To amend Section 6116 of the Insurance Law to delete subsections (a), (b) and (d), which grandfathered any Lloyd's underwriters authorized prior to January 1, 1940 to do an insurance business in New York and which provides that the section shall not apply to the operations of the New York Insurance Exchange;

To delete numerous references in the Insurance Law to "Lloyd's underwriters" to reflect the fact that the only Lloyd's underwriter grandfathered under Section 6116 has since converted to a property/casualty insurance company and that the formation of other Lloyd's underwriters are prohibited, making these references obsolete.

Sections 1 through 10 of the bill correct spelling errors or renumber or reletter various provisions of the Insurance Law. In each instance, the amendments are technical in nature and eliminate confusion in the law.

Due to changes to Article 14 enacted in Chapter 324 of the Laws of 1992, the cross-references to provisions of Article 14 which are set forth in Section 6507 require a technical conforming revision (section 2 of the bill).

The ambiguities in Section 2335 that Section 11 of the bill seeks to correct have caused confusion for both the Department and the industry. These items slow down the filing process as well. First and foremost of these items, are paragraphs (a)(3) and (a)(14) of Section 2335. Read together, these paragraphs cause some ambiguity and create confusion over meaning and interpretation. Most insurers' merit rating (surcharge) plans are structured so that any two or more violations, other than those listed in paragraphs 1 through 13, will result in a surcharge. Yet, one interpretation of the section would only permit a surcharge for violations for operating a motor vehicle in excess of the speed limit, or reckless driving, or any combination thereof, on a minimum of three or more occasions. Such an interpretation would set in place a situation where a driver who has two convictions for relatively minor infractions, such as an improper turn, would be surcharged, whereas another driver with two major offenses, such as reckless driving, would not be surcharged. This result would be detrimental to consumers and to highway safety. It also seems to be contrary to the original legislative intent, which may have been overlooked when subsequently the Legislature transported what were previously grounds for nonrenewal into bases for surcharges.

Additionally, Section 2335 contains a number of words and phrases which conflict with the rest of the section, and therefore should be replaced.

Section 1104(c) is currently applicable to Lloyd's underwriters. However, the only Lloyds underwriter operating in New York at the time of the enactment of Section 1104(c) converted into a property/casualty insurance company in 1992. Furthermore, subsection (c) of Section 6116 prohibits the organization or licensing of any other Lloyd's underwriters. Accordingly, the reference to Lloyd's underwriters in Section 1104(c) is obsolete.

Section 1104(c) of the Insurance Law should be made applicable to monoline financial guaranty insurance companies. This subsection, which authorizes the Superintendent to suspend the license, restrict the license authority or limit the premium writings of a property/casualty insurance company, cooperative property/casualty insurance company, title insurance company, mortgage guaranty insurance company, reciprocal insurer or Lloyds underwriter upon a determination that the insurer's surplus to policyholders is inadequate in relation to its outstanding liabilities or financial needs, was enacted in the same 1989 session as the enabling legislation that authorized the formation of monoline financial guaranty insurance companies. As Section 1104(c) is applicable to property/casualty insurance companies which wrote financial guaranty insurance prior to the enactment of Article 69, and to other types of monoline insurance companies such as title and mortgage guaranty insurance companies, it is consistent that this authority should apply to financial guaranty insurance companies authorized under Article 69. Such authority is critical when the Superintendent has made a determination that an

insurer's surplus to policyholders is not adequate in relation to the insurer's outstanding liabilities or to its financial needs.

As indicated above, the only Lloyds underwriter operating in New York converted into a property/casualty insurance company in 1992. Thus, the exemption in Section 6116(a) and (b), which allows any Lloyd's underwriters authorized prior to January 1, 1940 to continue to do an insurance business in New York, is no longer needed. In addition, the New York Insurance Exchange is no longer operational, negating the need for the affirmation in Section 6116(d) that this section does not affect the authority of the Exchange to operate under Article. The provision contained in Section 6116(c) prohibiting any other Lloyd's underwriters from being organized or doing business in New York will remain as the sole provision in Section 6116 under the bill.

Due to the conversion of the only Lloyd's underwriters to a property/casualty insurer in 1992, many of the references in the Insurance Law to "Lloyd's underwriters", where such references are meant to include a Lloyd's underwriter in the same standing as other types of authorized insurers, are no longer relevant and should be deleted.

*Senate Bill 3516 (Sen. Seward); Assembly Bill 8090 (Rules at request of Mr. Grannis)*

## VIII. Regulatory Activities

### A. Operating Statistics

Table 58

#### 1. SUMMARY OF STATISTICAL TABLES AS OF DECEMBER 31, 1997<sup>a</sup> (dollar amounts in millions)

Company Type <sup>1</sup>	As of December 31				For the Year			
	Number of Insurers <sup>2</sup>	Admitted Assets	Surplus and Capital		Total Business		New York State Business	
			Liabilities	Funds	(net of reinsurance)		(Direct)	
				Premiums Written <sup>3</sup>	Losses Paid <sup>4</sup>	Premiums Written <sup>5</sup>	Losses Paid <sup>6</sup>	
--- All NYS-Licensed Companies <sup>7</sup> ---								
Total	1,069	\$2,199,238	\$1,861,369	\$337,868	\$427,221	\$331,198	\$71,345	\$50,918
Property and Casualty	751	682,526	436,873	245,654	200,911	121,734	21,760	13,636
Life <sup>8</sup>	143	1,426,122	1,351,892	74,230	193,770 b	185,977 c	30,889	21,123
Accident and Health	16	5,959	3,562	2,396	3,764 b	2,714 c	708	436
Fraternal	51	51,707	46,738	4,968	5,322	3,888	113 d	72 e
Health Service and								
Medical and Dental Indemnity <sup>9</sup>	18	3,751	2,755	996	5,981 f	5,287 g	5,981 f	5,287 g
Health Maintenance Organizations <sup>9</sup>	38	2,883	2,187	695	11,256 h	10,475 i	11,034 h	10,255 i
Title	20	2,192	1,427	765	2,778 j	139	383 j	16
Mortgage Guaranty	21	10,108	7,414	2,694	2,438	961	148	79
Financial Guaranty	11	13,990	8,521	5,470	1,001	23	329	14
--- New York State Domiciled Companies ---								
Total	394	609,919	552,080	57,838	100,964	92,227	39,571	32,077
Property and Casualty	209	76,082	53,120	22,962	17,242	11,053	5,726	3,748
Stock	138	55,238	36,690	18,548	13,936	8,626	2,842	1,657
Mutual	17	18,778	14,905	3,873	2,673	2,087	2,041	1,646
Advance Premium Co-op.	20	920	579	341	415	225	588	318
Reciprocal	4	975	877	98	156	87	177	88
Assessment Co-op. <sup>10</sup>	30	171	69	102	62	28	78	39
Life <sup>8</sup>	92	515,517	486,979	28,538	64,586 b	64,883 c	15,778	12,432
Accident and Health	10	562	266	296	680 b	478 c	573	330
Fraternal	8	98	88	10	8	9	6 d	3 e
Health Service and								
Medical and Dental Indemnity <sup>9</sup>	18	3,751	2,755	996	5,981 f	5,287 g	5,981 f	5,287 g
Health Maintenance Organizations <sup>9</sup>	38	2,883	2,187	695	11,256 h	10,475 i	11,034 h	10,255 i
Title	11	367	205	162	342 j	22	200 j	9
Mortgage Guaranty	2	256	106	150	53	4	0	0
Financial Guaranty	6	10,403	6,374	4,029	816	16	273	13
--- Other States' Domiciled Companies ---								
Total	658	1,578,669	1,301,286	277,383	324,260	237,864	31,514	18,706
Property and Casualty	526	598,409	378,046	220,364	181,899	109,835	15,776	9,754
Stock	475	442,686	295,145	147,542	131,084	76,798	12,701	7,732
Mutual	47	144,760	78,286	66,474	46,879	30,737	2,952	1,965
Reciprocal	4	10,963	4,615	6,348	3,936	2,300	123	57
Life <sup>8</sup>	51	910,605	864,913	45,692	129,184 b	121,094 c	15,111	8,691
Accident and Health	6	5,397	3,296	2,100	3,084 b	2,236 c	135	106
Fraternal	42	48,994	44,354	4,639	5,087	3,618	105 d	68 e
Title	9	1,825	1,222	603	2,436 j	117	183 j	7
Mortgage Guaranty	19	9,852	7,308	2,544	2,385	957	148	79
Financial Guaranty	5	3,587	2,147	1,441	185	7	56	1
--- Alien Domiciled Companies ---								
Total	17	10,650	8,003	2,647	1,997	1,107	260	135
Property and Casualty	16	8,035	5,707	2,328	1,770	846	258	134
Fraternal	1	2,615	2,296	319	227	261	2 d	1 e

