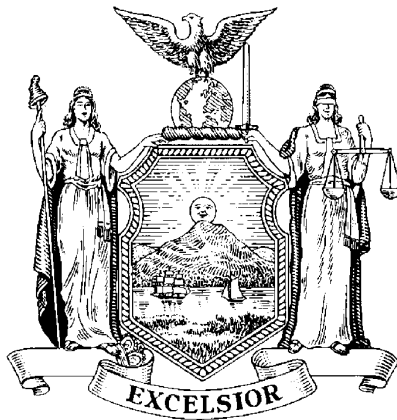


***Annual Report  
of the  
Superintendent of Insurance  
to the  
New York Legislature***

***Calendar Year 2001***



***Governor George E. Pataki***

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

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

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

*A Report to the New York State Legislature for the  
Year Ending December 31, 2001*

***George E. Pataki  
Governor***

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

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

**Selected portions of this report are available on the Department's Web site at  
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# I. Major Developments

## A. September 11

No single event in the 142-year history of the New York State Insurance Department had the impact of September 11, 2001. Within minutes after the attack, the Department--whose main offices are just five blocks south of the Trade Center--was responding to the disaster on numerous fronts.

The most immediate priority was to ensure Department personnel were safely evacuated and out of harm's way. Shortly thereafter, key Department staff began making preparations to activate the Department's newly formed Insurance Emergency Operations Center (IEOC) to expedite the claims-making process for victims of the disaster and their families.



The IEOC was established early in 2001 as a means of assisting consumers and rapidly assessing the financial impact of New York State catastrophes. Command centers were established in Manhattan and Albany, each with state-of-the-art videoconferencing and telecommunications capabilities.

In a May 2001 Circular Letter, the Department directed insurers to designate key personnel who would be contacted by the IEOC in the event of an emergency. As a result of that effort, the Department was quickly able to contact the most appropriate insurance professionals following September 11. So early on the morning of September 12, senior executives from 15 major insurers were working from the Department's Albany command center, monitoring initial claims data and compiling loss estimates. Videoconferencing and remote satellite video links from the field linked the command center to the State Emergency Management Office (SEMO) and the New York State Director of State Operations.

The Department's three major objectives for activating the command center were:

- To open the lines of communication between the Department and impacted insurers;
- To determine the financial impact on each insurance entity; and
- To ensure that claims were being paid in a timely fashion and that exclusions were not being inappropriately applied by insurers.

To further assist consumers, the Department established walk-in service centers at Pier 94 in Manhattan and three other locations. Department personnel staffed the centers — seven days a week, 12 hours a day. To further speed the claims-handling process, the Department moved quickly to issue temporary New York adjusters licenses to adjusters who had arrived from other states to help. Most received temporary licenses within 24 hours.

The Trade Center disaster generated claims from various lines of insurance, such as life, property, workers' compensation, automobile, and business interruption insurance. Each line brought its own unique problems; each demanded its own creative solutions. For example, life insurers typically require a death certificate in order to pay claims. Because physical evidence of death for many victims was not available, this was an impossible requirement to meet for many families of World Trade Center victims. The Department responded by issuing Circular Letter No. 28 (2001) on September 24 informing life insurers that standard affidavits should be used in lieu of death certificates to help expedite claims.

With respect to business interruption insurance, misconceptions arose regarding what constitutes a valid business interruption claim following the attack. The Department worked hard to make sure that business interruption claims decisions reflected not only the letter of the law, but its spirit as well.

The bottom line was that New York insurers responded incredibly well to the events of September 11. While many charitable organizations, governmental organizations and private firms were subject to criticism over their handling of post-September 11 events, the insurance industry's response was generally praised by consumer advocates, government agencies and the media. Further evidence of how well insurers responded to September 11 is evident from Department complaint totals. With tens of thousands of attack-related claims filed with New York insurers, the Department received only 221 complaints about insurers' claims-handling practices. Of these, over 25% involved relatively minor disputes with insurance companies over trip cancellation coverage.

The Department's sole fatality was former Superintendent Neil D. Levin who had been instrumental in formulating the Insurance Department's disaster-response operation. Superintendent Levin left the Insurance Department in early 2001 to assume the position of Director of the Port Authority of New York & New Jersey, whose main offices were at the Trade Center. Mr. Levin served the New York Insurance Department with distinction from 1997 to 2001.

Each bureau in the Insurance Department had a role to play following September 11. Beginning on page 9 of this report (*Responding to September 11*), the Bureaus chronicle the impact of the World Trade Center attack on their operations, how their staff responded, and how their actions helped policyholders and licensees. The New York Insurance Department's rapid response to September 11 now serves as a model for other states working on their own disaster response plans. For more detailed information about the Department's response, read Superintendent Serio's testimony before the U.S. House of Representatives, Committee on Financial Services on September 26, 2001 and on February 27, 2002. Both are available the Department's Web site ([www.ins.state.ny.us](http://www.ins.state.ny.us)).

## **B. Superintendent Serio Appointed**

In April 2001, Governor George E. Pataki nominated Gregory V. Serio as Superintendent of the New York State Insurance Department where he had served as First Deputy Superintendent since 1995. The following month, he was unanimously confirmed by the New York State Senate. Superintendent Serio replaced Neil D. Levin who had been appointed Director of the Port Authority of New York & New Jersey (see previous entry).



## **C. Terrorism Exclusion**

Over \$30 billion in losses are expected to be paid by property/casualty insurers as a result of the events surrounding September 11, the largest single catastrophe in terms of insured losses in this nation's history. Fortunately, the industry has sufficient surplus to weather the storm. However, when the reinsurance market, which is largely unregulated, announced in the aftermath of September 11 its intention to withdraw from the terrorism insurance marketplace, the primary insurance market began reassessing its overall exposure to terrorist losses.

In the fall of 2001, with a significant portion of commercial insureds up for renewal as of January 1, 2002, the insurance industry sought relief on two fronts: the introduction of a terrorism exclusion for commercial insurance products and/or the establishment of a federal backstop for terrorism losses. A terrorism exclusion for commercial products would shield the insurance industry from *major* losses in the event of terrorist attacks, while a federal backstop for terrorism losses would provide federally financed coverage to commercial insureds beyond certain prescribed thresholds.

To be implemented, terrorism exclusions must be approved by individual states. By January 1, most states had accepted the exclusions, but on January 24 Superintendent Serio rejected the endorsement in New York, noting that the industry's proposed exclusions were overly broad and not in the best interest of New York policyholders. The Department maintains that a federal backstop is the single best method of handling the solvency concerns of insurers and the coverage needs of policyholders. At press time, Congress was still contemplating various forms of backstop legislation.

#### **D. Healthy NY**

The Healthy NY program, signed into law by Governor George E. Pataki as part of the Health Care Reform Act of 2000 (HCRA), officially opened for business on January 1, 2001. The program seeks to address the problem of the uninsured in New York State through a small employer-based approach and an individual approach. All HMOs licensed in New York State are required to sell a "scaled down" standardized comprehensive health insurance benefit package to qualifying small employers, sole proprietors, and individuals. The eligibility criteria for the program differ significantly depending on whether the applicant is a working uninsured individual, a sole proprietor or a small employer group. The Healthy NY product includes a unique rating structure designed to combine the experience of participating individuals and small groups. The program also uses a state-funded stop-loss feature to contain premium rates and limit the exposure of HMOs to excessive health care costs. The Department has been working with the Governor's Office to promote this innovative new product.

#### **E. Speed to Market**

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

The initiative, called "Speed to Market," allows insurers in every line — life, property, and health — to gain access to a streamlined review process that will reduce the approval time for new applications from months to weeks. The new initiatives use company certifications, product outlines, filing checklists, and other tools to reduce time spent on "front end" preliminary review. The Department will use this time to focus on other regulatory priorities. Speed to Market promises to redefine the way insurance regulation is conducted in New York and maximize the value of regulatory resources.

#### **F. Gramm-Leach-Bliley Act**

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

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

Contrary to popular belief, GLBA did not usher in a wave of new mergers between insurers and banks. The historic Citibank/Travelers merger occurred prior to the passage of the law (by special permission from the Fed) and is now, in effect, reversing itself as Citibank seeks to spinoff Travelers. Banks have thus far exhibited a preference to sell insurance products rather than underwrite risk.

## **G. Automobile**

### **1. Fraud-Fighting Regulation**

For the past 18 months, the Department has been seeking to revise Regulation 68. One of the most highly debated aspects of the revised regulation was a provision that would reduce the time limits to provide written notice of claim from 90 to 30 days from the date of the accident. Another controversial element was the provision that would reduce from 180 days to 45 days the time limit to provide written proof of claim for health provider bills. The Department believes these two provisions will reduce fraud, while providing a reasonable window in which consumers can file both medical and nonmedical claims. Prior to implementation of the Regulation, many insurers were besieged with eleventh-hour claims, leaving them without sufficient time to properly evaluate and pay claims. Since 2000, when the Regulation was first brought forth, it has been challenged, nullified, revised again, and challenged again. The newly revised Regulation 68 was upheld by state Supreme Court Justice William Wetzel on February 19, 2002. At press time, the revised regulation had been in effect since April 5 in accordance with Justice Wetzel's decision.

### **2. No-Fault Optional Arbitration**

New York no-fault claimants are entitled to file for arbitration when an insurer rejects or does not fully honor their claims. In order to develop a program to address the increasing inventory of pending no-fault automobile arbitration cases and help identify and reduce no-fault fraud, the Department engaged in an extensive examination of the No-Fault arbitration program. As a result of that examination, the Department implemented these and other changes:

- Cases arising out of the same event are being consolidated to increase efficiency, while affording arbitrators an opportunity to identify fraudulent claims;
- Earlier submission of all forms and supporting evidence will be required to result in quicker and more efficient dispute resolution;
- Insurers will be permitted the right to negotiate attorney's fees, subject to specified limitations, in order to resolve disputed claims prior to the transmittal of disputes to arbitration;
- Arbitrators will be granted the right to impose the costs of administration on an applicant if the arbitrator concludes that the applicant has filed a frivolous arbitration application;
- Expedited hearings for injured claimants and health care providers that submit bills within 90 days of denial or nonpayment will be conducted to help resolve disputes for those truly interested in the prompt resolution of disputes; and
- Direct referrals of arbitration decisions to the Department's Frauds Bureau by arbitrators who have written decisions that identify fraudulent behavior.

### **3. Livery Guide**

The Department has made available a unique guide, *A Handbook For Livery Drivers* that offers tips and suggestions for avoiding fraud in connection with procuring livery insurance. *A Handbook For Livery Drivers* is available in both English and Spanish. The new guide offers tips to livery drivers regarding what constitutes appropriate automobile insurance coverage, how to secure coverage and how to guarantee continued coverage once premiums are paid.

## **H. Property/Casualty (Non-Auto)**

### **1. Privacy Investigations**

Title V of the Gramm-Leach-Bliley Act requires financial institutions, including insurers, to protect the privacy of customers. It also requires that all state insurance authorities establish appropriate consumer privacy standards for insurance providers. As a result, the Insurance Department promulgated Regulation 169, setting forth these standards. During 2001, the Market Conduct Unit investigated insurers to assess their procedures to ensure compliance with privacy regulatory requirements. Privacy investigations will continue in 2002 to ensure continued compliance.

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

Chapter 147 of the Laws of 2000 had extended the period allowed for the orderly dissolution of Medical Malpractice Insurance Association (MMIA) by continuing MMIA until June 30, 2001, while providing that the dissolution would be implemented at such time and under such conditions as the Superintendent deemed proper. Consequently, a Supplemental Order and Decision was issued on July 12, 2000 under which the Superintendent continued the MMIA solely for the purpose of winding up its affairs.

By December 31, 2000 the Medical Liability Mutual Insurance Company (MLMIC) had received full payment for its assumption of MMIA's liabilities and, by order of the Supreme Court of the State of New York entered May 14, 2001, MMIA was placed into liquidation.

## **I. Health**

### **1. External Review Program**

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

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

### **2. New Interactive HMO Report Card**

In September 2001, the Department unveiled its first interactive HMO health guide that allows consumers to obtain key information about HMOs in selected territories. The Department also released two other health-related guides:

- The *Consumer Guide to Health Insurers*, a one-of-a-kind, comprehensive guide to the health insurance companies and HMOs conducting business in this State. The guide provides New York State consumers with access to information to help them select the best health insurers to meet their needs. The guide is also available on the Department's Web site.
- The *Consumer Guide to HMOs*, a condensed, easy-to-read guide to HMOs designed for the individual consumer.

The interactive guide as well as the two printed guides were produced in conjunction with the National Committee for Quality Assurance (NCQA) and are available on the Department's Web site.

## **J. Life**

### **1. Demutualization**

After receiving the approval of both the policyholders and the Superintendent, the demutualization of Phoenix Home Life Mutual Insurance Company became effective on June 25, 2001, with the close of an initial public offering of stock that raised net proceeds of \$807.9 million. As a result of the conversion from a mutual to a stock form of business, the company became a wholly owned subsidiary of The Phoenix Companies, Inc. and changed its name to Phoenix Life Insurance Company. As of the effective date, Phoenix Life had 10,000 shares of common stock outstanding with a par value of \$1.00 per share.

### **2. Speed to Market - Life**

On August 21, 2000, the Life Bureau issued Circular Letter No. 27 (2000) to all authorized life insurers, fraternal benefit societies, charitable annuity societies and viatical settlement companies, outlining the new voluntary prior-approval-with-certification procedure. The new procedure was designed to assist insurers in bringing products to market quickly. It requires insurers to complete detailed product checklists for each policy form submitted and provide a signed certification of compliance with all applicable statutes and regulations.

In 2001, the Life Bureau prepared checklists for 14 different life and annuity product types covering a majority of all policy forms submitted to the Bureau. In addition to preparing the product checklists, the Life Bureau revised and updated the corresponding product outlines. The product outlines set forth the procedural and substantive review requirements applicable to each major type of product marketed by life insurers in New York. Such product checklists and outlines are available to insurers and consumers on the Department's Web site. The Department is committed to providing an expedited approval for all policy form submissions that comply with the new certification procedures.

Approximately 400 policy forms were approved under the certified filing procedure in 2001. Now that the majority of product checklists are completed and available on the Department's Web site, the number and percentage of certified submissions is expected to increase.

### **3. CARFRA Pilot Project**

In response to the Financial Services Modernization Act of 1999, the National Association of Insurance Commissioners has launched a speed to market program referred to as the Coordinated Advertising Rate and Form Review Authority (CARFRA) in ten states. The goal of the CARFRA program is to offer insurers a single point of filing for multiple jurisdictions, uniform national review standards and a shortened review time for insurance products. These goals address insurers concerns about filings in multiple jurisdictions, the lack of uniform review standards and lengthy, untimely reviews.

As one of the ten states participating in the limited launch, New York has taken a leadership role in this program. The Life Bureau has assisted in the development of the CARFRA review standards for the first four products selected for the limited launch. The four products are individual term life insurance, flexible premium deferred annuity contracts, individual universal life insurance and individual variable annuity. In addition to these products, Life Bureau staff worked on standards for other proposed products, including equity-indexed annuity contracts and unallocated group annuity contracts.

## **K. Consumer Services**

### **1. Closed Complaints**

The Consumer Services Bureau closed a total of 64,257 cases in 2001. Of these, 51,633 involved loss settlements or policy provisions, of which 29% were automobile complaints, 64% were accident and health complaints, 5% were property and liability complaints and 2% were life and annuity complaints.

### **2. Online Complaint System Inaugurated**

On October 24, 2001, the Consumer Services Bureau implemented a new online complaint process allowing consumers to file a complaint on the Internet. Once the consumer submits an online complaint, a file number is assigned and confirmation of this case number is immediately transmitted to the consumer. This allows for the immediate tracking of the file as the complaint automatically routes through the Consumers' Information and Imaging Management System (CIIMS).

### **3. Investigation Unit**

The Bureau's Investigation Unit processes complaints against licensed agents, brokers and adjusters; provides background investigations for proposed officers and directors of insurance companies; and performs investigations of applicants for new and renewal licenses who have answered affirmatively to irregularities on their applications. During 2001, the unit processed approximately 5,500 such investigations.

### **4. Licensing Unit**

As part of the continuing effort to enhance the Department's effectiveness and serving consumers and licensees, the Consumer Services and Licensing Services Bureaus were reorganized into one bureau in 2001. The Licensing Unit has moved into the e-commerce era with several initiatives, most notably a Web-based application for the issuance of temporary adjuster permits and an online renewal process for individuals licensed as Life and Accident and Health agents.

## **L. Frauds**

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

The Frauds Bureau participated in investigations that resulted in the arrest of a record 554 individuals for insurance fraud and related crimes during 2001, outpacing last year's performance by 10%. Criminal convictions obtained by prosecutors in Frauds Bureau cases totaled 210 at year-end. Moreover, 194 individuals were sentenced in connection with Frauds Bureau cases.