see notes, next page

NOTE: Detail may not add to totals due to rounding.

- a Prior to audit.
- b Gross Premium (less reinsurance) plus considerations for supplementary contracts.
- c Includes all benefits except dividends to policyholders. Excludes changes in reserves.
- d Payments Received from Members.
- e Insurance Benefits Paid to Members.
- f Premium earned.
- g Claims incurred.
- h Includes revenue from premiums, Medicare, and Medicaid. Excludes fee-for-service and miscellaneous revenues.
- i Medical and hospital expenses.
- j Title Premium only, excluding fees.

- 1 Excludes 13 pension funds and 8 variable supplements funds.  
Also excludes 118 Charitable Annuity Societies.
- 2 Insurers licensed in New York State as of December 31, 1997, some of which did no business in 1997.
- 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 all domiciles.
- 8 Includes A & H insurance. Also includes transactions of savings bank life insurance departments, which are counted as one insurer.
- 9 Five health service corporations contain health maintenance organizations as a line of business. These do not segregate balance sheet data (assets, liabilities and surplus) of their HMOs. Such data are therefore 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 in the HMO category.
- 10 Includes assessment cooperatives that do not file electronic statements.

2. Results of Examinations for Licenses

**Table 59**  
**RESULTS OF EXAMINATIONS FOR LICENSES**  
**Adjusters, Agents, Brokers and Consultants**  
**1997 and 1998**

<u>Type of Examination</u>	<u>1998</u>		<u>1997</u>	
	<u>Number Taking Examination</u>	<u>Percent Passing</u>	<u>Number Taking Examination</u>	<u>Percent Passing</u>
Total	42,138	55%	34,990	55%
Public Adjusters.....	60	33	76	33
Independent Adjusters – Total....	1,552	66	1,312	70
Accident & Health.....	30	27	26	58
Automobile.....	268	55	202	61
Aviation.....	1	100	1	100
Casualty.....	355	50	288	62
Fidelity and Surety.....	42	76	9	44
Fire.....	70	39	111	39
General (All Lines).....	236	50	230	53
Health Service Charges.....	21	57	7	57
Inland Marine	5	40	3	33
Limited Auto (Damage or Theft Appraisals only).....	524	95	435	90
Agents – Total.....	37,888	52	30,974	54
Accident & Health.....	16,220	50	13,708	52
Life and SBLI.....	18,440	54	15,688	56
Mortgage Guaranty.....	3	67	1	100
General Agent (P&C).....	3,202	51	1,557	58
Bail Bond.....	23	35	20	40
Credit.....	0	0	0	0
Brokers.....	2,638	55	2,628	58
Consultants – Total.....	0	0	0	0
General.....	0	0	0	0
Life.....	0	0	0	0

**Table 60**  
**LICENSES ISSUED DURING YEAR**  
**1997 and 1998**

	<u>1998</u>	<u>1997</u>
Total.....	76,219	102,995
Adjusters <sup>a</sup>		
Independent.....	670	2,984
Public.....	115	305
Agents <sup>b</sup>		
Life and Accident & Health.....	16,562	89,554
Savings Bank Life Certificate Holders.....	396	2,887
Property and Casualty.....	24,787	3,315
Rental Vehicle.....	53	9
Mortgage Guaranty Insurance.....	2	1
Bail Bond.....	31	5
Limited Lines.....	22	0
Brokers <sup>c</sup>		
Regular.....	32,634	3,352
Excess Line (Regular).....	344	79
Excess Line (Limited).....	2	2
Viatical Settlement.....	13	7
Consultants <sup>d</sup>		
Life.....	20	206
General.....	338	37
Reinsurance Intermediaries <sup>e</sup> .....	197	252
Service Contract Registrants <sup>f</sup> .....	55	N/A

- <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.
- <sup>f</sup>Service Contract Registrations issued pursuant to Section 9707 are renewable biennially as of March 1 of odd numbered years.

**3. Changes in Status of Authorized Insurers During 1998**

**a. Life Insurance Companies**

**Domestic Companies Incorporated**

Sage Life Assurance Company of New York, County of Westchester.....	May 5
Lenox Life Insurance Company, New York County.....	May 19
First Berkshire Hathaway Life Insurance Company, County of Nassau.....	Sept. 22
Prudential Dental and Life Insurance Company of New York Suffern, New York.....	Oct 26
Prudential HealthCare Life Insurance Company of New York Suffern, New York.....	Nov. 3

**Foreign Companies Licensed**

AXA Re Life Insurance Company, Wilmington, DE.....	Dec. 31
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**Restated Charters Filed**

GE Capital Life Assurance Company of New York, Purchase, NY.....	Mar. 6
American Benefit Life Insurance Company, Albany, NY.....	Mar. 31
TIAA Life Insurance Company, New York, NY.....	May 1
First Providian Life and Health Insurance Company, Johnson City, NY.....	May 18
Transamerica Life Insurance Company of New York, Purchase, NY.....	July 24

### Amendments to Charter

Empire Fidelity Investments Life Insurance Company, New York, NY.....	Feb. 26
American Progressive Life and Health Insurance Company of New York, Brewster, NY.....	July 8
Combined Life Insurance Company of New York, Albany, NY.....	Aug. 31
First Alexander Hamilton Life Insurance Company, Williamsville, NY.....	Nov. 18
Old Republic Life Insurance Company of New York, New York, NY.....	Dec. 15
Mutual of America Life Insurance Company, New York, NY.....	Dec. 18
Combined Life Insurance Company of New York, Albany, NY.....	Dec. 22

### Changes in Capital

MONY Life Insurance Company New York, New York (from \$0 to \$2,000,000).....	Nov 16
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### Conversions Filed

Principal Life Insurance Company DesMoines, Iowa from a mutual company to a stock company.....	July 1
MONY Life Insurance Company New York, New York from a mutual company to a stock company.....	Nov 16