### **2. Web-Based Fraud Reporting**

The Bureau's Electronic Fraud Reporting System has been available industry-wide since March 2000. The system allows insurers to submit data online, making fraud reporting more efficient and effective. As of the end of 2001, about 300 insurers were reporting electronically.

### **3. Multi-Agency Investigations**

The Frauds Bureau was involved in a number of major investigations during 2001. Bureau investigators carried out several multi-agency sweeps, including the first statewide sweep ever conducted in New York State.

### **M. Capital Markets Bureau**

During 2001, the Bureau was instrumental in establishing a financial analysis framework to assess the key investment ratios of life and property/casualty insurers. This methodology, which continues to be refined, primarily utilized data from the NAIC I-SITE database. It identified insurers that were outside the normative range of their sector's financial measurements. The investment portfolios of these identified insurers were then subject to additional analysis. If areas of concern remained following this targeted assessment, the Bureau then solicited additional information on the companies' investment management criteria and objectives. If necessary, meetings with the affected companies were arranged to gain additional insight into the configuration of their portfolios and investment approaches.

### **N. Liquidation Bureau**

The rehabilitation of Frontier Insurance Company, a New York property/casualty insurer and the ancillary receivership of the Pennsylvania domestic insurer, Reliance Insurance Company, more than doubled the number of Liquidation Bureau open claim files in 2001. Frontier Insurance Company was a major property/casualty insurer that wrote over \$266 million in annual premiums in virtually all lines of business in all 50 states. The Bureau took control of Frontier under a temporary rehabilitation order at the end of August 2001. A permanent rehabilitation order was issued in October. About 250 Frontier employees nationwide continued in their positions while being supervised by the Liquidation Bureau.

### **O. Internet Developments**

Development of the Department's Web site continues to be a top Department priority. Visits to the site increased dramatically during 2001. During the 12-month period ending 12/31/01, the Web site had nearly 2.9 million visits, an average of 240,340 per month. This was an 82% increase from the previous year.

During 2001, several major additions were introduced to the Department's Web site, including an online complaint form, an interactive consumer guide to HMOs, an online life agent renewal application, and examination reports of 90 insurance companies.



# Responding to September 11

*I direct . . . all State agencies and authorities to take all appropriate actions to assist in every way all persons killed or injured and their families, and protect state property and to assist those affected local governments and individuals in responding to and recovering from this disaster, and to provide such other assistance as necessary to protect the public health and safety.*

**-Gov. George E. Pataki**  
Executive Order No. 113  
Sept. 11, 2001

On September 11, 2001, the United States faced the most devastating event in a generation, one that impacted every person in the New York Insurance Department, both professionally and personally. The following summarizes actions taken by various bureaus within the Department, before and after September 11.

## Property Bureau

### Pre-Disaster Planning

#### Department's Disaster Response Plan

On May 10, 2001 the Department issued Circular Letter No. 11 (2001) that identified and organized specific Insurance Department and insurance industry resources to serve victims of natural disasters and other state emergencies. As part of this effort the Department established the New York State Insurance Disaster Coalition.

The Circular Letter noted that the success of the New York State Insurance Disaster Response Plan and fulfillment of its critical mission required knowledgeable personnel operating in a partnering environment and within a command structure. Incorporation of the Insurance Disaster Response Plan into individual company catastrophe plans and a cooperative Department/Industry process of continuing evaluation and change would be critical to this process.

The Circular Letter also stated that in order to expedite New York's response time to catastrophes, the plan provided the opportunity to forge a new private/public disaster planning team that would result in a comprehensive strategy for cooperation. The Insurance Department urged all property/casualty insurers to participate in the Insurance Disaster Coalition. Of course, no one at the time could have envisioned the catastrophe that would soon bring all the elements of the Insurance Disaster Coalition into play.

The Bureau's MARS (Market Analysis Regulatory System) unit coordinated the effort to produce the "Pre-Disaster Survey," designed to collect data on New York State commercial and personal property policy counts and property exposures, by county. From this data a list was compiled of the top ten commercial and top ten personal property writers for each county. This list, which was compiled by insurer group, would be used to identify the companies to be included in the "Emergency Response Coalition."

In response to the September 11 attack the list was used to bring together those companies and coordinate the insurance industry's response. In addition, the database contained contact information that facilitated the transmission of the data calls and reports described below.

## **Post-Disaster Efforts**

### **Monitoring Financial Condition of Property/Casualty Insurers**

The Bureau's initial actions following the attacks of September 11 took place before the offices at 25 Beaver St. reopened, as several staff members reported to the Department's Albany offices. In addition, examiners were assigned to report to the offices of a private financial analysis firm in midtown. Once there, Property examiners and other Department professionals, performed stress tests on the companies most likely to suffer significant losses due to the September 11 attacks. The testing was not limited to potential underwriting losses, but also included an analysis of the insurance industry's ability to cope with the anticipated decline in the equity markets once the Stock Exchange reopened.

Once the Department's offices reopened on September 17, 2001, staff immediately arranged meetings with ten of the largest property/casualty writers in New York. These meetings helped identify the problems anticipated by senior management and also provided valuable insight into industry opinion regarding the initial estimates of the ultimate cost of the attacks to the industry. The Department also sent out questionnaires (described below) to approximately 60 selected companies.

### **Reinsurance Trust Funding Issues**

Early analysis of the losses incurred in the September 11 attacks indicated that a substantial portion would be borne by the reinsurance community, including Lloyd's and a large number of other European reinsurers. The sheer magnitude of the losses, and the short amount of time from September 11 until September 30, when non-Lloyd's alien accredited reinsurers would ordinarily have made their third-quarter loss estimate deposits into their U.S. trust funds, created a logistical problem. The Property Bureau took the initiative and in consultation with the other members of the NAIC Reinsurance Task Force, non-Lloyd's alien reinsurers were given an additional 45 days (until November 15) to fund their U.S. reinsurance liabilities.

While Lloyd's trust deeds already gave them until 11/15/01 to fund their U.S. reinsurance liabilities, Lloyd's presented the Department with a different problem: cash flow. Lloyd's is not an insurance "company," but rather a marketplace in which its members (which include corporations and natural persons) form syndicates to underwrite insurance coverage for Lloyd's insureds. Under its structure, Lloyd's requires members to deposit funds with the organization, but the greater portion of the capital that ultimately is called upon to satisfy insurance obligations is maintained by the members outside of the Lloyd's network. When it becomes necessary to access this capital, it is brought into the Lloyd's system through a procedure known as a "cash call."

The losses resulting from the September 11 attacks were staggering for Lloyd's, which was the primary insurer on all four of the hijacked aircraft. Lloyd's also insured or reinsured a portion of the World Trade Center exposure as well as a number of other lower Manhattan buildings and businesses. Pursuant to applicable reinsurance regulations, Lloyd's is required to maintain in trust in the U.S. an amount equal to 100% of its U.S. reinsurance liabilities plus a surplus of \$100 million. Lloyd's estimated that the amount necessary to fund the reinsurance losses resulting from the September 11 attacks, combined with its other trust fund obligations, would drain all available cash out of the Lloyd's system rendering it incapable of further operation.

While Lloyd's was confident that it would be able to meet all of its insurance and reinsurance obligations, it requested some temporary relief from the 100% reinsurance trust fund requirement. Following a series of meetings with Lloyd's representatives as well as meetings among members of the NAIC's Reinsurance Task Force, Lloyd's was given additional time to fund its U.S. reinsurance trust at 100% of liabilities. Lloyd's was also permitted to initially fund its September 11 losses at 60% of liabilities until March 31, 2002.

## **Electronic Surveys**

An initial survey of losses (direct and assumed) as a result of the WTC, Pentagon and Pennsylvania disasters examined the effects on insurer investment and liquidity of the stock market downturn in the immediate aftermath of the WTC attack. It was sent to 62 selected companies and groups by e-mail on September 21 with a return date three days later. Companies were selected based upon their size and financial condition. Data from this initial survey were combined with Capital Markets Bureau data to provide the Superintendent with preliminary data for responses to Congressional inquiries. A follow-up Survey on losses was sent in November.

## **Targeted Financial Analyses and Examinations**

As a result of the analysis of the information obtained through meetings with the industry, survey responses and Capital Markets Bureau updates, the Bureau did not find it necessary to restrict the writings of any individual insurers as a result of the September 11 attack. However, the Bureau continues to use this information to help prioritize property/casualty companies for financial analysis (desk audits) and ultimately to help the Bureau select companies for targeted financial examinations.

## **Actuarial Analyses**

The Actuarial Unit is continuing to monitor the impact of the September 11 events on losses. The Unit drafted Circular Letter No. 2 (2002) relating to the Consideration of September 11 in Notes to the Annual Statement and the Statement of Actuarial Opinion. In addition, the Unit has held discussions with numerous insurers during scheduled meetings; held conference calls with rating organizations and other interested parties; and reviewed reports of September 11 loss estimates by various actuarial consulting firms.

## **Monitoring Market Conditions**

### **Survey of Business Interruption Coverage**

This survey was conducted to determine the policy language and claims practices of companies providing business interruption coverage on properties that were either directly or indirectly (due to dust and debris, or action of civil authority) affected by the September 11 attack. The survey was e-mailed in October to the 21 companies and groups comprising the New York State Disaster Coalition. The results were used as a basis for public comments in a response to the New York City Downtown Alliance, which had expressed concerns about business interruption coverages for businesses affected by September 11.

### **Section 308 Letter**

This survey on property and casualty insurance writings and projections was mailed on December 3, 2001 to 69 company groups comprising some 389 companies writing approximately 92% of commercial property and 94% of personal property in New York State. The purpose of this survey was to assist the Department in its continuing effort to closely monitor issues and developments affecting the availability of vital insurance coverages and the ability of insurers to maintain a viable presence in the marketplace.

Some of the areas covered by this survey included any company plans to reduce coverage limits on new or renewal policies; curtailment of writings; anticipated terrorism limitations; and changes in the quality and/or quantity of reinsurance assumed or ceded. Data from this report was provided to the Superintendent for his appearance before Congress in early 2002. The data also served as the basis for the Property Bureau's response to a GAO survey on market conditions.

## **Consumer Services Bureau**

Within two hours of the collapse of the World Trade Center towers, representatives of the Bureau notified insurance company disaster liaisons of the ten largest commercial and the ten largest personal property writers of insurance in lower Manhattan that the New York State Insurance Disaster Response Plan had been activated. Earlier in 2001, Circular Letter No. 11 (2001) was issued by the Insurance Department to explain the details of the New York State Insurance Disaster Response Plan. (See Property Bureau entry (above) for details regarding the Disaster Response Plan.)

This plan was put to the test on September 11, 2001. The liaisons and the data required to determine which companies were the largest writers in Manhattan came from the industry's prior response to the Circular Letter. Each of those insurers was requested to have a representative staff the Albany Insurance Emergency Operations Center (IEOC) by the following day. Although there were travel restrictions in effect, insurance company representatives as well as members of various industry trade organizations arrived at the IEOC.

At the same time, examiners from Consumer Services were required to staff the Department's workstation at the State Emergency Management Office's (SEMO) Emergency Operations Center 24 hours a day in 12-hour shifts. A video and audio link was established between the IEOC and SEMO's center. This allowed constant monitoring of the activities at SEMO and instant updates of critical information concerning the World Trade Center disaster. Consumer Services Bureau staff was able to relay this information to the IEOC and, in turn, submit insurers' questions and concerns on various issues to the other agencies present at SEMO's center. Examples of this real-time exchange of information included the areas with power and utility outages, destroyed and damaged buildings, location of storage areas for the damaged vehicles, adjuster access to the disaster site, available alternate housing for the displaced residents, and air quality issues.

The information obtained was posted to the Department's Web site in a special WTC-disaster section. The information that was determined not to be for the general public was posted to a password-protected area of the Department's Web site. This protected information included SEMO's situation reports, loss data reports, names of adjusters issued temporary licenses and a list of critical topics for discussion by the Disaster Coalition members.

In the IEOC, insurance company representatives were able to access their own company's data systems through the telephone and data port lines that were installed for this purpose. Consumer Services Bureau supervisory staff directed the daily operations of the IEOC. The center was open from 7:30 a.m. to 8:00 p.m. each day from September 12 to September 21. A daily industry aggregate loss data report was provided to SEMO and the Governor's Office. Staff continues to collect loss data updates from the industry. These reports include data concerning the number and dollar amount of claims submitted for all property and casualty, automobile, workers' compensation and business interruption claims. Any consumer complaints received by the Bureau concerning WTC matters are handled on an expedited basis.

The Bureau dedicated a toll-free disaster hotline. The hotline was staffed from 8:00 a.m. to 8:00 p.m. daily from September 12, through December 31. Staff responded to over 1,400 telephone calls requesting information regarding coverage issues, insurance company contact telephone numbers for insureds to file their claims, emergency financial assistance availability, Department employee news and various other issues.

The IEOC staff also made arrangements with the New York City Police Department for sites that insurers could use to locate their mobile catastrophe units. By September 13, several of these units were set up near the disaster area. Other arrangements were made with the New York City Consumer

Affairs Office to situate the insurance industry at the Family Assistance Center, located at Pier 94 on Manhattan's West Side. Fourteen insurance companies, including life and health insurers, The State Insurance Fund and the Consumer Services Bureau set up information tables at the center. The Bureau's representatives remained there until December 28, 2001. Hundreds of victims received assistance at this center.

The Department recognized the fact many of those affected by the World Trade Center disaster were from the suburbs of Long Island and northern New York. The Bureau opened assistance centers in Hauppauge, Long Island and White Plains, NY and extended the hours of the Bureau's Mineola, Long Island office.

On September 12, Consumer Services Bureau staff attempted to contact those insurance companies, including health insurers, with offices in the disaster area. For those companies with offices in the World Trade Center, the disaster liaisons were contacted to obtain information on the continuity of their business. This information was then posted to the Department's Web site enabling their customers to contact them.

Bureau staff also arranged for and attended meetings with the industry and the Downtown Business Alliance, an association of business owners in lower Manhattan, to bring together the insurers and their insureds to resolve claims and coverage issues. The Bureau did the same for the tenants of Battery Park City and their insurers.

It is important to note that the Bureau, while responding to the disaster, maintained uninterrupted service to the public at large. The staff, in its resolve, redoubled its efforts to respond to the public in a timely manner and to continue contacts with their insurance companies and insurance producers. The Bureau maintained its mission, handling all areas of concern right along side of those directly affected by this disaster.

## **Life Bureau**

### **Industry Survey**

During the week of September 17, the Life Bureau sent a questionnaire to all licensed life insurance companies regarding potential exposure to the disasters of September 11 at the World Trade Center, the Pentagon and in Western Pennsylvania. The questionnaire was sent to enable the Life Bureau to assess the financial impact of the events of September 11 on individual life insurance companies and the industry as a whole.

The questionnaire set forth specific questions relating to claim exposure and contract exclusions, reinsurance programs in place, investment exposure to the aviation/airline industry and commercial real estate holdings in the affected areas and liquidity concerns. Companies were queried regarding the means by which they report key information to their boards of directors. Companies were asked if the events of September 11 had affected their daily operations and whether disaster recovery plans were implemented.

Results of the questionnaire indicated that the life insurance companies licensed in New York were not going to invoke contract exclusions and were financially prepared to handle the disaster of September 11.

The Life Bureau participated in telephone conference calls with industry trade associations such as the Life Insurance Council of New York and the American Council of Life Insurers to achieve a broader understanding of the impact of the disaster on the life insurance industry and in an effort to facilitate communication.

## **Proof of Death Affidavits and War Exclusions**

The Life Bureau worked with the Office of General Counsel on a Department Circular Letter, which required insurers to accept affidavits as proof of death, where death certificates were not available. Such affidavits made it easier for the beneficiaries of victims of the September 11 disaster to receive the death benefits on their insurance policies or annuity contracts.

The Life Bureau also worked with the Office of General Counsel in discussing the applicability of war exclusions and the permissibility of terrorism exclusions in individual life and group life policies. In addition, the Bureau prepared an "Information for Beneficiaries on Filing a Death Claim" document for distribution to the beneficiaries of the victims of September 11 to assist them with the claim-filing process.

## **Health Bureau**

### **Circular Letter No. 26 (2001)**

On September 12, 2001, the Superintendent of Insurance issued Circular Letter No. 26 stating that insurers should be mindful of the difficulties residents and businesses of the New York City area would be facing and that insurers should exercise care and responsible judgment in making determinations regarding claims, cancellations and nonrenewal of policies. The Letter also reminded insurers that the Superintendent has the authority to declare a moratorium precluding the termination of policies, or to suspend or otherwise adjust policy provisions relating to cancellation or nonrenewal in areas declared to be in a state of emergency.

### **Letter to Health Plans**

On September 18, 2001, the Health Bureau and the New York State Department of Health's Office of Managed Care issued a joint letter to managed care organizations and insurers. The letter requested that these health plans take whatever actions were necessary to simplify administrative practices and procedures and examine their utilization review policies and procedures in light of the tragic circumstances. The letter further requested that each health plan submit a description of how its operations were impacted by the disaster, including any modifications that the plans and their respective subcontractors made to utilization review procedures during the time following the tragedy. Plan responses revealed that during the month of September a majority of health plans suspended all preauthorization and prior notification requirements that might typically apply. Some health plans also afforded their members broader access to mental health and counseling services.

### **Circular Letter No. 29 (2001)**

On September 22, 2001, the Health Bureau issued Circular Letter No. 29 to remind HMOs and insurers to afford members of the reserves called to active duty their rights of conversion, continuation and suspension of health insurance coverage as required by the Insurance Law. The Letter went on to specify the protections in the law that are afforded to such military personnel.

### **Approval of Discretionary Groups for World Trade Center Victims**

The Health Bureau, together with the Department of Health, approved the creation of discretionary groups to provide health insurance to persons impacted by the World Trade Center disaster who meet certain eligibility requirements. The discretionary groups allow health insurance coverage to be continued in certain cases where a group no longer exists. The three approved discretionary groups are Fidelis Hope Program by Fidelis Care New York; World Trade Center Victim's Group by HIP Health Plan of New York; and Lower Manhattan Discretionary Group by Oxford Health Plan.

## **Capital Markets Bureau**

After September 11, the Capital Markets Bureau began estimating the attack's impact on the financial solvency of insurance companies. The primary objectives were to collect information on the potential claims, establish a list of companies on which the impact was likely to be material, and calibrate a probable range of claims for each company. The Bureau created a database of reported losses for all domestic and international companies to monitor and address the major financial developments stemming from this event. Key data, detailed by insurance sectors, included pretax losses net of reinsurance and pretax losses excluding reinsurance. Another goal was to establish credible 'worst case' scenarios for the various capital markets, primarily equity and fixed income. In addition, interest rate factors were taken into consideration. These analyses generated a range of estimates by which risk-based capital could be impacted.

Stage 1 consisted of identifying and analyzing, as quickly as possible, those companies expected to be most affected. Stage 2 expanded the analysis across all NY-licensed companies. Companies were "flagged" due to a high exposure to volatile asset classes and/or high claims resulting from the attacks. A more detailed analysis was performed on selected companies using the market prices of assets to measure the targeted companies' current levels of capital. The analysis continues to be updated to reflect flux in the financial markets, and the changing data on insurance claims.

## **Licensing**

One of the Licensing Unit's initiatives was the development of a Web-based application for the issuance of temporary adjuster permits. The application allows an insurance company to submit multiple names of adjusters for emergency situations. Permits can be issued within an hour.

This application was used in response to the World Trade Center attack. During that time, the Licensing Unit maintained special staffing 12 hours a day 7 days a week in order to issue the permits and provide assistance in the process via a telephone line dedicated specifically for this purpose. As a result, 386 temporary adjuster permits were issued within an hour of receipt, allowing the insurance industry to respond to this tragedy with properly trained individuals who now had the appropriate credentials so that they could be allowed access to secured areas.

## **Frauds Bureau**

The Frauds Bureau formulated a comprehensive insurance fraud-fighting plan specifically designed to combat any incidents of insurance fraud resulting from September 11. As a preemptive and preventive measure, the Bureau instituted specific coding to promptly identify World Trade Center fraud reports. In addition, a dedicated hotline and fax line were established for reporting suspected fraud related to the September 11 disaster. For several months, the Bureau staffed its New York City office from 8:00 a.m. to 8:00 p.m. during the week and from 8:00 a.m. to 4:00 p.m. on weekends to answer questions and provide assistance to consumers and insurers.

## **Liquidation Bureau**

The year 2001 was a very memorable one in the history of the Liquidation Bureau. Nothing, however, surpassed the heroic actions of the Liquidation Bureau employees during the horrific morning of September 11. The Executive staff demonstrated their leadership ability and preparedness by operating the Liquidation Bureau from a back-up facility in Brooklyn only two days after the tragedy. Within five business days, the Bureau was back at 123 William Street, providing full service to the policyholders of the companies it administers.

## **Systems Bureau**

As the events of September 11 unfolded, agency staff members located in New York City were dealing with evacuation procedures, while Albany staff watched the scene in disbelief on television. New York City Systems staff ensured the computer room and essential items were secured before leaving. Albany staff began attempting to contact New York City staff immediately to account for everyone. Since cell phones lines were not responsive, the Bureau relied on two-way pagers – Skytel and Blackberry devices, to communicate. The video conferencing link between the Albany and New York City Executive suites remained active on September 11.

In the immediate aftermath of the World Trade Center Disaster, the Department's Web site remained viable and was continuously updated. The Department's Web site is hosted in a different region from the New York City Metropolitan area and hence suffered no ill effects. The Department's first update on this event was posted in the afternoon of September 11 and updates occurred on a daily basis for weeks after the event.

On September 12, the Systems Bureau began damage assessment as well as preparing the Insurance Emergency Operations Center (IEOC). The Bureau set up the laptop and onscreen projector to review the Disaster Coalition Mailbox, used by the industry and New York State SEMO to send disaster updates. Likewise, the Bureau established a video conferencing link between the Albany IEOC and SEMO. As needed, the Bureau could connect into the Governor's office for a three-way video. Through IEOC operations, the Systems Bureau provided technical support to the Executive staff.

In addition to the IEOC, the Web site was the major communication method that allowed Department staff to present information to the insurance industry, the affected public and internal agency staff. The following disaster-related items were important components of the Web site:

- A public Disaster Information Section which provided contact information, location of mobile catastrophe units and other pertinent information and links.
- A fully activated Insurance Disaster Coalition Section that allowed members to Login to a password-protected area to receive various "need to know" updates.
- An automated Independent Temporary Adjuster Permit Application Form that allowed these permits to be requested online through the Department's Web site. This enabled the Licensing Unit to quickly generate these permits and immediately e-mail them to the requestors. Almost 400 such permits were provided in the weeks following the disaster using this methodology.

As a result of September 11, Systems has established a Business Recovery team that meets routinely to identify how the Bureau can strengthen recovery plans. This will be an ongoing project.

## **Department-Wide Seminar**

On November 30, 2001, the Department devoted a full day to assessing the impact of September 11 on Department operations. The seminar explored the Department response to September 11, the impact on the industry and consumers, and how best to cover future catastrophe losses. One memorable session featured a discussion of the post-September insurance environment with Robert Benmosche, Chairman and CEO of MetLife and Jacques Dubois, Chairman & CEO of Swiss Re. Superintendent Serio moderated the session. Earlier that morning, several staff members discussed their experiences on September 11.



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

### **A. LIFE BUREAU**

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

There were 145 life insurance companies licensed to transact business in New York State as of December 31, 2001. The total admitted assets of licensed life insurers amounted to approximately \$1.65 trillion at December 31, 2000, a ten-year gain of 89.9%. Bonds totaled \$661.6 billion; stocks \$54.1 billion; mortgage loans \$141.0 billion; real estate \$16.1 billion; policy loans \$55.1 billion, and short-term holdings \$28.1 billion. Other admitted assets totaled \$696.4 billion.

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

Domestic life insurance companies had admitted assets of \$585.7 billion on December 31, 2000, an increase of 87.2% since 1990. Insurance in force at December 31, 2000 of \$3.35 trillion represents an increase of 64.8% since December 31, 1990.

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

The Life Bureau supervised 488 organizations as of December 31, 2000. These organizations consisted of: 142 licensed life insurance companies--89 domiciled in New York and 53 foreign; 50 fraternal benefit societies--7 domiciled in New York, 42 foreign and one United States Branch of a Canadian Society; 12 retirement systems--four private pension funds and eight governmental systems; eight governmental variable supplements funds; 182 segregated gift annuity funds; 23 employee welfare funds; 12 viatical settlement companies and 59 accredited reinsurers.

#### **4. Demutualization**

After receiving the approval of both the policyholders and the Superintendent, the demutualization of Phoenix Home Life Mutual Insurance Company became effective on June 25, 2001, with the close of an initial public offering of stock that raised net proceeds of \$807,884,000. As a result of the demutualization, the Company became a wholly owned subsidiary of The Phoenix Companies, Inc. and changed its name to Phoenix Life Insurance Company. As of the effective date, Phoenix Life had 10,000 shares of common stock outstanding with a par value of \$1.00 per share.

**Table 1**  
**ADMITTED ASSETS**  
**Life Insurance Companies Licensed in New York State**  
**Selected Years, 1990-2000**  
**(dollar amounts in billions)**

Admitted Assets	2000	1999	1995	1990
<b>Total</b>	\$1,652.4	\$1,637.6	\$1,222.6	\$870.2
Percent increase from 1990	89.9%	88.2%	40.5%	---
<b>Type of asset</b>				
Bonds	\$661.6	\$637.3	\$566.8	\$369.4
Stocks	54.1	55.3	39.6	29.1
Mortgage Loans	141.0	140.7	142.6	200.0
Real Estate	16.1	17.7	32.4	24.9
Policy loans/liens	55.1	53.5	58.9	43.2
Short-term holdings	28.1	33.3	21.1	19.2
Other	696.4	699.8	361.1	184.4

**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, 1995-2000**  
**(in billions)**

	2000	1999	1995
Assets	\$1,652.4	\$1,637.7	\$1,222.6
Liabilities	1,562.9	1,553.9	1,160.2
Capital & Surplus	89.5	83.8	62.4

Source: New York State Insurance Department

**Table 3**  
**TOTAL LIFE INSURANCE IN FORCE**  
**Life Insurance Companies Licensed in New York State**  
**Selected Years, 1990-2000**  
**(dollar amounts in billions)**

<b>Class of Business</b>	<b>2000</b>	<b>1999</b>	<b>1995</b>	<b>1990</b>
Total insurance in force	\$8,852.3	\$8,422.0	\$6,914.6	\$5,490.6
Percent increase from 1990	61.2%	53.4%	25.9%	---
Ordinary	\$4,803.8	\$4,557.9	\$3,626.8	\$2,702.4
Group	3,977.5	3,789.8	3,206.1	2,701.8
Credit	63.9	67.0	73.9	78.0
Industrial	7.1	7.3	7.8	8.4

Source: New York State Insurance Department

**Table 4**  
**SOURCES OF INCOME**  
**Life Insurance Companies Licensed in New York State**  
**Selected Years, 1995-2000**  
**(dollar amounts in millions)**

Source of Income	2000		1999		1995	
	Amount	Percent of Total	Amount	Percent of Total	Amount	Percent of Total
Group life	\$15,116.2	4.3%	\$12,876.2	4.2%	\$12,011.4	4.8%
Group annuities	100,386.4	28.3	95,461.0	31.5	58,699.0	23.4
Group A & H	21,034.4	5.9	21,093.8	7.0	26,126.3	10.4
Ordinary life	45,642.5	12.9	42,086.3	13.9	42,493.9	16.9
Individual annuities	41,892.5	11.8	34,947.1	11.5	26,309.7	10.5
Individual A & H	4,485.9	1.3	3,965.1	1.3	3,382.6	1.3
Credit life	287.1	0.1	331.0	0.1	375.7	0.1
Industrial life	229.9	0.1	235.4	0.1	214.7	0.1
<b>Total Premiums</b>	<b>\$229,074.9</b>	<b>64.6%</b>	<b>\$210,995.9</b>	<b>69.5%</b>	<b>\$169,613.3</b>	<b>67.4%</b>
Supplementary contracts	9,840.4	2.8%	9,040.2	3.0%	7,113.2	2.8%
Net investment income	71,875.9	20.3	67,947.7	22.4	64,979.8	25.8
Other income	43,811.5	12.4	15,405.7	5.1	10,055.2	4.0
<b>TOTAL</b>	<b>\$354,602.6</b>	<b>100.0%</b>	<b>\$303,389.5</b>	<b>100.0%</b>	<b>\$251,761.5</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, 1995-2000  
(in millions)**

	<b>2000</b>	<b>1999</b>	<b>1995</b>
Total premiums	\$229,074.9	\$210,996.0	\$169,613.3
Investment income	71,875.9	67,947.7	64,979.8
Supplementary contracts	9,840.4	9,040.2	7,113.2
Other income	43,811.5	15,405.6	10,055.2
Total income	354,602.6	303,389.5	251,761.5
Net gain from operations	12,312.9	9,866.5	6,672.6
Net income	13,239.2	11,034.0	4,434.6

Source: New York State Insurance Department

**Table 6  
LIFE INSURANCE IN FORCE IN THE STATE OF NEW YORK  
Life Insurance Companies Licensed in New York State  
Selected Years, 1990-2000  
(dollar amounts in billions)**

<b>Insurance In Force</b>	<b>2000</b>	<b>1999</b>	<b>1995</b>	<b>1990</b>
Total	\$1,190.0	\$1,110.7	\$829.2	\$658.5
Percent increase from 1990	80.7%	68.7%	25.9%	---
Class of business				
Ordinary	\$694.8	\$644.9	\$501.7	\$371.0
Group	488.2	458.4	319.5	272.0
Credit	6.2	6.5	7.0	14.4
Industrial	0.8	0.8	.9	1.1

Source: New York State Insurance Department

**Table 7**  
**ADMITTED ASSETS / INSURANCE IN FORCE**  
**DOMESTIC LIFE INSURANCE COMPANIES**  
**Selected Years, 1990-2000**  
**(dollar amounts in billions)**

<b>Domestic Life Insurers</b>	<b>2000</b>	<b>1999</b>	<b>1995</b>	<b>1990</b>
Admitted assets	\$585.7	\$585.6	\$435.2	\$312.8
Percent increase from 1990	87.2%	87.2%	39.1%	---
Insurance in force	\$3,345.2	\$3,506.5	\$2,712.0	\$2,029.9
Percent increase from 1990	64.8%	72.7%	33.6%	---

Source: New York State Insurance Department

### 5. Licensed Fraternal Benefit Societies

At the close of 2000, 50 fraternal benefit societies were licensed to conduct insurance business in New York State. Of these, seven were domestic, 42 were foreign and one was an alien society. In the ten-year period ending December 31, 2000 the admitted assets of licensed societies rose \$30.2 billion to a total of \$55.9 billion, an increase of 118%. Insurance in force rose \$93.5 billion to \$255.9 billion, an increase of 58%.

**Table 8**  
**FRATERNAL BENEFIT SOCIETIES**  
**Selected Years, 1990-2000**  
**(in billions)**

<b>Fraternal Benefit Societies</b>	<b>2000</b>	<b>1999</b>	<b>1995</b>	<b>1990</b>
Admitted assets	\$55.9	\$52.9	\$43.9	\$25.7
Insurance in force	\$255.9	\$247.9	\$213.5	\$162.4

Source: New York State Insurance Department

## 6. Private Retirement Systems

At the close of 2000, 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 2000, the assets of these four private pension funds totaled approximately \$173.4 billion. The following table shows data for the private pension funds for selected years from 1990 to 2000.

**Table 9**  
**PRIVATE PENSION FUNDS**  
**Regulated by NYS Insurance Department**  
**Selected Years, 1990-2000**  
**(in millions)**

Private Pension Funds	2000	1999	1995	1990
Total admitted assets	\$173,411.7	\$186,596.9	\$84,830.0	\$40,240.7
Payments to annuitants and beneficiaries	\$11,103.5	\$9,431.0	\$3,243.1	\$1,676.0

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 2000 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 2000 were approximately \$327 billion. During the period from 1990 to 2000, the assets of these retirement systems increased at the compound rate of 10.7% per year.

The governmental retirement systems cover a total of 1.8 million active and retired members. The number of active employees in the public retirement systems in 2000 decreased by 3.7% from its 1990 level, while the number of pensioners increased by 26% in the same period. The substantial increase in pensioners, as compared with a decrease in the work force, reinforces the need for maintaining adequate actuarial reserves.

The New York City Administrative Code provides for five active 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 and the Employees' Retirement System. If at any time the earnings so transferred are insufficient, the payment of the variable supplements benefits is guaranteed by the City. These variable supplements funds provide retirement benefits in addition to those received from the pension funds and the retirement system. The variable supplements funds, all of which are under the supervision of the Insurance Department, had assets as of June 30, 2000 totaling \$3.7 billion, a 4% increase over June 30 of the previous year.

The following table shows data for the public employee retirement systems, excluding the variable supplements funds, for selected years from 1990 to 2000:

**Table 10**  
**PUBLIC RETIREMENT SYSTEMS AND PENSION FUNDS**  
**Regulated by NYS Insurance Department**  
**Selected Years, 1990-2000**  
**(in millions)**

<b>Public Retirement Systems &amp; Pension Funds</b>	<b>2000</b>	<b>1999</b>	<b>1995</b>	<b>1990</b>
Total admitted assets	\$326,946	\$301,225	\$171,510	\$117,798
Payments to annuitants and beneficiaries	\$13,117	\$10,938	\$8,031	\$5,411

Source: New York State Insurance Department

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

At the end of 2001, 156 charitable annuity societies held permits under Section 1110 of the Insurance Law. In return for, or conditioned upon, the receipt of gift funds, such organizations agree to pay an annuity to the donor, or a nominee. These agreements must provide to the issuer, upon the death of the annuitant, a residue equal to at least one-half the original gift or other consideration for such annuity. In the ten-year period ending December 31, 2000, admitted assets of these funds increased by 493% and the annual payments increased by 483%. This reflects the rapid growth in the number of licensed societies during the period under review.