### Name Changes

"Reliastar Bankers Security Life Insurance Company to "Reliastar Life Insurance Company of New York", Woodbury, NY.....	Jan. 1
"American Benefit Life Insurance Company" to "Keyport Benefit Life Insurance Company," Albany, NY.....	Mar. 31
"Chubb Colonial Life Insurance Company" to "Jefferson Pilot Lifeamerica Insurance Company," Parsippany, NJ.....	May 1

**Changes of Name Contd.**

"TIAA Life Insurance Company" to "TIAA-CREF Life Insurance Company," New York, NY.....	May 1
"Principal Mutual Life Insurance Company" to Principal Life Insurance Company.....	July 1
"Provident Mutual Life Insurance Company of Philadelphia" to "Provident Mutual Life Insurance Company," Berwyn, PA.....	Sept. 28
"The Mutual Life Insurance Company of New York" to MONY Life Insurance Company.....	Nov. 16

**Merger Agreements Filed**

Lincoln Security Life Insurance Company, Brewster, NY into Reliastar Bankers Security Life Insurance Company" Woodbury, NY .....	Jan. 1
First Providian Life and Health Insurance Company, Johnson City, NY into AUSA Life Insurance Company, Inc., Purchase, NY.....	Oct. 1

**Withdrawn**

Cuna Mutual Life Insurance Company, Waverly, IA.....	Dec. 31
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**b. Accident and Health Insurance Companies**

**Domestic Companies Incorporated**

Medigroup Insurance Company (N.Y.) County of New York.....	Jan. 16
Healthplex Insurance Company, County of Nassau.....	June 12

**Domestic Company Licensed**

American Independent Network Insurance Company of New York Middletown, NY.....	May 12
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**Name Change**

"Medigroup Insurance Company" to "Horizon Healthcare Insurance Company of New York New York, NY.....	Aug. 18
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**c. Not-For-Profit Health Service Corporations**

**Name Change**

“New York Care Plus Insurance Co., Inc.” to “Healthnow New York Inc.  
Buffalo, New York..... Oct. 1

**Restated Charter Filed**

Utica-Watertown Health Insurance Company, Inc.  
Utica, New York..... Sept. 3

**Mergers Filed**

Utica-Watertown Health Insurance Company, Inc.  
Utica, NY  
into Excellus Health Plan, Inc.  
Syracuse, New York..... Nov. 13

Finger Lakes Medical Insurance Company, Inc.  
Rochester, NY  
into Excellus Health Plan, Inc.  
Syracuse, New York..... Nov. 13

Finger Lakes Health Insurance Company, Inc.  
Rochester, NY  
into Excellus Health Plan, Inc.  
Syracuse, New York..... Nov. 13

**d. Savings Bank (Life Insurance Department)**

**Name Changes**

The Hudson City Savings Institution TO  
Hudson River Bank & Trust  
Hudson, New York..... June 30

Independence Savings Bank TO  
Independence Community Bank  
Brooklyn, New York..... July 22

Greene County Savings Bank TO  
The Bank of Greene County  
Catskill, New York..... Dec. 31

**Merger Filed**

Albank, FSB  
Albany, New York  
into Charter One Bank, F.S.B.  
Rochester, New York..... Nov. 30

**e. Property and Casualty Insurance Companies**

**Domestic Companies Incorporated**

Zurich American Insurance Company, New York County.....	June 3
Long Island Insurance Company Suffolk County.....	July 14
New York Professional Liability Insurance Company New York County.....	July 27
TM Casualty Insurance Company, New York County.....	Aug. 13
Radiant Insurance Company, County of Albany.....	Sept. 22
Strathmore Insurance Company New York County.....	Nov. 17

**Domestic Companies Licensed**

Autoglass Insurance Company, Elmira, NY.....	Mar. 18
Zurich American Insurance Company, New York, NY.....	Dec. 16

**Foreign Companies Licensed**

Accredited Surety and Casualty Insurance Company, Orlando, FL.....	Feb. 25
Mid-State Surety Corporation, Grosse Pointe Farms, MI.....	Feb. 25
Norguard Insurance Company, Wilkes-Barre, PA.....	Mar. 10
Amguard Insurance Company, Wilkes-Barre, PA.....	Mar. 10
Nationwide Agribusiness Insurance Company Des Moines, IA.....	Apr. 7
Redland Insurance Company, Council Bluffs, IA.....	Apr. 22
Florists' Insurance Company, Edwardsville, IL.....	May 1
Risk Capital Reinsurance Company, Omaha, NE.....	May 4
Alfa Mutual Insurance Company, Montgomery, AL.....	May 11
Triton Insurance Company, St. Louis, MO.....	May 15
Fortress Insurance Company, Rosemont, IL.....	May 15

Contemporary American Insurance Company, Schaumburg, IL.....	June 8
Old United Casualty Company, Merriam, KS.....	June 18
Foremost Signature Insurance Company, Caledonia, MI .....	June 26
Warner Insurance Company, Chicago, IL.....	July 16
American Alternative Insurance Corporation Wilmington, DE.....	July 31
FSA Insurance Company, Oklahoma City, OK.....	Aug. 20
Quadrant Indemnity Company, Simsbury, CT.....	Aug. 26
American Country Insurance Company Chicago, IL.....	Sept. 25
Transguard Insurance Company of America, Inc., Naperville, IL.....	Oct. 16
Farmers New Century Insurance Company Aurora, Illinois.....	Nov. 5
Arbella Protection Insurance Company, Inc., Quincy, MA.....	Dec. 4
American Risk Funding Company, Barrington, IL.....	Dec. 7
Camico Mutual Insurance Company, Redwood City, CA.....	Dec. 28
Victoria Automobile Insurance Company, Cleveland, OH.....	Dec. 29

**Amendments to Charter Filed**

Westchester Fire Insurance Company New York, NY.....	Jan. 2
Swiss Reinsurance America Corporation New York, NY.....	Mar. 2
Cim Insurance Corporation, Yonkers, NY.....	Mar. 2
Motors Insurance Corporation, Yonkers, NY.....	Mar. 2
Gerling America Insurance Company, New York, NY.....	Mar. 3
Erie Insurance Company of New York, Spencerport, NY.....	Apr. 1
1st Madison Insurance Company, New York, NY.....	Apr. 8
Fortress Insurance Company of America, New York, NY.....	Apr. 8
Medco Containment Insurance Company of New York, NY.....	Apr. 30
Hermitage Insurance Company, White Plains, NY.....	Apr. 23

Folksamerica General Insurance Company, New York, NY.....	May 7
Capital Markets Assurance Corporation, New York, NY.....	May 4
Gerling America Insurance Company, New York, NY.....	June 5
Selective Insurance Company of New York, Buffalo, NY.....	June 2
Atlantic Mutual Insurance Company, New York, NY.....	June 23
Atlantic Specialty Insurance Company, New York, NY.....	June 23
Centennial Insurance Company, New York, NY.....	June 23
Resolute Reinsurance Company, Woodbury, NY.....	July 9
American Steamship Owners Mutual Protection and Indemnity Association, Inc., New York, NY.....	July 17
Westchester Fire Insurance Company, New York, NY.....	July 21
Starnet Insurance Company, Woodbury, NY.....	Aug. 25
Oriska Insurance company, Oriskany, NY.....	Aug. 20
Surety Reinsurance Company, Rochester, NY.....	Sept. 22
Country-Wide Insurance Company, New York, NY.....	Nov. 23
Hansa Reinsurance Company of America, Nanuet, NY.....	Nov. 5
American Guarantee and Liability Insurance Company, New York, NY.....	Dec. 21