**Table 11**  
**SEGREGATED GIFT ANNUITY FUNDS**  
**Selected Years, 1990-2000**  
**(in millions)**

<b>Segregated Gift Annuity Funds</b>	<b>2000</b>	<b>1999</b>	<b>1995</b>	<b>1990</b>
Total admitted assets	\$956.0	\$873.9	\$420.4	\$161.1
Annual payments to annuitants	\$83.9	\$73.8	\$32.4	\$14.4

Source: New York State Insurance Department

### 9. Employee Welfare Funds

Twenty-three employee welfare funds covering 122,049 employees were supervised by the Department at the close of 2000. 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 \$291.0 million in 2000. Benefits paid totaled \$291.4 million and included life insurance; medical, surgical and hospital coverage; major medical coverage; optical, dental and prescription drug plans; disability insurance, and legal services. Administrative expenses totaled \$16.8 million representing 5.8% of contributions and 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 2000, nine companies were licensed or authorized to act as viatical settlement companies in New York.

As of December 31, 2000, these companies had combined assets of \$445 million, with the largest company accounting for \$421 million. The assets were primarily in the form of life insurance policies purchased. Costs of purchasing these policies amounted to \$350 million, which comprised about 31.6% of the \$1.105 billion total face value.

### 11. Examinations of Insurers Conducted in 2001

**Table 12**  
**EXAMINATIONS CONDUCTED**  
**by the Life Bureau**  
**2001**

	Regularly Scheduled			Other	
	Total	Initiated		Special	On Organi- zation
		In 2001	Prior to 2001		
Life insurance companies	41	30	8	2	1
Fraternal benefit societies	4	3	1	0	0
Retirement systems and pension funds	12	0	12	0	0
Segregated gift annuity funds of charitable organizations	12	12	0	0	0
Welfare funds	4	4	0	0	0
Viatical settlement companies	3	3	0	0	0
<b>Total</b>	<b>76</b>	<b>52</b>	<b>21</b>	<b>2</b>	<b>1</b>

## **12. Auditing of Financial Statements**

### **a. Audit and Analysis**

As of December 31, 2001, 437 companies were licensed to conduct business in New York State, as detailed below. These companies are required to file their Annual Statements for audit and analysis.

Life - New York	90
Life - Other States	55
Accredited Reinsurers	58
Fraternal - New York	6
Fraternal - Other States	42
Fraternal - Canadian, U.S. Branch	1
Charitable Annuities	156
Retirement Systems	20
Viaticals	9
<b>Total</b>	<b>437</b>

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

### **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 2001 were updated to meet current needs and requirements. Copies of the Supplements are now distributed through the Department's Web site to all life companies and Fraternal Benefit Societies licensed to do business in New York State.

## **13. Real Estate Review**

During 2000, the Real Estate Unit submitted four reports relative to the valuation and condition of real estate assets held by companies under examination.

In addition, recommendations were made in connection with the value of leasehold improvements, the fairness of leases between members of holding company systems, the valuation of transferred assets, the acceptability of loan participation agreements, the cost of home office acquisition and new construction and the market value of home office real estate and continuing care retirement communities.

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

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

mandated by Section 4228 of the Insurance Law, which deals with expense limitations, agent compensation plans, agent training allowance plans and expense allowance plans.

The actuaries evaluate the actuarial aspects of life insurer demutualizations and reorganizations of foreign insurers as mutual holding companies. Those have been relatively few in number but extremely time consuming. Among other things, this work involves the selection of legal, investment banking and actuarial consulting firms, ongoing monitoring of their work and evaluation of their final work product.

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

Separate account submissions continued to comprise the majority of filings reviewed by the actuarial staff. Notwithstanding the declines in the equities markets and perceived post-September 11 risk-adverse environment, the number of separate account submissions during 2001 remained virtually the same as in 2000. Submissions under New York's agent compensation law (Section 4228) comprised the next greatest number of actuarial filings again in 2001, having decreased slightly – by 8% – as compared with the number of agent compensation filings in 2000. Submissions related to mergers, acquisitions and new company formations decreased by 29% during 2001. There were ten synthetic GIC submissions during 2001, four more than in 2000.

## **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 2001. New York is a member of the Life Risk-Based Capital Working Group and representatives from the Life Bureau were present during the deliberations undertaken by the NAIC to update and improve the formula. The risk-based capital levels reported in the 2000 Annual Statements filed by licensed insurers did not disclose inadequate capitalization by the reporting companies.

## **16. Life Bureau - Albany**

### **a. Review of Life Insurance, Annuity Contracts and Other Financial Products**

The Life Bureau in Albany processed 6,939 and received 6,030 life and annuity policy forms and other financial products offered by life insurance companies, fraternal benefit societies, charitable annuity societies and viatical settlement companies in 2001. Over the last five years, the Life Bureau has processed an average of 7,358 forms and received an average of 7,063 forms annually. Of the 6,939 forms processed, approximately 58.5% were approved, deemed approved or filed for reference, 20.5% were filed for out-of-state use and 21% were disapproved, rejected, withdrawn or replaced.

**Table 13  
NUMBER OF POLICY FORMS RECEIVED AND PROCESSED IN 2001\***

<b>Product Type</b>	<b>Received</b>	<b>Processed</b>
Individual Life	2,435	2,442
Group Life	824	1,239
Individual Annuity	1,080	1,168
Group Annuity	1,294	1,559
Credit Insurance	162	280
Viatical Settlement	15	42
Miscellaneous	220	209
<b>Total</b>	<b>6,030</b>	<b>6,939</b>

\*Life includes term, whole life, indeterminate premium, universal life and variable life, among others. Annuities include immediate, deferred, fixed, variable and charitable annuities and also separate account agreements, funding agreements, structured settlements and synthetic guaranteed investment contracts, among others. Credit insurance includes credit life, credit disability and credit unemployment insurance.

Source: New York State Insurance Department

**b. Review of Actuarial and Other Form-Related Filings**

In conjunction with the policy form approval process, the Life Bureau received 379 other filings related to the policy form approval process and products offered for sale in New York, including 125 rate and actuarial filings, 80 inquiries and complaints, 56 FOIL requests, 50 prefilings under Circular Letter 64-1 and 40 compensation filings.

**Table 14  
POLICY FORM RELATED FILINGS RECEIVED IN 2001**

Fraternal Benefit Societies [Constitution, Articles of Incorporation, Bylaws, Etc.]	8
Calculation of Life Estates	9
Circular Letter 64-1	50
Compensation Filings	40
Conversion Filing (Unaffiliated Insurer)	1
FOIL Requests	56
Inquiries & Complaints	80
Rate Filings & Actuarial Memorandum	125
Violations & Market Conduct	10
<b>Total</b>	<b>379</b>

### **c. Prior Approval with Certification**

On August 21, 2000, the Life Bureau issued Circular Letter No. 27 (2000) to all authorized life insurers, fraternal benefit societies, charitable annuity societies and viatical settlement companies, outlining the new voluntary prior approval with certification procedure. The new procedure was designed to assist insurers in bringing products to market quickly. It requires insurers to complete detailed product checklists for each policy form submitted and provide a signed certification of compliance with all applicable statutes and regulations.

In 2001, the Life Bureau prepared checklists for fourteen different life and annuity product types covering a majority of all policy forms submitted to the Bureau. In addition, to preparing the product checklists, the Life Bureau revised and updated the corresponding product outlines. The product outlines set forth the procedural and substantive review requirements applicable to each major type of product marketed by life insurers in New York. Such product checklists and outlines are available to insurers and consumers on the Department's Web site. The Department has committed to provide an expedited approval for all policy form submissions that comply with the new certification procedures

Approximately 400 policy forms were approved under the certified filing procedure in 2001. Now that the majority of product checklists are completed and available on the Department's Web site, the number and percentage of certified submissions is expected to increase.

### **d. Coordinated Advertising Rate and Form Review Authority (CARFRA)**

In response to the Financial Services Modernization Act of 1999, the National Association of Insurance Commissioners has launched a speed to market program referred to as the Coordinated Advertising Rate and Form Review Authority (CARFRA) in ten states. The goal of the CARFRA program is to offer insurers a single point of filing for multiple jurisdictions, uniform national review standards and a shortened review time for insurance products. These goals address insurers concerns about filings in multiple jurisdictions, the lack of uniform review standards and lengthy, untimely reviews. The life insurance industry has strongly advocated for more uniformity because their competitors in the financial-services arena are not subject to such requirements.

As one of the ten states participating in the limited launch, New York has taken a leadership role in this program. The Life Bureau has assisted in the development of the CARFRA review standards for the first four products selected for the limited launch. The four products are individual term life insurance, flexible premium deferred annuity contracts, individual universal life insurance and individual variable annuity. In addition to these products, Life Bureau staff worked on standards for other proposed products, including equity-indexed annuity contracts and unallocated group annuity contracts.

### **e. Statutory Examinations**

Albany staff members have been preparing to perform compliance audits with respect to various legal and regulatory requirements that were previously reviewed during the policy form prior-approval process. These requirements relate to unfair discrimination (Section 4224), self-support of life insurance and annuity products, pricing and repricing of indeterminate rate aspects of life insurance and annuities (Section 4231(g) and Section 4232), nonforfeiture of life insurance and annuities, and sales process disclosures provided to applicants and prospective applicants of life insurance and annuity products.

In addition, the Albany staff has been expanding its analysis of life insurer risks beyond the traditional analysis of reserves and asset/liability matching. Surveys were sent to insurers regarding management of liquidity risk and managing risk with respect to providing variable annuities with guarantees on the performance of the underlying funds. Currently, a more general risk survey is being developed.

## B. PROPERTY BUREAU

### 1. Entities Supervised by the Financial Regulation Division

As of December 31, 2001, the Financial Regulation Division side of the Property Bureau had regulatory authority over 1,600 insurer and noninsurer entities.

The Bureau regulated 944 insurer entities. The breakdown is include in the table below:

#### Entities Regulated By Property Bureau-2001

<i>Number of Regulated Entities</i>	<i>Type of insurer/reinsurer/entity</i>
70	Accredited reinsurers*
18	Advance premium co-operatives
28	Assessment co-operatives
11	Associations, pools, and syndicates
2	Captive insurers
14	Financial guaranty insurers
6	Medical malpractice insurers
25	Mortgage guaranty insurers
1	Property Insurance Underwriting Association (FAIR Plan)
734	Property/casualty insurers
22	Title insurers (including two accredited reinsurers)
13	United States branches

\*Lloyd's of London (Lloyd's), included as an accredited reinsurer, is comprised of individual underwriting syndicates, each of which must meet the requirements for recognition as an accredited reinsurer. As of December 31, 2001, the Department recognized 104 active Lloyd's syndicates as accredited reinsurers.

In addition, the Bureau oversaw the operation of 49 risk retention groups in 2001 and supervised 264 reinsurance intermediaries, 9 insurer-controlling producers, and 351 managing general agents.

The Property Bureau received 28 applications for licensing and six applications for recognition as an accredited reinsurer during 2001. Twenty-two insurers were newly licensed including 2 domestic stock company, 2 foreign mutual insurers, and 18 foreign stock insurers. In addition, 8 insurers were accredited, one of which was a mutual company. At the close of the year, 2 domestic stock companies, one of which is a domestic financial guaranty insurer, 2 foreign mutual insurers, 3 foreign title insurers and 18 foreign stock insurers had license applications pending with the Department. In addition, 6 applications for accreditation were still outstanding, of which one is a mutual insurer.

### 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 include the State Insurance Fund, 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 2000 by all New York-licensed property and casualty insurers aggregated \$217.5 billion, of which 73.7% represents stock company writings. The following underwriting and investment results deal with the countrywide business of New York-licensed companies:

**Table 15**  
**NET PREMIUMS WRITTEN AND SURPLUS TO POLICYHOLDERS**  
**Property and Casualty Insurers Licensed in New York State**  
**1995-2000**  
**(dollar amounts in millions)**

Year	Stock Companies				Mutual Companies			
	No. of Cos.	Net Premiums Written (during year)	Surplus/ Policy-holders (end of year)	Ratio of Premiums to Surplus	No. of Cos.	Net Premiums Written (during year)	Surplus/ Policy-holders (end of year)	Ratio of Premiums to Surplus
1995	567	\$136,270	\$122,335	1.1	75	\$52,647	\$52,171	1.0
1996	614	143,254	139,288	1.0	75	53,094	60,928	0.9
1997	623	146,706	168,327	0.9	73	53,644	76,793	0.7
1998	620	144,788	175,313	0.8	76	53,453	85,503	0.6
1999	647	146,569	174,440	0.8	71	55,697	88,998	0.6
2000	683	160,173	168,969	0.9	74	57,305	85,206	0.7

Source: New York State Insurance Department

**b. Underwriting Results**

Results for 2000 show a net underwriting loss of \$16.0 billion for stock companies and a net underwriting loss of \$6.9 billion for mutual companies.

**Table 16**  
**UNDERWRITING RESULTS**  
**Property and Casualty Insurers Licensed in New York State**  
**1997-2000**  
**(dollar amounts in millions)**

Year		<u>Stock Companies</u>		<u>Mutual Companies</u>	
		Number of Companies	Amount	Number of Companies	Amount
1997	Underwriting gains	211	\$ 2,917.0	27	\$ 2,918.9
	Underwriting losses	366	5,957.4	46	1,610.8
	No gain or loss	46	0.0	0	0.0
1998	Underwriting gains	174	\$ 2,852.1	16	\$ 910.0
	Underwriting losses	392	11,216.1	58	3,456.4
	No gain or loss	54	0.0	2	0.0
1999	Underwriting gains	144	\$ 1,709.7	10	\$ 117.5
	Underwriting losses	441	14,062.9	61	5,484.9
	No gain or loss	62	0.0	0	0.0
2000	Underwriting gains	135	\$ 1,270.1	8	\$ 65.9
	Underwriting losses	495	17,251.3	66	6,920.0
	No gain or loss	53	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 1997 to 2000 are as follows:

**Table 17**  
**INVESTMENT INCOME AND CAPITAL GAINS**  
**Property and Casualty Insurers Licensed in New York State**  
**1997-2000**  
**(in millions)**

Year		Stock Companies	Mutual Companies
1997	Net investment income	\$26,643.8	\$ 8,289.5
	Realized capital gains	5,697.2	1,380.4
	Unrealized capital gains	<u>14,421.8</u>	<u>11,154.5</u>
	Net gain from investments	<u>\$46,762.8</u>	<u>\$20,824.4</u>
1998	Net investment income	\$24,169.0	\$ 7,043.8
	Realized capital gains	10,436.1	3,216.5
	Unrealized capital gains	<u>4,319.4</u>	<u>6,038.3</u>
	Net gain from investments	<u>\$38,924.5</u>	<u>\$16,298.6</u>
1999	Net investment income	\$25,328.2	\$ 6,535.4
	Realized capital gains	7,003.3	3,117.2
	Unrealized capital gains	<u>-3,516.1</u>	<u>2,922.7</u>
	Net gain from investments	<u>\$28,815.4</u>	<u>\$12,575.3</u>
2000	Net investment income	\$26,717.1	\$6,486.8
	Realized capital gains	5,494.5	5,249.9
	Unrealized capital gains	<u>-12,761.2</u>	<u>-3,475.7</u>
	Net gain from investments	<u>\$19,450.5</u>	<u>\$ 8,261.0</u>

Source: New York State Insurance Department

#### d. Underwriting and Investment Exhibit

During 2000, dividends to stockholders amounted to \$0.8 billion; for the same period, dividends to policyholders aggregated to \$1.8 billion. The aggregate contribution to surplus for 2000 was \$4.1 billion compared with \$4.4 billion for 1999.

**Table 18**  
**AGGREGATE UNDERWRITING AND INVESTMENT EXHIBIT**  
**Property and Casualty Insurers Licensed in New York State**  
**1999 and 2000**  
**(in millions)**

	Stock Companies		Mutual Companies	
	2000	1999	2000	1999
Net gain or loss from:				
Underwriting	\$-15,981.2	\$-12,353.1	\$-6,854.1	\$ -5,367.4
Investments*	32,211.6	32,331.6	11,736.7	9,652.6
Other income	687.6	-69.0	296.6	-598.5
Net gain or loss	<u>\$ 16,909.0</u>	<u>\$ 19,909.4</u>	<u>\$ 5,179.2</u>	<u>\$ 3,686.6</u>
Less:				
Dividends to policyholders	822.0	934.7	1,781.1	1,191.5
Federal income taxes incurred	<u>2,072.3</u>	<u>2,425.1</u>	<u>659.3</u>	<u>459.4</u>
Net income	<u>\$ 14,014.7</u>	<u>\$ 16,549.6</u>	<u>\$ 2,738.7</u>	<u>\$ 2,035.7</u>
Surplus changes other than net income:				
Dividends to stockholders				
• Cash	\$-13,214.3	\$-17,486.2	\$ 0.0	\$ 0.0
• Stock	-391.5	-13.1		
US Branches - Net remittance to/from home office	<u>-70.1</u>	<u>-24.2</u>	<u>0.0</u>	<u>0.0</u>
Total dividends and remittance	<u>\$-13,675.8</u>	<u>\$-17,486.2</u>	<u>\$ 0.0</u>	<u>\$ 0.0</u>
Unrealized capital gains/losses	-12,761.2	-3,516.1	-3475.7	2,922.7
Changes in statutory over case basis	85.5	124.7	25.7	47.9
Miscellaneous items	-21.6	-865.3	-836.6	-2,261.2
Contributions to surplus	<u>4,125.4</u>	<u>4,446.8</u>	<u>0.3</u>	<u>0.4</u>
Total other sources	<u>\$-22,247.7</u>	<u>\$-17,296.2</u>	<u>\$-4,286.3</u>	<u>\$ 709.8</u>
Net increase or decrease in surplus	<u>\$ -8,233.0</u>	<u>\$ -746.6</u>	<u>\$ -1,547.6</u>	<u>\$ 2,745.6</u>

\*Excludes unrealized capital gains

Source: New York State Insurance Department

**e. Selected Annual Statement Data**

Over the period 1997 to 2000 aggregate net premiums written increased by 8.5%; admitted assets increased 3.3%; unearned premium and loss reserves increased 0.4%; and other liabilities increased 18.8%. Capital and surplus to policyholders increased by 7.7%.

**Table 19**  
**SELECTED ANNUAL STATEMENT DATA**  
**Property and Casualty Insurers Licensed In New York State**  
**1997-2000**  
**(dollar amounts in millions)**

	2000	1999	1998	1997
<b>Stock Companies</b>				
Number of insurers	683	647	620	623
Net premiums written	\$160,173	\$146,569	\$144,788	\$146,706
Admitted assets	511,202	504,597	509,872	505,697
Unearned premium & loss reserves	295,849	285,537	288,693	293,618
Other liabilities	46,383	44,619	45,867	43,753
Capital	4,932	4,782	4,343	4,451
Surplus funds	168,969	174,440	175,313	163,876
<b>Mutual Companies</b>				
Number of insurers	74	71	76	73
Net premiums written	\$ 57,305	\$ 55,697	\$ 53,453	\$ 53,644
Admitted assets	192,189	193,235	183,986	175,476
Unearned premium & loss reserves	80,098	80,872	78,892	80,730
Other liabilities	26,939	23,366	19,591	17,954
Surplus to policyholders	85,206	88,998	85,503	76,793

Source: New York State Insurance Department

#### **f. Audit and Analysis**

The 1999 Annual Statements of the companies authorized to transact business in the State of New York were filed for audit and analysis in 2001, 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 2,800 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 2001, the State Insurance Fund acquired bonds totaling \$22.7 billion and sold bonds totaling \$12.1 billion. Upon review, the Property Bureau recommended the approval of the total acquisitions of \$22.7 billion and the total sales of \$12.1 billion. In 2000, the Bureau recommended approval of acquisitions totaling \$12.5 billion and sales totaling \$4.6 billion.

#### **h. CPA-Audited Financial Statements**

NYIL Section 307(b) requires licensed insurers to file an annual financial statement, certified by an independent certified public accountant (CPA), on or before May 31 of each year. CPA-audited financial statements were received and reviewed for 897 companies. There were 15 companies entitled to exemption from the filing requirements.

#### **i. Public Inspection of Records**

The Financial Division of the Property Bureau provides public access to various Insurance Department documents pursuant to the Freedom of Information Law (FOIL). In 2001, 68 FOIL requests to review and copy records maintained by the Financial Division were received from members of the public.

#### **j. Holding Company-Related Transactions**

Pursuant to Article 15 of the New York Insurance Law and Department Regulation 52, the Property Bureau is responsible for the review and approval of transactions within holding company systems. During 2001, 218 holding company transaction files, and 389 holding company registration statements and amendments were reviewed and closed by the Property Bureau. In addition, 31 notices of acquisition of control of domestic insurers were reviewed and closed by the Property Bureau.

### 3. Financial Guaranty Insurance

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

As of December 31, 2000, there were seven domestic and seven foreign financial guaranty insurers licensed in New York.

**Table 20**  
**NET PREMIUMS WRITTEN AND SURPLUS TO POLICYHOLDERS**  
**Financial Guaranty Insurers Licensed in New York State**  
**1997-2000**  
**(dollar amounts in millions)**

Year	Net Premiums Written (during year)	Surplus to Policyholders (end of year)	Ratio of Premiums to Surplus
1997	\$1,000.4	\$5,469.6	0.18
1998	1,299.0	6,425.0	0.20
1999	1,297.2	7,162.5	0.18
2000	1,404.5	7,372.8	0.19

Source: New York State Insurance Department

**Table 21**  
**UNDERWRITING RESULTS**  
**Financial Guaranty Insurers Licensed in New York State**  
**1998-2000**  
**(dollar amounts in millions)**

	<u>2000</u>		<u>1999</u>		<u>1998</u>	
	Underwriting Gain	Loss	Underwriting Gain	Loss	Underwriting Gain	Loss
Number of Companies	8	6	8	4	11	1
Amount	\$569.0	\$32.5	\$618.1	\$25.1	\$423.8	\$22.0

Source: New York State Insurance Department

**Table 22**  
**INVESTMENT INCOME AND CAPITAL GAINS**  
**Financial Guaranty Insurers Licensed in New York State**  
**1997-2000**  
**(in millions)**

	2000	1999	1998	1997
Net investment income	\$1,096.1	\$860.2	\$791.6	\$742.4
Realized capital gains	355.2	48.9	93.4	64.2
Unrealized capital gains	<u>-344.0</u>	<u>34.9</u>	<u>51.0</u>	<u>0.7</u>
Net gain from investments	<u>\$1,107.2</u>	<u>\$944.1</u>	<u>\$935.9</u>	<u>\$807.3</u>

Source: New York State Insurance Department

**Table 23**  
**AGGREGATE UNDERWRITING AND INVESTMENT EXHIBIT**  
**Financial Guaranty Insurers Licensed in New York State**  
**1997-2000**  
**(in millions)**

	2000	1999	1998	1997
Net gain or loss from:				
Underwriting	\$ 536.5	\$ 593.0	\$ 401.8	\$ 360.8
Investments*	1,451.2	909.2	885.0	806.6
Other Income	<u>3.5</u>	<u>-8.7</u>	<u>155.8</u>	<u>6.3</u>
Net gain or loss	\$1,991.2	\$1,493.4	\$1,442.5	\$1,173.8
Less:				
Dividends to policyholders	0.0	0.0	0.0	0.0
Federal income taxes incurred	<u>337.1</u>	<u>318.1</u>	<u>304.6</u>	<u>240.1</u>
Net income	<u>\$1,654.1</u>	<u>\$1,175.4</u>	<u>\$1,137.9</u>	<u>\$ 933.6</u>
Surplus changes other than net income:				
Dividends to stockholders				
• Cash	\$-1,020.2	\$-360.0	\$-135.4	\$ -89.7
• Stock	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
Total dividends and remittance	\$-1,020.2	-360.0	-135.4	\$ -89.7
Unrealized capital gains	-344.0	34.9	51.0	0.7
Changes in statutory over case basis	0.0	0.0	0.3	0.5
Miscellaneous sources	-811.6	-577.3	-685.6	-520.3
Contributions to surplus	4.1	<u>469.2</u>	<u>409.1</u>	<u>215.4</u>
Total other sources	<u>\$-2,171.7</u>	<u>\$-433.2</u>	<u>\$-360.7</u>	<u>\$-393.4</u>
Net increase or decrease in surplus	<u>\$ -517.6</u>	<u>\$ 742.1</u>	<u>\$ 777.3</u>	<u>\$ 540.2</u>

\* Excludes unrealized capital gains.

Source: New York State Insurance Department

**Table 24**  
**SELECTED ANNUAL STATEMENT DATA**  
**Financial Guaranty Insurers Licensed In New York State**  
**1997-2000**  
**(dollar amounts in millions)**

	<b>2000</b>	<b>1999</b>	<b>1998</b>	<b>1997</b>
Number of Companies	14	12	12	11
Exposure	\$1,668,180.0	\$1,532,586.0	\$1,322,940.0	\$1,033,649.0
Net premiums written	1,404.5	1,297.1	1,299.0	1,000.4
Admitted assets	20,048.5	18,207.9	16,319.4	13,990.4
Unearned premium & loss reserves	6,613.2	5,925.8	5,560.6	4,913.8
Other liabilities	6,062.5	5,119.5	3,395.0	3,607.0
Capital	211.0	203.5	203.6	198.5
Surplus funds	7,372.8	7,162.5	6,425.0	5,271.1

Source: New York State Insurance Department

#### 4. Mortgage Guaranty Insurance

At year-end 2000, there were one domestic and 23 foreign companies licensed to transact mortgage guaranty business in New York.

**Table 25**  
**NET PREMIUMS WRITTEN AND SURPLUS TO POLICYHOLDERS**  
**Mortgage Guaranty Insurers Licensed in New York State**  
**1997-2000**  
**(dollar amounts in millions)**

<b>Year</b>	<b>Net Premiums Written (during year)</b>	<b>Surplus to Policyholders (end of year)</b>	<b>Ratio of Premiums to Surplus</b>
1997	\$2,438.5	\$2,693.7	0.91
1998	2,662.5	2,975.7	0.89
1999	2,691.0	2,809.5	0.96
2000	2,925.0	3,591.2	0.81

Source: New York State Insurance Department

**Table 26**  
**AGGREGATE UNDERWRITING AND INVESTMENT EXHIBIT**  
**Mortgage Guaranty Insurers Licensed in New York State**  
**1997-2000**  
**(in millions)**

	2000	1999	1998	1997
Net gain or loss from:				
Underwriting	\$1,515.4	\$1,248.2	\$ 896.4	\$ 654.7
Investments*	640.1	582.2	625.8	552.0
Other Income	<u>-55.1</u>	<u>12.8</u>	<u>7.2</u>	<u>0.2</u>
Net gain or loss	<u>\$2,100.4</u>	<u>\$1,843.2</u>	<u>\$1,529.4</u>	<u>\$1,206.9</u>
Less:				
Dividends to policyholders	0.0	0.0	1.4	0.0
Federal income taxes incurred	<u>260.7</u>	<u>480.9</u>	<u>212.0</u>	<u>128.1</u>
Net income	<u>\$1,839.7</u>	<u>\$1,362.4</u>	<u>\$1,316.0</u>	<u>\$1,078.8</u>
Surplus changes other than net income:				
Dividends to stockholders				
• Cash	\$-52.5	\$ -495.0	\$ -169.2	\$-120.5
• Stock	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>	<u>0.0</u>
Total dividends	<u>\$-52.5</u>	<u>\$ -495.0</u>	<u>\$ -169.2</u>	<u>\$-120.5</u>
Unrealized capital gains	23.5	97.3	19.1	39.3
Changes in statutory over case basis	0.0	0.0	1.0	0.0
Miscellaneous sources	-991.8	-941.4	-941.1	-886.2
Contributions to surplus	<u>-56.9</u>	<u>-115.7</u>	<u>-18.4</u>	<u>25.5</u>
Total other sources	<u>\$-1,077.7</u>	<u>\$-1,454.8</u>	<u>\$-1,110.6</u>	<u>\$-941.9</u>
Net increase or decrease in surplus	<u>\$ 762.0</u>	<u>\$ -92.4</u>	<u>\$ 205.4</u>	<u>\$ 136.9</u>

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



**Table 27**  
**SELECTED ANNUAL STATEMENT DATA**  
**Mortgage Guaranty Insurers**  
**1997-2000**  
**(dollar amounts in millions)**

	<b>2000</b>	<b>1999</b>	<b>1998</b>	<b>1997</b>
Number of companies	24	22	24	21
Net premiums written	\$ 2,925.0	\$ 2,691.0	\$ 2,662.5	\$ 2,438.5
Admitted Assets	14,718.2	12,580.6	11,812.8	10,107.5
Unearned premium & loss reserves	4,724.6	4,391.7	4,293.3	3,930.8
Other liabilities	6,402.4	5,379.4	4,543.8	3,483.0
Capital	63.8	58.8	102.9	93.4
Surplus	3,591.2	2,809.5	2,975.7	2,600.3

Source: New York State Insurance Department

**5. Title Insurance**

Ten domestic and ten foreign companies were licensed to write title insurance in this State at the close of 2000.

**Table 28**  
**SELECTED ANNUAL STATEMENT DATA**  
**Domestic Title Insurance Companies**  
**1997-2000**  
**(dollar amounts in millions)**

	<b>2000</b>	<b>1999</b>	<b>1998</b>	<b>1997</b>
Number of Companies	10	10	10	10
Net premiums written	\$496.3	\$559.1	\$486.2	\$342.0
Admitted assets	417.4	429.1	396.3	361.8
Liabilities	254.4	241.4	216.7	204.1
Capital	10.8	10.8	10.3	11.3
Surplus	163.0	189.0	179.6	146.4

Source: New York State Insurance Department

**6. Advance Premium Co-operative and Assessment Corporations**

At year-end 2000, there were 18 advance premium co-operatives under the supervision of the Property Bureau. The total number of advance premium co-operatives remained unchanged from 1999 to 2000. The net premium volume of the advance premium co-operatives increased by 5.6% from the prior year.

A total of 28 assessment corporations were under the Bureau's supervision at year-end 1999; that number remains the same for 2000. The net premium volume of these 28 companies increased by 6.2% from the prior year.

During 2000, the Bureau initiated 10 examinations of the advance premium co-operative and assessment companies.

**Table 29**  
**SELECTED ANNUAL STATEMENT DATA**  
**Advance Premium Co-operative and Assessment Companies**  
**1997-2000**  
**(dollar amounts in millions)**

Year	Total	Advance Premium Companies	Assessment Co-operative Companies
1997	Number of companies	50	30
	Total assets	\$1,090.5	\$170.5
	Net premiums written	477.0	61.5
	Surplus funds	443.2	101.8
1998	Number of companies	48	29
	Total assets	\$1,155.8	\$181.5
	Net premiums written	479.1	62.8
	Surplus funds	508.5	109.5
1999	Number of companies	46	28
	Total assets	\$1,184.0	\$192.6
	Net premiums written	471.1	64.3
	Surplus funds	547.0	119.0
2000	Number of companies	46	28
	Total assets	\$1,228.0	\$203.3
	Net premiums written	497.9	68.3
	Surplus funds	568.3	124.5

Source: New York State Insurance Department

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

Calendar year 2000 was the 22nd full year of operation for the companies licensed as special risk insurers pursuant to Section 6302 of the Insurance Law. There were 188 licensed companies as of December 31, 2000. Net premiums written during the year amounted to \$423.9 million, bringing the net premiums written since inception to approximately \$5.6 billion. Net premiums written (in millions) since inception are as follows:

1978-1995	\$3,451.0
1996	443.2
1997	398.9
1998	466.2
1999	482.6
2000	423.9

## 8. Risk Retention Groups

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

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

As of December 31, 2000, 49 risk retention groups had notified the Department of their intention to do business in New York under the provisions of the federal legislation.

In calendar year 2000, 49 risk retention groups filing financial statements with this Department reported total direct premiums written of \$477.1 million and total net premiums written of \$223.9 million. These risk retention groups reported direct premiums written of \$52.4 million in New York State during this same period.

**9. Examinations of Insurers**

**Table 30  
EXAMINATIONS CONDUCTED  
by the Financial Regulation Division of the Property Bureau  
2001**

	<u>Regularly Scheduled</u>			<u>Other Financial Exams</u>		Increase in capital and other
	Total	Started in 2001	Started Prior to 2001	Special	On Organi- zation	
Property and casualty insurers, including financial guaranty insurers	94	54	37	2	1	0
Other insurers	0	0	0	0	0	0
Title and mortgage guaranty insurers	3	2	1	0	0	0
Total	97	56	38*	2	1	0

\*This total includes 12 reports with completed field work, but with reports not filed as of 1/1/02.

**10. Lloyd's of London**

Underwriters at Lloyd's (Lloyd's of London) consist of underwriting syndicates that meet the requirement for recognition as accredited reinsurers in New York. As of December 31, 2001, 104 active syndicates at Lloyd's were recognized as accredited reinsurers by the Department. Each syndicate is required to maintain a trust fund in New York and the amount deposited in each trust fund is required to equal each syndicate's gross liabilities for U.S. situs reinsurance business. In addition, all syndicates together must maintain a minimum surplus in trust, on a joint and several basis, of not less than \$100 million, for the protection of United States ceding insurers.