**Restated Charters Filed**

Professional Liability Insurance Company of America New York, NY.....	Apr. 8
Chubb Indemnity Insurance Company New York, NY.....	July 14
Vigilant Insurance Company, New York, NY.....	June 23
Pioneer Mutual Insurance Company Greenville, NY.....	June 30

**Name Changes**

“Vanguard Insurance Company” to “Winterthur International America Insurance Company” Sun Prairie, WI.....	Jan. 1
“Midwest Mutual Insurance Company” to “Guidant Specialty Mutual Insurance Company” West Des Moines, IA.....	Feb. 1
“Preferred Abstainers Insurance Company” to “Guidant Elite Insurance Company” West Des Moines, IA.....	Feb. 1
Preferred Risk Mutual Insurance Company” to “Guidant Mutual Insurance Company,” West Des Moines, IA.....	Feb. 1
“First General Insurance Company” to “Metropolitan Direct Property and Casualty Insurance Company”, Warwick, RI.....	Mar. 13
“American Policyholders’ Insurance Company” to “Villanova Insurance Company,” Philadelphia, PA.....	Mar. 20
“1st Madison Insurance Company” to “Mastercare Insurance Company of New York” New York, NY .....	Apr. 8
“Fortress Insurance Company of America” to “Professional Liability Insurance Company of America New York, NY.....	Apr. 8
“Folksamerica General Insurance Company” to “X.L. Insurance Company of America, Inc.” New York, NY.....	May 7
“Pioneer Mutual Insurance Company” to “Pioneer Insurance Company” Greenville, NY.....	June 30
“Resolute Reinsurance Company” to “Starnet Insurance Company”, Woodbury, NY.....	July 9
“American Alternative Insurance Corporation of Pennsylvania” to “American Alternative Insurance Corporation” Wilmington, DE.....	July 31
“SAFR Reinsurance Corporation of the U.S.” to “Partner Reinsurance Company of the U.S.”, New York, NY.....	Aug. 27
“Surety Reinsurance Company” to “MIIX Insurance Company of New York,” New York, NY.....	Sept. 22

"Nordstern Insurance Company of America" to "AXA Nordstern Art Insurance Corp" New York, NY.....	Oct. 30
"Providian Property and Casualty Insurance Company" to "Worldwide Direct Auto Insurance Company" Louisville, KY.....	Nov. 16
"Providian Auto and Home Insurance company" to "Worldwide Insurance company".....	Nov. 24
"Colonial Insurance Company of California" to "Colonial Insurance Company of Wisconsin" Wausau, WI.....	Nov. 24
"Farmers Direct Insurance Company" to "Farmers New Century Insurance Company" Aurora, IL.....	Dec. 2
"Skandia U.S. Insurance Company" to "Pennsylvania Casualty Company", Topeka, KS.....	Dec. 3
"Business Insurance Company" to "Centre Insurance Company" Wilmington, DE.....	Dec. 21
"Casualty Insurance Company" to "Fremont Casualty Insurance Company" Chicago, IL.....	Dec. 31

**Changes in Capital**

Westchester Fire Insurance Company New York, NY (from \$3,500,000 to \$3,500,791).....	Jan. 2
Hermitage Insurance Company, White Plains, NY (from \$4,500,150.80 to \$6,101,040.85).....	Apr. 23
Selective Insurance Company of New York, Buffalo, NY (from \$3,975,880 to \$3,872,351).....	June 2
Pioneer Insurance Company Greenville, NY (from \$0 to \$1,400,000).....	June 30
Oriska Insurance Company, Oriskany, NY (from \$1,000,000. to \$1,500,000).....	Aug. 20

Country-Wide Insurance Company, New York, NY (from \$1,059,306 to \$1,324,132).....	Nov. 23
Hansa Reinsurance Company of America, Nanuet, NY (from \$2,780,500. to \$3,755,500).....	Nov. 5
Arista Insurance Company, New York, NY (from \$1,950,000 to \$300,000).....	Dec. 18
American Guarantee and Liability Insurance Company, New York, NY (from \$2,500,000 to \$5,000,000).....	Dec. 21

**Conversion Filed**

Pioneer Insurance Company Greenville, NY from a mutual company to a stock company.....	June 30
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**Redomestications Filed**

Villanova Insurance Company Burlington, MA (from Massachusetts to Pennsylvania).....	Mar. 30
Travelers Indemnity Company of America, Atlanta GA (from Georgia to Connecticut).....	Apr. 10
Pacific Indemnity Company, Los Angeles, CA (California to Wisconsin).....	July 14
Infinity Insurance Company, Tampa, FL (from Florida to Indiana).....	Aug. 26
Atlanta Specialty Insurance Company, Cincinnati, OH (from IA to OH).....	Sept. 16
Colonial Insurance Company of Wisconsin Wausa, WI (from CA to WI).....	Nov. 5

**Domestication**

Zurich Insurance Company Schaumburg, IL into Zurich American Insurance Company.....	Dec. 31
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**Merger Agreements Filed**

Reliance National Insurance Company of New York, Fairport, NY into Reliance Direct Insurance Company, Philadelphia, PA.....	Mar. 31
American Alternative Insurance Corporation, New York, NY into American Alternative Insurance Corporation of Delaware (survivor), Wilmington, DE,.....	July 31

**In Rehabilitation**

First Central Insurance Company Lynbrook, NY.....	Jan. 27
New York Surety Company, Great Neck, NY.....	June 24

**Withdrawn**

Royal Surplus Lines Insurance Company, Glastonbury, CT.....	Jan. 1
Fremont Compensation Insurance Company Glendale, CA.....	Dec. 31

**In Liquidation**

American Eagle Insurance Company, Dallas, TX.....	Jan. 9
Home Mutual Insurance Company of Binghamton, New York Binghamton, NY.....	Jan 14
New York Merchant Bakers Insurance Company, Binghamton, NY.....	Jan. 26
First Central Insurance Company Lynbrook, NY.....	April 27
New York Surety Company Great Neck, NY.....	Sept. 21

**f. Co-operative Property and Casualty Insurance Companies**

**Merger Agreement Filed**

Heritage Mutual Insurance Company into North Country Insurance Company, Watertown, NY.....	Jan. 1
Mohawk Minden Insurance Company into Fulmont Mutual Insurance Company..... Johnstown, NY	May 1

**Conversion Filed**

Mohawk Minden Insurance Company,  
Canajoharie, NY.  
(from Assessment Cooperative to Advance Premium)..... May 1

**Restated Charter**

North Country Insurance Company  
Watertown, NY..... Jan. 1

**Charter Amendment**

Leatherstocking Cooperative Insurance Company  
Cooperstown, NY..... April 1

**g. Title Insurance Companies**

**Foreign Company Licensed**

American Pioneer Title Insurance Company,  
Casselberry, FL..... Jan. 22

**h. Mortgage Guaranty Companies**

**Foreign Company Licensed**

MGIC Credit Assurance Corporation  
Milwaukee, WI..... Oct. 13

**i. Financial Guaranty Companies**

**Foreign Company Licensed**

FSA Insurance Company  
Oklahoma City, OK..... Aug. 20

**Name Change**

“Financial Security Assurance of Maryland, Inc.” to  
“ACA Financial Guaranty Corporation”..... Jan. 13

**Restated Charter Filed**

Capital Markets Assurance Corporation  
Armonk, NY..... May 4

**Changes in Capital**

Capital Markets Assurance Corporation  
Armonk, NY  
(from \$15,000,000 to \$45,000,000)..... May 4

**j. Charitable Annuity Societies**

**Permits Issued**

Watchtower Bible an Tract Society of New York, Inc., Brooklyn, NY.....	Jan. 23
The New York Conference Association of Seventh-Day Adventists.....	Mar. 12
The Lighthouse, Inc. New York, NY.....	Apr. 10
The Juvenile Diabetes Foundation International, Bala Cynwyd, PA.....	June 25
Northern New York Community Foundation, Inc. Watertown, NY.....	Aug. 6
Anti-Defamation League Foundation New York, NY.....	Sept. 10
Boy Scouts of America Irving, TX.....	Oct. 14
Word of Life Fellowship, Inc. Schroon Lake, NY.....	Oct. 29
The Colonial Williamsburg Foundation Williamsburg, VA.....	Nov. 2
American Heart Association, Inc. New York, NY.....	Nov. 3
American Lebanese Syrian Associated Charities Memphis, TN.....	Nov. 4
St. Columban's Foreign Mission Society Columbans, NE.....	Nov. 5
Wildlife Conservation Society Bronx, NY.....	Dec. 17
University at Buffalo Foundation, Inc. Buffalo, NY.....	Dec 18
Southern Poverty Law Center, Inc. Montgomery, AL.....	Dec. 29
Deborah Hospital Foundation Browns Mills, NJ.....	Dec. 30

**Other**

National Committee for Labor Israel, Inc.  
New York, NY  
Voluntary Termination of Permit..... July 10

**k. Accredited Reinsurers**

**Recognized**

Ulico Indemnity Company,  
Little Rock, AR..... Mar. 26

California Compensation Insurance Company,  
Rancho Cordova, CA..... Mar. 31

AXA Global Risks  
Paris, France..... Oct. 1

Starr Excess Liability  
Wilmington, DE..... Dec. 29

Odyssey Re(London) Limited  
(U.S. Branch, New York, NY)..... Dec. 31

**Name Change**

“Providian Life and Health Insurance Company” to  
“Peoples Benefit Life Insurance Company”  
Jefferson City, MO..... Sept. 30

**Withdrawn**

Swiss Re Life & Health Limited  
London, England..... Jan. 1

Alfa Mutual Insurance Company  
Montgomery, AL..... May 11

United Insurance Company of America  
Chicago, IL..... Aug. 27

**Redomesticated**

Reliastar United Services Life Insurance Company  
Arlington, VA  
(from District of Columbia to Virginia)..... May 27

**I. Fraternal Benefit Societies**

**Merger Agreements Filed**

The First Slovak Wreath of the Free Eagle, Stratford, CT  
into The National Slovak Society of the United States of America  
Pittsburgh, PA..... Feb. 3

**m. Viatical Settlement Companies**

**Licensed**

Dedicated Resources, Inc.  
Delray Beach, FL..... July 9

Wm. Page & Associates, Inc.  
Fort Lauderdale, FL..... July 27

**n. Reciprocal Insurers**

**Amendments to Charter**

Academic Health Professionals Insurance Association,  
New York, NY..... July 23

#### 4. Examination Reports Filed During 1998

##### Domestic Life Insurance Companies

<b>Name of Company</b>	<b>Made as of</b>	<b>Date Filed</b>
Amalgamated Life Insurance Company	12/31/97	12/29/98
American Accident and Health Insurance Company	12/31/94	05/02/98
American Centurion Life Assurance Company	12/31/96	03/31/98
American Benefit Life Insurance Company	12/31/96	01/07/98
American Family Life Assurance Company of New York	12/31/94	01/22/98
AUSA Life Insurance Company, Inc.	12/31/96	12/14/98
American Medical and Life Insurance Company	12/31/97	12/15/98
Combined Life Insurance Company of New York	12/31/94	03/09/98
Farm Family Life Insurance Company	12/31/96	07/14/98
First Alexander Hamilton Life Insurance Company	12/31/95	02/11/98
First Ameritas Life Insurance Corporation of New York	12/31/96	02/26/98
First Citicorp Life Insurance Company	12/31/96	04/27/97
First Investors Life Insurance Company	12/31/95	04/06/98
First Providian Life and Health Insurance Company	12/31/96	06/01/98
First Rehabilitation Life Insurance Company of America	12/31/97	11/18/98
First SunAmerica Life Insurance Company	12/31/95	10/05/98
John Alden Life Insurance Company of New York	12/31/95	03/17/98

<b>Name of Company</b>	<b>Made as of</b>	<b>Date Filed</b>
Life Insurance Company of Boston & New York	12/31/95	04/20/98
ML Life Insurance Company of New York	12/31/95	02/10/98
Metropolitan Life Insurance Company	12/31/93	08/31/98
Mutual Life Insurance Company of New York	12/31/96	09/21/98
National Benefit Life Insurance Company	12/31/96	06/24/98
New York Life Insurance Company	12/31/94	10/20/98
ReliaStar Life Insurance Company of New York	12/31/96	12/28/98
Old Republic Life Insurance Company of New York	12/31/95	03/25/98
Presidential Life Insurance Company	12/31/96	03/23/98
United States Life Insurance Company in the City of New York	12/31/94	06/25/98
William Penn Life Insurance Company of New York	12/31/95	03/20/98
USAA Life Insurance Company of New York	a	01/16/98

**Domestic Accident and Health Insurance Companies**

American Independent Network Insurance Company of New York	a	05/07/98
Metlife Healthcare Network of New York	12/31/92	04/08/98
Oxford Health Insurance, Inc.	12/31/97	08/11/98

**Domestic Property/Casualty Insurance Companies**

<b>Name of Company</b>	<b>Made as of</b>	<b>Date Filed</b>
American Steamship Owners Mutual Protection and Indemnity Association, Inc.	12/31/96	09/02/98
American National Fire Insurance Company	12/31/96	10/01/98
Allcity Insurance Company	12/31/96	08/31/98
Agway Insurance Company	12/31/96	06/09/98
Autoglass Insurance Company	a	03/27/98
Centurion Insurance Company	12/31/96	08/31/98
Christiana General Insurance Corporation of New York	12/31/96	02/26/98
Compass Insurance Company	12/31/96	03/16/98
Constellation Reinsurance Company	12/31/93	06/17/97
Constitution Reinsurance Company	12/31/95	06/11/98
Corpa Reinsurance Company	12/31/95	03/27/98
Empire Insurance Company	12/31/96	08/31/98
Executive Insurance Company	12/31/95	03/18/98
Fulcrum Insurance Company	12/31/95	01/27/98
Generali - U.S. Branch	12/31/94	01/30/98
Graphic Arts Mutual Insurance Company	12/31/95	06/16/98
Hartwick Town Insurance Company	12/31/96	02/06/98
Healthcare Underwriters Mutual Insurance Company	12/31/96	03/20/98
IDS Life Insurance Company of New York	12/31/95	03/31/98
Interboro Mutual Indemnity Insurance Company	12/31/96	06/11/98
International Credit Of North America Reinsurance, Inc.	12/31/96	06/05/98
Jefferson Insurance Company of New York	12/31/95	02/26/98