**11. Captive Insurance Companies**

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

Captive insurance companies are insurers owned by the insureds and organized for the main purpose of self-funding the owner's risk. Captives are often referred to as one of the "alternative insurance mechanisms." As of December 31, 2001, two captive insurance companies had been authorized in New York. The industry has indicated that current law contains restrictions that hinder the growth of New York captive insurers. The Department is considering proposing revisions to the Insurance Law to address these restrictions.

## 12. Certified Capital Companies

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

New York's CAPCO Program, originally established by Chapter 389 (Sections 142 through 145) of the Laws of 1997, intended to spur the growth of businesses and employment in New York State by providing a dollar-for-dollar tax credit to insurers investing in certified CAPCOs. The tax credits allocated to such insurers are spread out over a ten-year period and the CAPCOs certified under the Program are required to invest at least half of their certified capital in qualified businesses, as defined by statute. CAPCO Program Two was established by Chapter 407 (Part S) of the Laws of 1999. The Department allocated an aggregate of \$130 million in tax credits under the two Programs: \$50 million to 24 insurers for calendar year 1999; \$50 million to 26 insurers for 2000; and \$30 million to 28 insurers for 2001.

As of December 31, 2000, the CAPCOs invested almost \$49.8 million in 51 qualified businesses: Program One CAPCOs invested 44.8% of their total \$100 million certified capital and Program Two CAPCOs invested 16.6% of their \$30 million total. The qualified businesses were predominately high technology companies; 27 had less than \$1 million in assets at the time of a CAPCO's initial investment; 35 were early-stage businesses as defined by the statute; and over 60% were headquartered in Manhattan (22% in Albany and Rensselaer counties). There was an overall 820-employee increase in the qualified businesses, attributable to the investments made by the CAPCOs and other factors.

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

**a. Number of Filings**

During 2001, the Market Regulatory Section of the Property Bureau received 6,999 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 31  
Number of Filings Received, by Type\*  
Market Regulatory Section of the Property Bureau  
2001**

<b>Line of Business</b>	<b>Rates &amp; Rules</b>	<b>Policy Forms</b>	<b>Classes and Territories</b>	<b>Totals</b>
Fire and Allied Lines	485	286	1	772
Farmowners Multiple Peril	23	30	1	54
Homeowners Multiple Peril	232	197	0	429
Multiple Line	88	72	0	160
Commercial Multiple Peril	503	337	2	842
Inland Marine	154	146	0	300
Medical Malpractice	280	86	0	366
Earthquake	6	5	0	11
Flood	1	1	0	2
Rain	4	4	0	8
Workers' Compensation & Employer's Liability	88	79	0	167
Other Liability	964	799	4	1,767
Motor Vehicle Insurance	1,131	381	5	1,517
Aircraft	11	14	0	25
Fidelity & Surety	105	48	0	153
Glass	19	8	0	27
Burglary & Theft	89	66	0	155
Boiler & Machinery	33	27	0	60
Credit	4	8	0	12
Animal Mortality	17	17	0	34
Mortgage Guaranty	42	15	0	57
Residual Value	0	0	0	0
Title	3	7	0	10
Financial Guaranty	5	48	0	53
Prepaid Legal Service Plan	7	8	0	15
Warranty Reimbursement	3	0	0	3
<b>Totals</b>	<b>4,297</b>	<b>2,689</b>	<b>13</b>	<b>6,999</b>

\*These figures include approximately 223 consent-to-rate filing applications; 48 group property & casualty filings; 84 manuscript policy form filings; and 136 rating plans submitted in 2001. During 2001, 160 policy form filings and 110 rate or rating rule filings were disapproved. In addition, the Bureau developed speed-to-market initiatives and accepted electronic submission of filings through the System for Electronic Rate and Form Filing (SERFF). The Bureau handled 312 form and rate filings by these means.

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

The following table lists major revisions in rates or loss costs that were approved or acknowledged during 2001. Loss costs apply to the voluntary market and are advisory, *i.e.*, they do not have to be adopted by any insurer. They reflect the experience of all companies that report to the rate service organization. Loss costs are used by the majority of insurers for most lines of business as a basis for their individual company rate revisions.

**Table 32**  
**Major Effects Of Principal Rate & Loss Cost Changes**  
**Filed in 2001 by Property and Casualty**  
**Rate Service Organizations**

	<b>Percent Changes in Average State-Wide Rates</b>
<b><u>AUTOMOBILE</u></b>	
<b>Automobile Insurance Plans Service Office</b>	
<b>Commercial Automobile, Public Livery</b>	
<b>(Rates Revised)</b>	
<b>Taxis</b>	
Bodily Injury Liability	0.0
Property Damage Liability	0.0
Personal Injury Protection	+15.0
 <b>Medicars</b>	
Bodily Injury Liability	+15.0
Property Damage Liability	+10.0
Personal Injury Protection	+20.0
 <b>Remainder of Social Service</b>	
Bodily Injury Liability	+15.0
Property Damage Liability	+10.0
Personal Injury Protection	+20.0
 <b>NYC Limousines</b>	
Bodily Injury Liability	0.0
Property Damage Liability	0.0
Personal Injury Protection	+15.0
 <b>School and Church Buses</b>	
Bodily Injury Liability	+15.0
Property Damage Liability	+10.0
Personal Injury Protection	+20.0
<b>Total All Vehicle Types and Coverages</b>	<b>+8.6</b>
effective March 1, 2001	

**Percent Changes  
in Average  
State-Wide Rates**

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**Automobile Insurance Plans Service Office**

**Commercial Automobile (Excluding Public Autos)**

**(Rates Revised)**

Commercial Cars and Miscellaneous Lines

Bodily Injury Liability	+10.0
Property Damage Liability	+14.0
Personal Injury Protection	+35.0
Liability Subtotal	+12.9

**Garages**

Bodily Injury Liability	+5.0
Property Damage Liability	-5.0
Personal Injury Protection	+25.0
Liability Subtotal	+5.3

**Zone Rated Risks**

Bodily Injury Liability	+15.0
Property Damage Liability	+10.0
Personal Injury Protection	+15.0
Liability Subtotal	+13.5

**Comprehensive & Collision** -5.0

**Total Liability** +11.7  
**Total All Coverages** +10.4

**Boiler and Machinery**

**Insurance Services Office**

**(Revision of Loss Costs)** -9.5  
 Effective November 1, 2001

**Commercial Multiple Peril**

**Insurance Services Office**

**Package Policies**  
**(Revision of Package Modification Factors)** +3.6  
 Effective January 1, 2002

**Landlords Package Policy**

**Underwriters Rating Board**

**(Revision of Rates)** +4.06  
 Effective September 1, 2001

**Farmowners Multiple Peril**

**Underwriters Rating Board**

**(Revised Farmowners Rates)** -14.75  
 Effective December 20, 2001



**Percent Changes  
in Average  
State-Wide Rates**

**Fire and Allied Lines**

**Insurance Services Office  
(Revision of Loss Cost)**

Basic Group I	-3.9
Basic Group II	+16.3
Special Causes of Loss	-12.2
Total	-3.6

Effective November 1, 2001

**Homeowner's Multiple Peril**

**American Association of Insurance Services  
(Revision of Rates and Loss Costs)**

-15.5

Effective October 1, 2001

**American Association of Insurance Services  
Mobile Homeowner's Program  
(Revision of Rates and Loss Costs)**

-10.0

Effective December 1, 2001

**Liability Other Than Automobile**

**Comprehensive General Liability**

**American Association of Insurance Services  
(Introduction of Classes and Loss Costs for  
Governmental  
Subdivisions)**

New

Effective December 1, 2001

**Commercial General Liability – Basic Limits Loss Costs  
Revised**

**Insurance Services Office, Inc.**

Manufacturers and Contractors	+1.0
Owners, Landlords and Tenants	+7.7
Total Premises/Operations	+3.8
Products	-31.6
Local Products/Completed Operations	-30.0
Total Products/Completed Operations	-30.4
Total All Coverages Effective November 1, 2001	+1.7

**Commercial General Liability – Basic Limits Loss Costs  
Revised**

**Insurance Services Office, Inc.**

+24.6

New York City Apartments and Tenements Classes  
Effective September 1, 2001

**General Liability**

**Underwriters Rating Board**

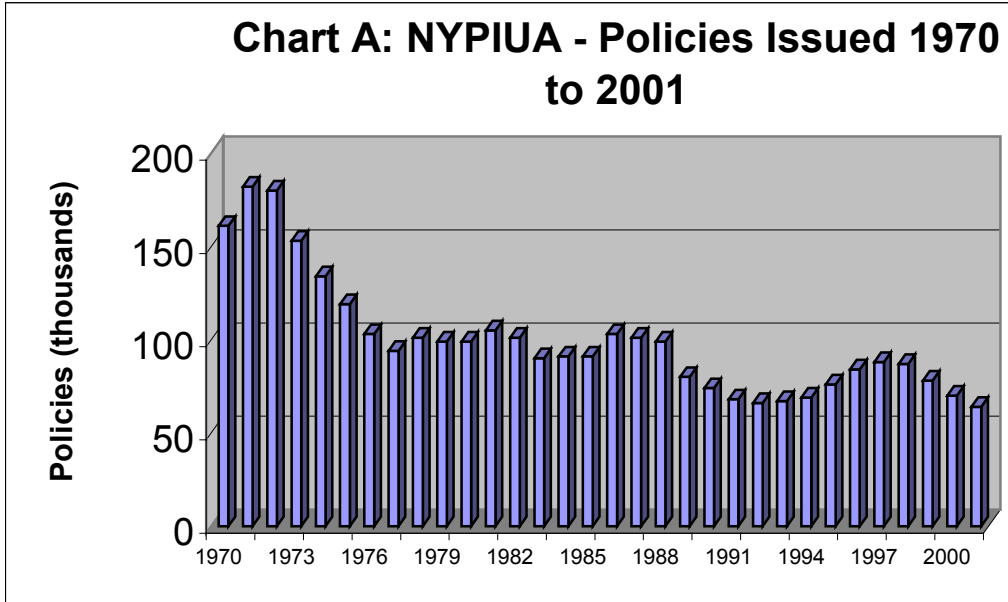
New

**Introduction of Rates for Directors and Officers Liability  
For Association of Owners  
Effective November 28, 2000**

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

### a. Policies Issued

The following graph illustrates the number of policies issued by the New York Property Insurance Underwriting Association from 1970 through 2001:



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 reflecting, in part, the ongoing concern for adequate coastal property insurance coverage. The number of annual policies issued has declined in each of the past four years

### b. Financial Information

For the fiscal year ending December 31, 2001, the Association's Financial Report indicated premiums earned of \$25,418,847 and a net underwriting gain of \$4,990,199. Other income of \$5,144,005, comprised of net investment income of \$5,392,000; premium balances charged off \$8,663; bond amortization loss of \$106,804; loss on sale of securities of \$257,958; and policy installment fees of \$125,430, resulted in net income before taxes of \$10,134,204. The change in assets not admitted of \$85,949 and taxes incurred of \$381,326 resulted in a net change in the Members' Equity Account of \$9,838,827. The cumulative operating profit as of December 31, 2001 was \$111,627,778. After all assessments (net of distribution of \$40,268,192), the net Members' Equity Account totaled \$71,359,586.

In accordance with Section 5405(c) of the New York Insurance Law, the Association estimated a surplus from operations of \$3,176,000 for the calendar year 2002. 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, 2002, since its assets exceed its liabilities.

After the Department's review of the data submitted, it was determined that there would be an operating surplus of \$3,635,000 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, 2002.

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.

### **c. Rate Revisions**

During 2001, the Department approved rate revisions for both the Commercial and Farm Property classes of business. These revisions resulted in an average statewide decrease of 3.9% for Basic Group I commercial insureds; an average state-wide increase of 16.3% for Basic Group II commercial insureds, and an average state-wide decrease of 8.2% for farm property. These revisions correspond with loss costs revisions promulgated by the Insurance Services Office for the voluntary market.

### **d. Legislation in 2001**

Chapter 25 of the Laws of 2001 extended the authority of the New York Property Insurance Underwriting Association to operate until April 30, 2003. The bill also extended the provisions of Chapter 42 of the Laws of 1996 through April 30, 2003.

## **15. Medical Malpractice Insurance**

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

Chapter 63 of the Laws of 2001 extended for one year the authority of the Superintendent of Insurance to establish rates for policies providing coverage for physicians and surgeons medical malpractice liability insurance. This legislation also extended the provision that allowed for the application of surcharges of up to 8% annually, beginning July 1, 1989, upon the then-established rates if required to satisfy any deficiency for the policy periods July 1, 1985 through June 30, 2001.

The Department has established primary medical malpractice insurance rates in New York for the July 1, 2001 through June 30, 2002 policy year. Although most physicians' rates remained unchanged from the previous year, simultaneously approved classification and territory changes for all insurers resulted in rate changes for some insureds that ranged between -9.7% and +20.0%.

This was the fifth consecutive year that rates, for the most part, remained unchanged. It followed an average -6.2% change for policy year 1996, and rate increases for the three years preceding 1996.

### **b. 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. For the 2000 to 2001 policy year, it was determined that no change was needed to these factors.

**c. Refund of Premium for Physicians Excess Medical Malpractice Insurance for '00-'01**

Pursuant to Section 5509 of the Insurance Law, in 2000 the Medical Malpractice Insurance Association had been directed to pay the balance of its Stabilization Reserve Fund to the New York Hospital Excess Liability Pool ("Excess Liability Pool") to purchase the excess insurance for physicians and dentists participating in the excess medical malpractice program provided for in §18 of Chapter 266 of the Laws of 1986, as amended, for policy year July 1, 2000 through June 30, 2001. This amount was not sufficient to purchase the coverage for that year. As provided for in Section 5517-a of the Insurance Law, in 2001 the Liquidation Bureau, on behalf of the Medical Malpractice Insurance Association, was authorized to remit \$6,110,318 to the Excess Liability Pool. However, payment of this amount to the Excess Liability Pool must await such time as the Superintendent, as liquidator, has resolved all outstanding demands for payment against MMIA.

**d. Physicians Excess Medical Malpractice Insurance for '01-'02**

Chapter 62 of the Laws of 2001 continued the excess medical malpractice program provided for in §48 of Chapter 266 of the Laws of 1986, as amended for the period July 1, 2001 through July 31, 2001. Subsequent amendments during 2001 extended the program to March 31, 2002, and provided interim funding.

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

As indicated in last year's report, Chapter 147 of the Laws of 2000 had extended the period allowed for effectuating the orderly dissolution of MMIA by continuing MMIA until June 30, 2001, while providing that the dissolution would be implemented at such time and under such conditions as the Superintendent deemed proper. Consequently, a Supplemental Order and Decision was issued on July 12, 2000 under which the Superintendent continued the MMIA solely for the purpose of winding up its affairs, with no new or renewal policies to be issued after June 30, 2000. By December 31, 2000 MLMIC had received full payment for its assumption of MMIA's liabilities and, by order of the Supreme Court of the State of New York entered May 14, 2001, MMIA was placed into liquidation, with the Superintendent of Insurance named as the liquidator.

**f. Mechanism for the Equitable Distribution of Insureds to the Voluntary Medical Malpractice Market – The New York Medical Malpractice Insurance Plan**

The New York Medical Malpractice Insurance Plan ("Plan") has been established by Department Regulation 170 (11 NYCRR 430) to provide medical malpractice insurance to eligible health care practitioners and facilities otherwise unable to obtain coverage in the voluntary market. All insurers licensed in New York and writing medical malpractice insurance in the State are required to be members of the Plan. Regulation 170 also permits the members to participate in an independent pooling mechanism whereby, rather than getting individual assignments, writings, expenses, fees and losses will be shared proportionately among the members. For the year 2001, it was the unanimous decision of all members of the Plan to form the Medical Malpractice Insurance Pool of New York State ("Pool").

For 2001 the Pool insured 1,103 individuals (including professional corporations) compared with 3,649 the previous year. A breakdown of the individual insureds by type is shown in the following:

Type of Insured	Policies as of December 31, 2001	Policies as of December 31, 2000
<b>Primary Insureds:</b>		
Physicians	572	675
Dentists	135	195
Podiatrists	47	65
Nurse-Anesthetists	5	6
Nurse-Midwives	0	0
<b>Excess Layer Insureds:</b>		
First Layer Excess	151	2,444
Second Layer Excess	165	231
Professional Corporations	28	33

Most of the decline in the number of primary insureds was a result of a Pool requirement that mandated that insureds obtain declinations from at least three insurers in the voluntary market before being eligible for coverage through the Pool. (Similar to the requirement imposed on insureds seeking excess line coverage in various property/casualty lines.) The decline in the number of First Layer Excess insureds resulted from most insureds obtaining coverage from the insurer writing their primary coverage, or from the HANYS Insurance Company.

In addition to these individuals, the Pool insured 74 facilities, up from 45 the year before. Much of the increase in the number of these insureds is attributable to an increase in the number of nursing homes not able to obtain coverage in the voluntary market.