<b>Name of Company</b>	<b>Made as of</b>	<b>Date Filed</b>
Lion Insurance Company	12/31/95	05/18/98
MBIA Insurance Corporation	12/31/95	05/13/98
National Continental Insurance Company	12/31/94	02/05/98
Navigators Insurance Company	12/31/95	11/24/98
NIC Insurance Company	12/31/95	10/09/98
Nippon Fire + Marine Insurance Co. Ltd.	12/31/96	08/24/98
North Sea Insurance Company	12/31/96	08/25/98
Paladin Reinsurance Corporation	12/31/95	01/09/98
Resolute Reinsurance Company	12/31/95	03/06/98
Seneca Insurance Company, Inc.	12/31/96	02/17/98
Seven Hills Insurance Company	12/31/96	10/01/98
Sorema North America Reinsurance Company	12/31/95	01/27/98
Tokio Marine and Fire Insurance Company, Limited	12/31/96	08/20/98
Trans Pacific Insurance Company	12/31/96	08/20/98
Utica Mutual Insurance Company	12/31/95	06/16/98
Zurich American Insurance Company	a	12/15/98

**Reciprocal Insurer**

Physicians' Reciprocal Insurers	12/31/96	07/22/98
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**Assessment Co-operative Fire Insurance Companies**

Chautaugua Patron's Insurance Association	12/31/96	04/23/98
Leatherstocking Cooperative Insurance Company	12/31/96	04/30/98
Midstate Mutual Insurance Company	12/31/97	11/24/98
Monroe Cooperative Fire Insurance Company	12/31/96	05/12/98

<b>Name of Company</b>	<b>Made as of</b>	<b>Date Filed</b>
Salem Mutual Town Fire Insurance Company	12/31/97	11/05/98
Washington County Cooperative Insurance Company	12/31/97	12/21/98
<b>Advance Premium Co-operative Fire Insurance Companies</b>		
Associated Mutual Insurance Cooperative	12/31/97	12/14/98
Colonial Cooperative Insurance Company	12/31/97	12/7/98
Commercial Mutual Insurance Company	12/31/96	06/15/98
New York Central Mutual Fire Insurance Company	12/31/96	08/12/98
Otsego Mutual Fire Insurance Company	12/31/97	07/20/98
Preferred Mutual Insurance Company	12/31/96	04/08/98
Sterling Insurance Company	12/31/96	05/21/98
<b>Fraternal Benefit Societies</b>		
Association of Lithuanian Workers	12/31/97	12/02/98
Bnai Zion	12/31/96	03/16/98
Free Sons of Israel	12/31/96	04/29/98
Polish National Alliance of Brooklyn, United States of America	12/31/96	08/04/98
The Workmen's Circle	12/31/96	06/30/98
<b>Savings Banks (Life Insurance Department)</b>		
Greater New York Savings Bank	12/31/96	01/20/98
Green Point Bank	12/31/96	02/19/98
Independent Savings Bank	12/31/97	11/06/98
Jamaica Savings Bank	12/31/97	11/03/98
Ridgewood Savings Bank	12/31/97	11/05/98
Savings Bank of Utica	12/31/96	02/19/98
Ulster Savings Bank	12/31/96	01/15/98

### Charitable Annuity Societies

<b>Name of Company</b>	<b>Made as of</b>	<b>Date Filed</b>
American Bible Society	12/31/96	02/05/98
National Division of the General Board of Global Ministries of the United Methodist Church	12/31/96	04/09/98
National Resources Defense Council, Inc.	12/31/96	06/19/98
Rensselaer Polytechnic Institute	12/31/96	03/10/98
St. Lawrence University	12/31/96	03/11/98
The Salvation Army	12/31/96	02/26/98
Southampton Hospital Association	12/31/96	03/19/98

### Health Maintenance Organizations

MetraHealth Care Plan of Upstate New York	12/31/95	12/28/98
Oxford Health Plans of New York, Inc.	12/31/97	08/11/98

### Non-Profit Corporations

Dentcare Delivery Systems, Inc.	12/31/96	03/31/98
Empire BlueCross and BlueShield	12/31/94	06/04/98
New York Care Plus Insurance Co., Inc.	12/31/94	04/01/98
Pupil Benefits Plan, Inc.	12/31/96	01/05/98
Vytra Health Services, Inc.	12/31/95	07/21/98

### Retirement Systems

<b>Name of Company</b>	<b>Made as of</b>	<b>Date Filed</b>
New York State Teacher's Retirement System	06/30/96	12/10/98
New York City Police Pension Fund, Article 2	06/30/94	02/09/98
Teacher's Retire System of the City of New York	06/30/94	05/01/98

**Underwriting Associations**

American Hull Insurance Syndicate	11/30/95	03/06/98
American Offshore Insurance Syndicate	11/30/95	07/20/98

**Rating Organization**

New York Compensation Insurance Rating Board	12/31/97	03/11/98
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- a On Organization
- b Increase in Capital

## 5. Rehabilitation, Liquidation, Ancillary Receivership and Conservation Proceedings

The insurance entities under the Liquidation Bureau's jurisdiction during 1998 were as follows:

### Rehabilitations

- Commenced: First Central Insurance Company  
New York Surety Company
- Continued: Executive Life Insurance Company of New York
- Terminated: First Central Insurance Company (converted to liquidation)  
Home Mutual Insurance Company of Binghamton, NY (converted to liquidation)  
New York Merchant Bakers Insurance Company (converted to liquidation)  
New York Surety Company (converted to liquidation)  
Transtate Insurance Company (converted to liquidation)

### Liquidations

- Commenced: First Central Insurance Company  
Home Mutual Insurance Company of Binghamton, NY  
New York Merchant Bakers Insurance Company  
New York Surety Company  
Transtate Insurance Company
- Continued: American Consumer Insurance Company  
American Fidelity Fire Insurance Company  
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  
Interamerica Reinsurance Company  
Long Island Insurance Company  
Midland Insurance Company  
Midland Property and Casualty Insurance Company  
Nassau Insurance Company  
Nem Re Insurance Corporation  
New York Insurance Exchange, Inc.  
Northumberland General Insurance Company (U.S. Branch)  
Pan Atlantic Investors, Ltd.  
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  
Union Indemnity Insurance Company of New York  
United Community Insurance Company  
U.S. Capital Insurance Company  
Whiting National Insurance Company

Completed: Citizens Casualty Company of New York  
KCC New York Syndicate Corporation (New York Insurance Exchange  
Syndicate)

**Ancillary Receiverships** – In the case of a New York licensed foreign (i.e., not domiciled in New York) insurer becomes insolvent, the Superintendent of Insurance must apply to the court to establish an Ancillary Receivership to enable the New York Department (and the Superintendent as Ancillary Receiver) to trigger the New York Security Fund to pay Security Fund-covered claims.

Commenced: American Eagle Insurance Company

Continued: Abington Mutual Insurance Company  
American Druggists' Insurance Company  
American Mutual Insurance Company of Boston  
American Mutual Liability Insurance Company  
Employers Casualty Company  
Great Atlantic Insurance 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: Great Global Assurance 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: Orion Insurance Company, Ltd.

Continued: Anglo American Insurance Company, Ltd.  
Latino Americana De Reasegueros  
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.  
Scan Re Insurance Company, Ltd.  
Trinity Insurance Company, Ltd.

Completed: Bermuda Fire and Marine Insurance Company

a. Insurance Companies

During 1998, four proceedings commenced while 59 insurance company proceedings continued. Four proceedings were completed and closed. The 63 active insurance company proceedings were classified as follows:

1 Rehabilitation  
31 Liquidation  
20 Ancillary Receivership  
11 Conservation

As of December 31, 1998, assets, liabilities and current insolvency of the 63 active insurance company proceedings, taken as a group, were as follows:

Total Assets	\$3,349,062,903
Total Liabilities	\$7,420,697,707
Current Insolvency	\$4,071,634,804

During 1998, cash payments from the New York State security funds on allowed claims of claimants totaled \$69,847,181 for claims, \$4,897,153 for return premiums, and \$11,848,303 for expenses. Payments by other states' guaranty funds are excluded from these numbers.

During 1998, cash distributions to the New York State security funds from domestic estates totaled \$50,941,903. Distributions to the New York State security funds from other states' guaranty funds totaled \$30,532,610 for a combined total \$81,474,513.

b. Fraternal Benefit Societies in Liquidation

As of December 31, 1998, there were 222 pending liquidation proceedings. During 1998, 18 proceedings were terminated and 5 proceedings were commenced.

As of December 31, 1998, the remaining assets in the 222 liquidation proceedings totaled \$1,961,267. During 1998, assets of \$506,824 were distributed to former members of fraternal benefit societies.

c. Welfare and Pension Funds in Liquidation

As of December 31, 1998, 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, 1998, the remaining assets of the six liquidation proceedings totaled \$328,407. During 1998, 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 12/31/98*. 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 conversation 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 61  
DEPARTMENT RECEIPTS  
Fiscal Year Ended March 31, 1998

<u>Taxes Collected Under the New York State Insurance Law:</u>	
Taxes collected by reason of retaliation under Section 1112	\$9,495,800.26
Excess Line - Section 2118	13,852,302.05
Organization Tax - Section 180, Tax Law	23,495.15
Total taxes collected	<u>\$23,371,597.46*</u>
 <u>Fees Collected Under Section 1112 of the New York State Insurance Law:</u>	
Filing Annual Statements and Certificates of Authority to Companies	\$153,435.75
Agents' Certificates of Authority	246,183.36
Admission Fees	29,529.00
Total	<u>\$429,148.11</u>
 <u>Licensing and Accreditation Fees:</u>	
Agents' Licenses - Section 2103	\$3,726,536.57
Adjusters' Licenses - Section 2108	73,715.00
Brokers' Licenses - Section 2104 and 2105	157,247.01
Bail Bond Agents' Licenses - Section 6802	625.00
Insurance Consultants' Licenses - Section 2107	38,010.00
Reinsurance Intermediary Licenses - Section 2106	90,000.00
Special Risk Licenses - Section 6302	173,000.00
Accredited Reinsurers - Section 107(a)2	136,010.00
Limited License	1,270.00
Duplicate License Fees	21,780.56
Viatical Licenses	32,500.00
Continuing Education Provider Fee	325,850.00
Savings Bank Licenses	85,580.00
No-Fault Managed Care Organization Certification Fee	5,000.00
Total	<u>\$4,867,124.14</u>
 <u>Assessments and Reimbursement of Department Expenses:</u>	
Section 313 - Company Examinations	\$9,033,727.58
Section 332 - Assessment	94,635,238.73
Section 9104/9105 - Tax Distribution	127,674.50
Administrative Expense Security Funds	46,536.00
Reimbursement of Expenses - Other Bureaus	10,343.96
Total	<u>\$103,853,520.77</u>

**Insurance Department Receipts and Disbursements**

**Table 61 (cont.)  
DEPARTMENT RECEIPTS  
Fiscal Year Ended March 31, 1998**

Other Fees and Receipts:

Regulation 68 - Health Services Arbitration Expenses	\$137,900.00
Section 9107 - Certification & Filing Fees	140,610.00
Section 9108 - Fire Insurance Fee	8,171,539.78
Section 205 - Publications	221.50
Section 1212 - Summons and Complaints	221,739.00
Fines and Penalties	8,118,116.74
Arbitration Fees	1,290,040.00
FOIL Requests	93,308.45
Miscellaneous	12,231.32
Regulation 134	4,700.00
Motor Vehicle Law Enforcement Fee	12,336,083.09
Continuing Education Filing Fees	367,589.00
CAPCO Application Fees	2,500.00
Total	<u>\$30,896,578.88</u>
Total Departmental Receipts	<u>\$163,417,969.36</u>

\*This amount is in addition to the \$620,700,000 collected by the Department of Taxation and Finance under Article 33 of the Tax Law.

**Table 62  
INSURANCE TAX RECEIPTS\*  
(in millions)**

<u>Fiscal Year</u>	<u>Net</u>
1993-94	\$619.4
1994-95	487.0
1995-96	502.5
1996-97	671.5
1997-98	620.7

\*Collected by the Department of Taxation and Finance under Article 33 of the Tax Law.  
Source: State of New York, Annual Budget Message, 1999-00

**Table 63**  
**DEPARTMENT DISBURSEMENTS**  
**Fiscal Year Ended March 31, 1998**  
**Paid in the First Instance From Appropriations**

Chapter 050 - 1996-97	\$6,369,929.24
Chapter 050 - 1997-98	\$74,689,643.51
<u>Personal Service</u>	
Employee salaries	\$43,661,426.36
<u>Maintenance and Operation</u>	
General office supplies	\$575,479.84
Travel expense	2,133,745.25
Rental equipment	4,086.08
Repair and maintenance of equipment	196,674.60
Real estate rental	5,338,088.99
Postage and shipping	419,004.26
Printing	169,249.17
Telephone	665,532.21
Miscellaneous contractual services	8,986,617.67
OGS Computer Rental	22,743.39
OGS Interagency courier	17,074.48
Equipment	3,465,834.98
Employee fringe benefits/indirect cost	<u>15,404,015.47</u>
Total maintenance	\$37,398,146.39
Total disbursements from Special revenue appropriations for fiscal year ended 3/31/98	 <u>\$81,059,572.75</u>
Total Department receipts for fiscal year ended 3/31/98	\$163,417,969.36
Excess of Department receipts over Department disbursements	\$82,358,393.61

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7. Security Funds Income and Disbursements

**Table 64**  
**PROPERTY/CASUALTY INSURANCE SECURITY FUND<sup>a</sup>**  
**Income and Disbursements**  
**April 1, 1998**

	<u>To and Including 3/31/97</u>	<u>4/1/97 to 3/31/98</u>	<u>As of 4/1/98</u>
Paid into the Fund	\$ 540,303,002.77	-0-	\$ 540,303,002.77
Interest income – net	409,151,506.50	\$ 12,812,058.78	421,963,565.28
Recoveries from companies in liquidation	295,636,395.69	52,269,140.35	347,905,536.04
	<u>95,480,253.00</u>	<u>11,043,951.00</u>	<u>106,524,204.00</u>
General Fund Reimbursement			
Total	\$1,340,571,157.96	\$ 76,125,150.13	\$1,416,696,308.09
Less disbursements:			
Administrative expenses	\$ 961,440.72	\$ 53,556.95	\$ 1,014,997.67
Awards and expenses of companies in liquidation	1,066,217,190.34	57,284,096.95	1,123,501,287.29
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>\$1,248,181,651.56</u>	<u>\$ 57,337,653.90</u>	<u>\$1,305,519,305.46</u>
Total of Fund	\$ <u>92,389,506.40</u>	\$ <u>18,787,496.23</u>	\$ <u>111,177,002.63</u>
Cash in bank and U.S. securities (at par)	\$ <u>92,389,506.40</u>		\$ <u>111,177,002.63</u>
Total of Fund	\$ <u>92,389,506.40</u>		\$ <u>111,177,002.63</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 per Chapter 55 of the Laws of 1982 and \$2,000,000 transferred to the Public Motor Vehicle Liability Security Fund.