## **16. Workers' Compensation**

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

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

A managed-care program can control associated workers' compensation costs through careful review of utilization and case management, safety programs, return-to-work policies and other loss control techniques. Since the initial program was approved, the Department has approved rate credits for 39 other insurance carriers desiring to offer managed care programs through 2001.

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

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

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

In 1996, the Department began approving a 5% workers' compensation premium rate modification for those insured employers implementing a drug-free workplace program. Consideration for this program was based upon a significant number of studies on how drugs and alcohol affect an employer's workplace by adversely increasing the frequency and severity of accidents and claims. A drug free credit program is thus a useful tool in efforts to reduce the cost of workers' compensation claims. Subsequently, the Department has received requests and approved a 5% credit for 31 other insurance carriers desiring to implement a similar program through 2001.

## **17. Insurance Availability Issues**

While liability insurance coverages continued to be generally available during 2001, there was a hardening that affected certain markets. The Department continued to monitor market conditions and addressed individual problems as they arose.

### **a. Availability Survey**

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

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

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

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

### **b. Contractors**

The market for liability coverage for contractors was affected by the hardening of the market during 2001. Several factors contributed to the problems evident in the market. Competitive conditions that prevailed in recent years may have delayed insurers' recognition of nascent deterioration in loss trends. In addition, judicial interpretations of the provisions of Sections 240 and 241 of New York's Labor Law (often referred to as the "Scaffolding Law") have had a negative impact on some insurers' inclination to actively participate in underwriting risks that are subject to the law. The strict liability imputed to employers affected by the Scaffolding Law has caused insurers to reconsider both their

willingness to provide coverage for contractors as well as the pricing of coverage that they are prepared to provide. Amending the Labor Law to more accurately define liability for employee injuries may help to alleviate the problem. This development in the contractor's market was further exacerbated following the events of September 11.

The Department monitored form and rate filings which affected this market and also conducted a special follow-up survey of insurers that had responded to the 2000 Insurance Availability Survey indicating that they provided a market for contractors.

### **c. Standby JUA Authority**

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

While coverages continued to be generally available in 2001, there were some difficulties in several key markets, particularly for properties located in coastal areas of the State. During 2001, discussions with insurers and other interested parties continued relative to this subject. The Department's efforts to find workable solutions to the coastal problem are discussed in Section 19, "Homeowners Insurance."

## **18. Automobile Insurance**

### **a. Private Passenger Automobile Issues**

#### **i. Expiration of Nonrenewal & Flex-Rating Provisions**

A Circular Letter was issued to provide guidance to insurers in meeting their changed obligations under the Insurance Law, due to the expiration of certain provisions of the New York Insurance Law on August 2, 2001, affecting cancellation and nonrenewal provisions pertaining to private passenger automobile policies. This expiration also removed the provisions allowing "flex-rating," effectively restoring prior approval of rates for many kinds of business.

As a result of the expiration of Section 3425(f), new voluntary insurance policies covering private passenger automobiles in New York State with an effective date on or after August 2, 2001 are subject to different cancellation and nonrenewal provisions than automobile insurance policies written voluntarily prior to that date. Such new policies are now subject to a three-year required policy period and may be nonrenewed or conditionally renewed during this required policy period only for those reasons outlined in Section 3425(m)(3) or if it is based on a ground for which it may be cancelled. Cancellations of such policies and the rights of an insured to continue coverage through a terminated agent or broker remain unchanged.

Renewals of policies originally issued prior to August 2, 2001 will remain subject to the one-year required policy period and the "2%" limitations for nonrenewals and conditional renewals.

Because of the differing cancellation and nonrenewal standards in effect for co-existing policies, insurers were advised to maintain appropriate separate records.

In addition, certain provisions of Article 23 of the Insurance Law relating to the filing of rates also expired effective August 2, 2001. Effectively, rates for the types of insurance that had been subject to the "file and use" and "flex-rating" provisions of Article 23 (such as personal lines under §2305 and commercial lines under §2344) are, as of August 2, 2001, subject to the prior approval of the Superintendent.

## **ii. Multi-tiering Circular Letter Issued**

Supplement No. 1 to Circular Letter No. 21 (2001) was issued to clarify that the rules contained within Regulation 150 (11 NYCRR 154.3) for private passenger multi-tier rating programs which reference the expired Section 3425(f) still remain in effect for all policies. This Circular Letter advises that an insurer may continue to apply the "3%" and "2 for 1" rules to implement an uptier increase for any business, regardless of when it was originally written. Uptiering occurs when an insurer moves an insured to more expensive, higher-rated risk tier within the company upon the end of the required policy period (for one to three years pursuant to section 3425 of the Insurance Law).

Therefore, an insurer may uptier 3% of all of its business, based upon the total number of covered policies of the insurer in force at last year's-end in each of the insurer's rating territories in use in this State, and, for every two new automobile policies written in each territory, may either nonrenew or conditionally renew one additional policy in excess of the 2% limit [written on or before August 1, 2001], or may uptier one additional policy in a territory [regardless of when written] in excess of the three-percent limit. However, such policy may only be uptiered at the end of its required policy period as subject to statute.

## **b. Public Automobile Issues**

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

A primary topic of discussion concerned the lack of capacity in the marketplace for individual and, more acutely, fleet or corporate owned public livery autos. The current carriers at the meeting indicated that they were still offering to write new and renewal business at their current or modestly revised rates. The Department also worked diligently in approving two new insurers' public auto rate and form filings in order to improve the availability in the marketplace.

Additional meetings were held with the DMV and several insurers writing livery insurance, to discuss DMV's proposal to implement "staggered" expiration dates for livery registrations and insurance policies. Currently, these policies and registrations all expire annually on March 1, which historically has caused delays and inconvenience at DMV and the TLC during this period. The proposals discussed were aimed at alleviating this problem. DMV has subsequently announced its plan to stagger the livery vehicles' registrations throughout 2002 up to March 2003 based on the last name or corporate name listed on such registration. The requirement that the insurance policies must be coterminous with the vehicles' registrations has been lifted due to the implementation and enforcement of the DMV Insurance Information & Enforcement System (IIES). The IIES is the Department of Motor Vehicles' comprehensive vehicle-based system that makes use of an insurance information database to monitor the insurance status of New York State registered vehicles. Vehicle registrants provide DMV with vehicle identification numbers (VINS) during their vehicle registration process and insurance companies use the same names and VINS when reporting any change in a registrant's insurance coverage to DMV.

The Department has made available a unique guide, *A Handbook For Livery Drivers* that offers tips and suggestions for avoiding fraud in connection with procuring livery insurance. *A Handbook For Livery Drivers* is available in both English and Spanish. The new guide offers tips to livery drivers regarding what constitutes appropriate automobile insurance coverage, how to secure coverage and



how to guarantee continued coverage once premiums are paid. Copies of this guide may be obtained from the Department's Publication Unit by calling 1-800-342-3736. In an effort to further assist livery drivers the Department has also identified potential markets for livery coverage and has placed the names of the insurers and contact persons on the Department's Web site.

### **c. No-Fault Motor Vehicle Insurance Law Activity – 2001**

#### **i. Optional Arbitration System**

Since 1977, the New York No-Fault Automobile Insurance Arbitration program has involved two-phases. The first phase is a conciliation process, which involves an attempt to resolve the dispute in an expedient manner when the parties to the dispute agree that the matter can be resolved without a formal arbitration proceeding. This process was administered by the Department until November 30, 1999. The second phase is an arbitration process. The arbitration process begins when the conciliation attempt is unsuccessful in achieving a resolution of the dispute and the case is transmitted to the arbitration process for assignment to an arbitrator.

From 1978 through 1994, the number of No-Fault arbitration requests received by the Department ranged from approximately 8,000 to 12,000 cases per year. Each year, 4,000 of those cases were submitted by injured persons. Health care providers and other assignees that accepted assignments from injured persons submitted the balance. Since 1995, there has been a substantial increase in the number of arbitration requests filed each year. Chart B illustrates that this enormous case growth has been entirely due to requests filed by health care providers and other assignees while those submitted by injured persons has actually declined.

The volume of filings compromised the Department's ability to effectively administer the conciliation process and oversee the operation of the No-Fault reparations system. Therefore, by promulgating the 24<sup>th</sup> Amendment to Insurance Department Regulation 68, the Department outsourced the administration of this process to the American Arbitration Association (AAA), effective with all arbitration requests filed on and after December 1, 1999. However, the No-Fault arbitration system continues to be burdened by dramatic increases in the filing of requests for arbitration. By December 31, 2001, the inventory of cases pending in the No-Fault arbitration program included 50,000 cases pending in conciliation and approximately 64,000 cases pending in arbitration.

In order to develop a program to address the increasing inventory of pending cases, the Department engaged in an extensive examination of the No-Fault arbitration program. As a result of that examination, the Department began implementation of the following administrative and regulatory improvements for the arbitration system:

- Cases arising out of the same event and cases with the same litigants are being consolidated in order to increase efficiency and resolve multiple disputes simultaneously while also affording arbitrators an opportunity to identify fraudulent or abusive claims;
- All arbitration requests are being thoroughly reviewed when received in order to ensure that they are complete and accurate and to improve processing speed and efficiency;
- Earlier submission of all forms and supporting evidence will be required to result in quicker and more efficient dispute resolution;
- Insurers will be permitted the right to negotiate attorney's fees, subject to specified limitations, in order to resolve disputed claims prior to the transmittal of disputes to arbitration;
- Arbitrators will be granted the right to impose the costs of administration upon an applicant if the arbitrator concludes that the applicant has filed an arbitration that was frivolous or totally without merit in order to deter abuse of the arbitration process;

- Expedited hearings for injured claimants and health care providers that submit bills within 90 days of denial or nonpayment will be conducted to rapidly resolve disputes for those injured persons and health care providers who are truly interested in the prompt resolution of their disputes;
- Direct referrals of arbitration decisions to the Department's Frauds Bureau by arbitrators who have written decisions that identify fraudulent behavior;
- The new prescribed assignment of benefits forms will protect injured persons from those providers who have utilized improper assignment forms to recover unnecessary or illegal charges directly from those injured persons;
- The number of no-fault arbitrators has more than doubled and there is now a total of 78 arbitrators who have been appointed to resolve No-Fault disputes; and
- Insurers were mandated to develop action plans to address their entire pending inventory of arbitration cases in a prompt and efficient manner.

In addition to the foregoing, the Department published a Request for Proposal for management of the administration of all first-party motor vehicle insurance arbitration programs and it will name a Designated Organization to administer these programs. Administration of the entire No-Fault Arbitration program, including a conciliation process and Master Arbitration, plus the Uninsured Motorists and Supplementary Uninsured/Underinsured Motorists Arbitration programs will be the responsibility of the Designated Organization that is selected. The proposals that have been submitted to the Department are currently under review.

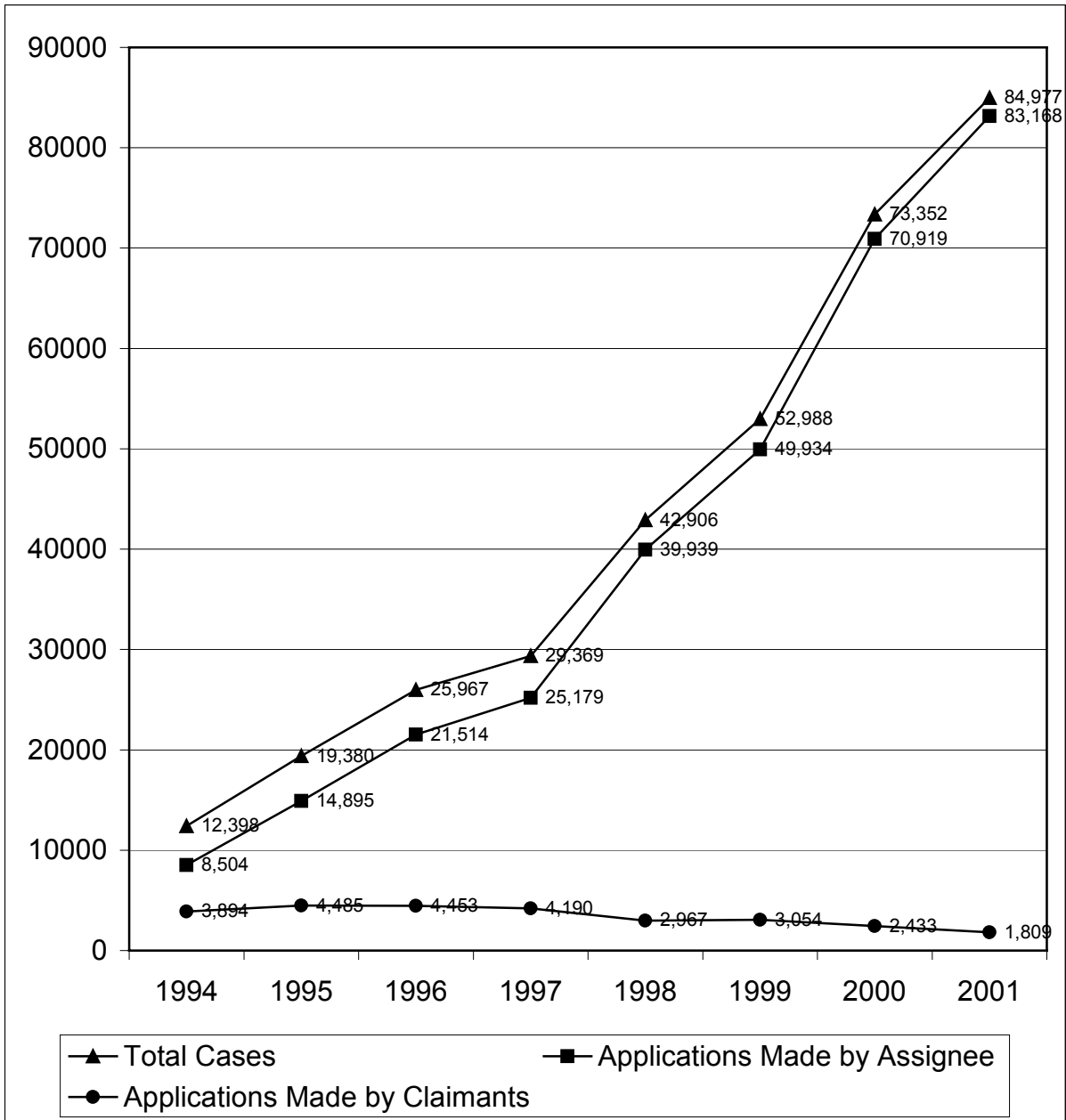
## **ii. No-Fault Regulatory Changes**

The Department sought to promulgate extensive changes to Regulation 68 that briefly took effect on February 1, 2000. However, the changes were challenged in the Supreme Court, New York County, and ultimately vacated by the Court on the ground that such changes were not promulgated in accordance with the procedural requirements of the State Administrative Procedure Act. The challenge to the Regulation had been brought in large part because it reduced the time limits to provide written notice of claim from 90 to 30 days from the date of the accident and it reduced the time limit to provide written proof of claim for health provider bills from 180 to 45 days.

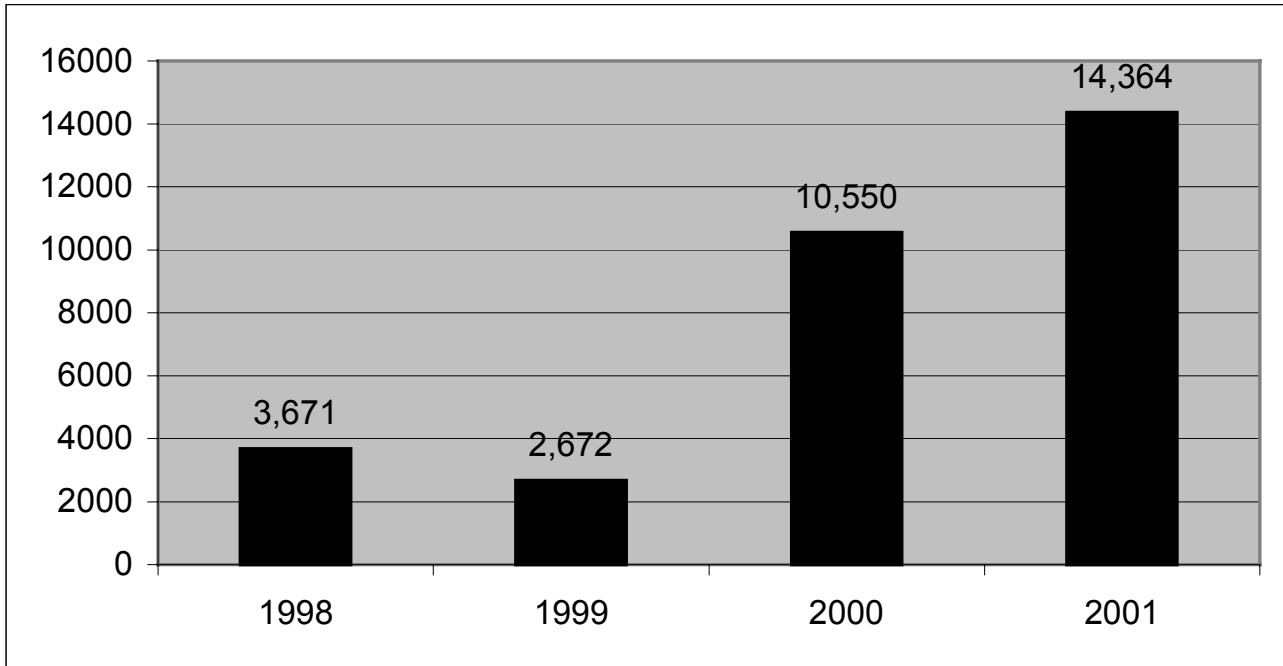
The Department sought to promulgate another revision to Regulation 68 to take effect September 1, 2001. While the new revision retains the 30-day period for notice of claim and 45 day period for health provider billing, it also includes new consumer safeguards that will ensure legitimate claimants have their claims paid. These new consumer safeguards include changing the standard for an excuse of late submission from one that required a demonstration of impossibility for non-compliance to one which requires clear and reasonable justification; requiring insurers to create reasonable and objective standards for review of late submissions; requiring insurers to conduct a supervisory review of claims denied for late submission; and creating a new expedited arbitration process for the resolution of disputes that involve late submission of notice. Nevertheless, the same group of plaintiffs that challenged the previous revision has challenged this current revision. The legality of the new revision to Regulation 68 was upheld by state Supreme Court Justice William Wetzel on February 19, 2002. At press time, the revised regulation had been in effect since April 5 in accordance with Justice Wetzel's decision.