**Table 65**  
**PUBLIC MOTOR VEHICLE LIABILITY SECURITY FUND\***  
**Income and Disbursements**  
**April 1, 1998**

	<b>To and Including <u>3/31/97</u></b>	<b>4/1/97 to <u>3/31/98</u></b>	<b>As of <u>4/1/98</u></b>
Paid into the Fund	\$ 65,383,125.94	\$ 5,213,865.86	\$ 70,596,991.80
Interest income - net	24,914,083.36	1,246,535.12	26,160,618.48
Recoveries from companies in liquidation	25,109,511.96	368,654.26	25,478,166.22
Transfers	<u>2,000,000.00</u>	<u>-0-</u>	<u>2,000,000.00</u>
Total	\$ 117,406,721.26	\$ 6,829,055.24	\$ 124,235,776.50
Less disbursements:			
Administrative expenses	\$ 416,049.08	\$ 14,392.28	\$ 430,441.36
Awards and expenses of companies in liquidation	81,402,529.69	9,853,615.07	91,256,144.76
Refunds to companies	<u>13,471,307.02</u>	<u>-0-</u>	<u>13,471,307.02</u>
Total	\$ <u>95,289,885.79</u>	\$ <u>9,868,007.35</u>	\$ <u>105,157,893.14</u>
Total of Fund	\$ <u>22,116,835.47</u>	\$ <u>(3,038,952.11)</u>	\$ <u>19,077,883.36</u>
Cash in bank and U.S. securities (at par)	\$ <u>22,116,835.47</u>		\$ <u>19,077,883.36</u>
Total of Fund	\$ <u>22,116,835.47</u>		\$ <u>19,077,883.36</u>

\* 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 66**  
**WORKERS' COMPENSATION SECURITY FUND\***  
**Income and Disbursements**  
**April 1, 1998**

	<b>To and Including <u>3/31/97</u></b>	<b>4/1/97 to <u>3/31/98</u></b>	<b>As of <u>4/1/98</u></b>
Paid into the Fund	\$ 127,603,843.79	\$ -0-	\$ 127,603,843.79
Interest income - net	114,548,469.77	1,642,435.54	116,190,905.31
Recoveries from companies in liquidation	<u>67,210,009.25</u>	<u>6,760,647.74</u>	<u>73,970,656.99</u>
Total	\$ 309,362,322.81	\$ 8,403,083.28	\$ 317,765,406.09
Less disbursements:			
Administrative expenses	\$ 746,922.26	\$ 25,126.41	\$ 772,048.67
Awards and expenses of companies in liquidation	186,426,764.47	12,411,304.79	198,838,069.26
Refunds to companies	27,380,833.32	238.42	27,381,071.74
Transfers	<u>67,000,000.00</u>	<u>-0-</u>	<u>67,000,000.00</u>
Total	\$ <u>281,554,520.05</u>	\$ <u>12,436,669.62</u>	\$ <u>293,991,189.67</u>
Total of Fund	\$ <u>27,807,802.76</u>	\$ <u>(4,033,586.34)</u>	\$ <u>23,774,216.42</u>
Cash in bank and U.S. securities (at par)	\$ <u>27,807,802.76</u>		\$ <u>23,774,216.42</u>
Total of Fund	\$ <u>27,807,802.76</u>		\$ <u>23,774,216.42</u>

\* 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 67  
NEW YORK STATE INSURANCE DEPARTMENT  
Number of Filled Positions by Bureau  
(as of 3/99)**

	<u>Examiners</u>	<u>Attorneys</u>	<u>Actuaries</u>	<u>Other Professionals</u>	<u>Investigators</u>	<u>Support Staff</u>	<u>Total</u>
Bureau							
<b>New York City Office:</b>							
Executive				9		4	13
Life	108		11	4		9	132
Health	44		4	1		5	54
Administration (includes HRM & Office Services)				8		12	20
Consumer Services	22					17	39
Frauds	4			1	19	7	31
OGC		25		4		11	40
Public Affairs/Research				4		3	7
Property	184		21			37	242
Systems	5			13		8	26
<b>NYC Total</b>	<b>367</b>	<b>25</b>	<b>36</b>	<b>44</b>	<b>19</b>	<b>113</b>	<b>604</b>
<b>Albany Office:</b>							
Executive				4		2	6
Life		11	19			6	36
Health	2	20	7	1		9	39
Administration (includes HRM & Taxes & Accounts))	1			10		17	28
Consumer Services	31					16	47
Frauds	1				2		3
OGC		3				1	4
Property	12					1	13
Systems	4			23		14	41
Licensing	3			2		44	49
<b>Albany Total</b>	<b>54</b>	<b>34</b>	<b>26</b>	<b>40</b>	<b>2</b>	<b>110</b>	<b>266</b>
<b>Other</b>							
<b>Buffalo Office:</b>							
Health	1						1
Consumer Services	3					1	4
Frauds					2		2
Property	1						1
<b>Mineola Office:</b>							
Consumer Services	2					1	3
Frauds					10		10
<b>Oneonta Office:</b>					1		1
<b>Rochester Office:</b>					1		1
<b>Syracuse Office:</b>							
Life	3						3
Health	1						1
Frauds					3		3
<b>Other Total</b>	<b>11</b>				<b>17</b>	<b>2</b>	<b>30</b>
<b>Department Total</b>	<b>432</b>	<b>59</b>	<b>62</b>	<b>84</b>	<b>38</b>	<b>225</b>	<b>900</b>

**C. NEW YORK STATE INSURANCE DEPARTMENT  
Publications\*  
1998**

**Consumer Guides, Annual Reports, Directories, etc.**

- Annual Health Insurer Complaint Ranking  
(includes Commercial Health Insurers, Health Maintenance Organizations and Nonprofit Indemnity Health Insurers; also includes grievances and utilization review appeals closed by 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 and Viatical Settlement Companies
- Directory of Regulated Insurance Companies
- Consumers Shopping Guide to Automobile Insurance  
(upstate and downstate editions)
- Consumers Shopping Guide for Homeowners and Tenants Insurance  
(upstate and downstate editions)
- Consumers Shopping Guide for Life Insurance
- Policyholder Protection Provided by the Life Insurance Company Guaranty Corporation of New York
- 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
- Experience Rating Plan for Public Automobiles
- Premium Surcharge for Taxi & Limousine Risks
- Annual Commercial Property/Casualty Report
- Annual Frauds Bureau Report
- 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).