The Department has also proposed the First Amendment to Regulation 68-C, which would create an independent medical examination system by mandating all medical examinations and peer reviews requested by an insurer administered by an independent medical review agent. The Proposal requires the Superintendent to appoint a review committee of members that are licensed health providers to review all applications of health providers that wish to become authorized providers and make recommendations as to which health providers should be authorized to perform medical examinations and peer reviews.

**Chart B**  
**Sources of Applications for No-Fault Arbitration Cases**  
**1994-2001**



**CHART C**  
**Number of Conciliations for No-Fault**  
**Arbitration Cases**  
**1998-2001**



## **19. Homeowners Insurance**

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

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

The Department continues to carefully monitor the availability of coastal insurance. Staff continues to meet with interested parties to discuss the problems and arrive at workable solutions. In addition, the Department continues to respond to inquiries from producers and property owners received either by mail, in person, or on the Bureau's hotline (212-480-6400). Where appropriate, the Bureau has 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 will 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, 2001, C-MAP has issued 3,971 policies. The Department believes C-MAP will continue to help consumers secure vital homeowners coverage while still addressing insurers' coastal area concerns.

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

Chapter 25 of the Laws of 2001 extended the operating authority of NYPIUA to April 30, 2003, thus maintaining the safety net for residents unable to obtain fire insurance in the voluntary market. The law also grants authority to the Superintendent to authorize NYPIUA to provide full homeowners insurance coverage if deemed necessary. (NYPIUA currently provides fire and extended coverages, but does not provide protection for theft or personal liability.)

Chapter 25 of the Laws of 2001 extended the life of a special advisory panel, originally established in accordance with Chapter 42 of the Laws of 1996, through April 30, 2003. The Panel submitted reports on problems affecting the availability and affordability of homeowners insurance to the Governor and the Legislature in 2000 and 2001. Copies of these reports may be downloaded from the Insurance Department's Web site.

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

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

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 further the Department's knowledge of computer simulation modeling, 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.

#### **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. As of the end of 2001, the Department has accepted homeowners rate filings in which reinsurance costs were among the factors reflected in the ratemaking methodology for nearly all major homeowners insurers. Most of these companies had previously used reinsurance costs in the development of their rates.

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

#### **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.

### **20. Market Conduct Activities**

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

The Property Bureau's Market Conduct Unit continued its program of reviewing insurance company underwriting, rating and claims practices to determine compliance with the Insurance Law and Department regulations. In addition, the Unit conducted an extensive series of investigations into insurer compliance with the New York State Department of Motor Vehicle's (DMV) Insurance Information and Enforcement System (IIES), discussed in more detail at item 'h', below.

There were 24 market conduct investigations in progress at the beginning of 2001. Thirty-eight market conduct investigations, two Rate Service Organization examinations and 75 IIES investigations were initiated during the year. Twenty-three market conduct investigations, the two Rate Service Organization examinations and 50 IIES investigations were closed during the course of the year. Thirty-nine market conduct investigations and 25 IIES investigations were in progress at year-end. Seventy-six stipulations were entered into during the year. The fines collected as a result of admitted violations totaled \$1,602,340.

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

Section 3425 limits the total number of nonrenewals of personal automobile insurance policies that an insurer is allowed. Generally, an insurer is permitted to nonrenew up to 2% of the total number of covered policies that the insurer had in force at the previous year end in each such insurer's rating territory in use in this State. As a result of an analysis of reports to the Superintendent required by Section 3425(l)(1), five stipulated fines totaling \$59,375 were collected during calendar year 2001 (included in the total fines collected in item 'a' above).

**c. 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 2001, the Department collected fines totaling \$45,225 from 58 companies for their failure to pay arbitration awards in a timely manner.

**d. Overcharges Remitted to Policyholders**

As a result of the terms agreed to in stipulated settlements of market conduct underwriting and rating investigations, four insurers were required to perform re-rating reviews for the periods specified. As a consequence of these reviews, the four insurers refunded a total of \$312,084 in premium overcharges.

**e. Underpayments Remitted to Claimants**

As a result of findings of previous market conduct investigations verifying compliance with Insurance Department Regulations 64 and 68, five insurers signed stipulations whereby they agreed to review all automobile no-fault and/or automobile physical damage claim files as designated in the stipulations, and remit all underpayments to insureds and/or claimants. As a result of the terms of the stipulations, the five insurers remitted \$2,018,030.

**f. New York Public Automobile Reviews**

In previous years, market conduct investigations were performed to address allegations that insurers of public automobile coverage, and in particular, livery coverage, were not complying with filed rates, using unapproved rates and rating plans and were involved in improper marketing practices. During Calendar Year 2001, the Market Conduct Unit continued its efforts in following up on the Public Automobile marketplace. As a result of these reviews, public automobile insurers were, for the most part, found to be in substantial compliance with regulatory requirements.

#### **g. Insurer Internet Web Site Monitoring**

The Market Conduct Unit continued the monitoring and review of insurer Internet Web sites during 2001. In addition, as part of these reviews, the Unit has been verifying the accuracy of quotes generated on-line. As part of Circular Letter No. 31, dated October 29, 1998, the Department advised the industry of the general guidelines that would be followed when monitoring the marketing of insurance products on the Internet. Supplement No. 1 to Circular Letter 31 was issued May 28, 1999. This further advised the industry that Web-based activities would be reviewed and/or monitored by the Department and that these reviews would be incorporated into the market conduct and financial review processes.

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

The IIES, developed by the New York State Department of Motor Vehicles (DMV), utilizes an insurance information database to monitor the insurance status of New York State-registered vehicles. The system went into effect in 2000 and replaced the DMV's previous Financial Security reporting system. The purpose of this electronic online registry program is to ensure that all motor vehicles registered and driven in New York State have adequate motor vehicle insurance in effect and helps to identify, sanction and ultimately remove uninsured vehicles from New York's highways. Articles 6 and 8 of the Vehicle and Traffic Law require insurers to notify the Commissioner of Motor Vehicles of certain insurance policy transactions. Insurers must fully comply with the reporting requirements contained in Articles 6 and 8 and in the regulations promulgated by the Commissioner of Motor Vehicles. All insurers writing automobile liability business in New York State are required to transmit the required policy transaction notices to DMV in an efficient, accurate and timely manner and in conformity with specifications set out in Part 34 of the DMV Commissioner's Regulations.

Section 317 of the New York Insurance Law authorizes the Superintendent to impose fines against insurers who fail to comply with the aforementioned reporting requirements. Insurers were warned to correct any compliance problems they were having with IIES and informed that the Department would begin taking disciplinary actions against those insurers who failed to comply with IIES reporting requirements. Circular Letter No. 3, dated January 23, 2001, was sent to all insurers authorized to write motor vehicle insurance, advising them that appropriate disciplinary action would be taken against any insurer who is not in compliance with IIES.

Accordingly, during calendar year 2001, the Department levied fines against 44 automobile insurers for their failure to provide the Department of Motor Vehicles (DMV) with both a primary and alternate contact person for the DMV's IIES program. Each insurer was fined for failing to respond to requests for information from the DMV and the Insurance Department. This was the first in a series of actions taken against insurers who have not complied with IIES.

Following these actions, the Department commenced a second extensive series of investigations into insurers who failed to load their automobile liability book of business with DMV and commence ongoing reporting of their automobile liability insurance transactions by the statutorily mandated deadline of September 12, 2000. The Department met with many of these insurers during 2001 and, after hearing arguments and reviewing various mitigation documents, the Department imposed fines against 53 insurers/groups that were ultimately found to be in noncompliance. The next step in the process is to conduct investigations into the quality and timeliness of the data being submitted by insurers to DMV. Based on information received from DMV, insurers that have been found to submit poor quality data and/or late data will be subject to disciplinary action. It is expected that this series of investigations will commence during 2002.



### **i. Privacy**

Title V of the Gramm-Leach-Bliley Act requires financial institutions, including insurers, to protect the privacy of consumers and customers. It also requires that all state insurance authorities establish appropriate consumer privacy standards for insurance providers. As a result, the Insurance Department promulgated Regulation 169, setting forth these standards. During calendar year 2001, the Market Conduct Unit commenced investigations of insurers to assess their policies and procedures in place to ensure compliance with privacy regulatory requirements. Privacy investigations will continue in 2002 to ensure continued compliance.

### **j. Review of Private Passenger Automobile Bodily Injury Claims**

During Calendar Year 2001, the Market Conduct Unit commenced a series of claims-practice investigations into how the major private passenger automobile liability writers handle claims involving minor or no apparent bodily injury. The investigations were prompted by allegations that some insurers may be attempting to make settlement offers on what appears to be minor or no injury cases very early in the claim-settlement process. The Department is concerned that this alleged practice might be forcing claimants into settling for less because of their ignorance of the extent of their injuries at such an early stage. In addition, the practice of offering claimants small settlement amounts when there are minimal or no apparent bodily injuries is questionable, particularly in light of Section 5104 of the New York Insurance Law (NYIL), which states that there shall be no right of recovery for noneconomic loss, except in the case of a serious injury, or basic economic loss. Section 5102 of NYIL specifically defines the serious injury threshold. Any insurer effectuating settlement of a BI claim without clear liability of a serious injury as defined in Section 5102 may be in violation of the NYIL. The results of these reviews are pending.

### **k. Statistical Data Monitoring System (SDMS)**

During calendar year 2001, the Market Conduct Unit performed several targeted investigations into insurer compliance with the Statistical Data Monitoring System (SDMS). The purpose of the SDMS is to assure the accuracy and reliability of private passenger automobile statistical data reported to the Insurance Department by insurers and their statistical agents. SDMS utilizes a self-monitoring approach, as described in Insurance Department Regulation 103 and the SDMS Manuals, whereby each insurer and statistical agent is required to carry out its own monitoring activities with due diligence. Regulation 103 requires periodic review of insurer compliance with SDMS by the Insurance Department. Areas reviewed included, but were not limited to, Disaster Recovery Plan, Sampling Tests, Reasonability Tests, Financial Reconciliations and Data Reconciliations. The results of the audits found the insurers tested to be in substantial compliance with SDMS requirements.

## **21. Excess Line Insurance**

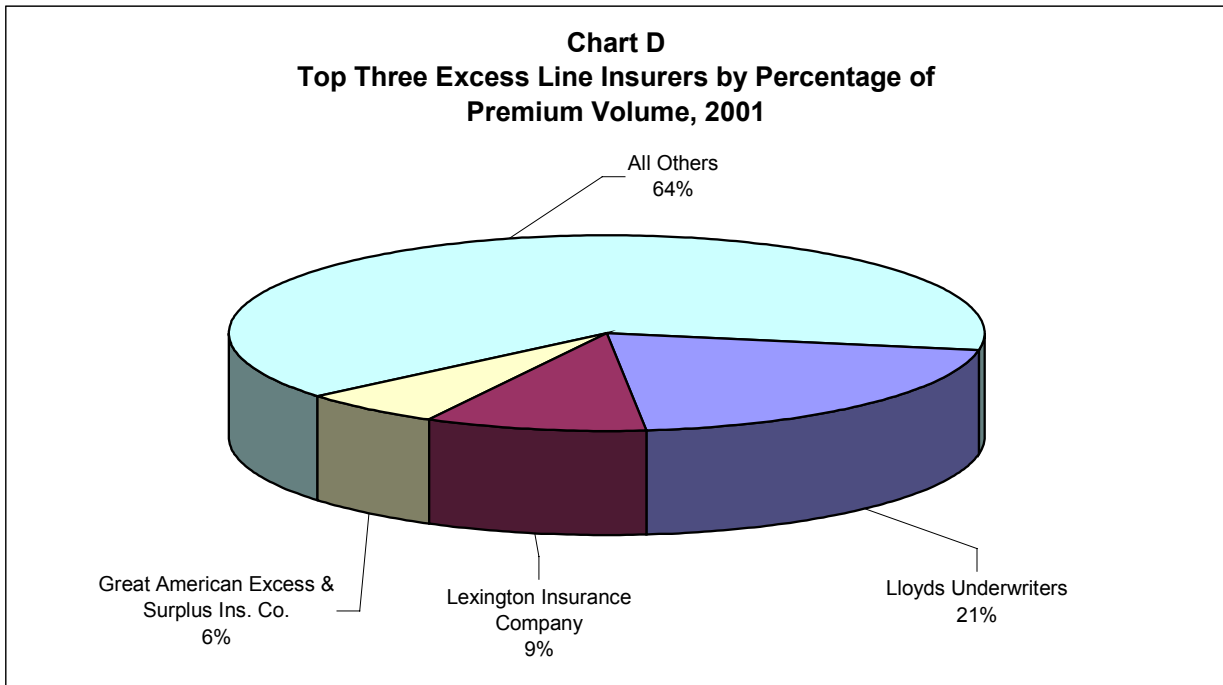
Potential insureds who cannot obtain coverage from companies licensed to write insurance in New York may, under circumstances prescribed in the New York Insurance Law and regulations, obtain such coverage from unlicensed companies through the auspices of a New York-licensed excess line broker.

Since insurers providing this coverage are not licensed by this Department, statistical data relating to the amount and nature of premiums written in the excess line market must be obtained from excess line brokers through tax statements required to be filed no later than March 15 of each year relating to business written during the previous calendar year. For calendar year 2001, total excess line gross premiums written on risks located or resident both in and out of New York State amounted to approximately \$852 million, of which approximately \$685 million was attributable to risks located or resident wholly in New York State.

The data pertaining to excess line business used in this report were obtained from statistical reports provided to the Superintendent by the Excess Line Association of New York (ELANY) pursuant to Section 2130 of the New York Insurance Law. ELANY obtains the information from affidavits required to be filed by excess line brokers under Section 2118 of the Insurance Law. There are approximately 442 active licensed excess line brokers who filed approximately 69,044 affidavits for the year 2001. Thirty-five complaints and inquiries regarding excess line business were received in 2001.

In 2001, there were approximately 117 unauthorized insurers eligible to do business in New York pursuant to Regulation 41. This includes 76 foreign insurers; 41 alien insurers; and Lloyd's, with 73 Syndicates. These insurers are required to file Form EL-1 annually by March 15. The filing requirement was changed in 1997 to include the use of computer diskettes. In 2001, the Unit reviewed 105 EL-1 filings, 73 annual statements, 34 alien financial statements, and 4 trust agreements.

The following is a chart of the percentage of total 2001 excess line premium writings attributable to the three largest excess line insurers in New York State.



**a. Business Written in New York**

Excess line premiums written in New York State increased from \$518 million in 2000 to \$685 million in 2001, a gain of 32.32%. The increase in business appears to be a result of increased pricing and the increased number of active excess line brokers. The largest dollar increase over the previous year occurred in the other liability line, up by \$118 million in 2001, of which \$50.4 million is from manufacturers and contractors liability. The largest percentage increase occurred in the fidelity and surety line, up by 552% or \$18.9 million over the previous year. Other increases included other lines, up by \$32.3 million; commercial multiple peril, up by \$17.4 million; fire and allied lines, up by \$8 million; auto liability, up by \$5 million; and malpractice, up by \$3.8 million.

The largest dollar decline over the previous year occurred in the errors and omission peril line, down \$37 million, a decrease of nearly 19%, which was also the largest percentage decline.

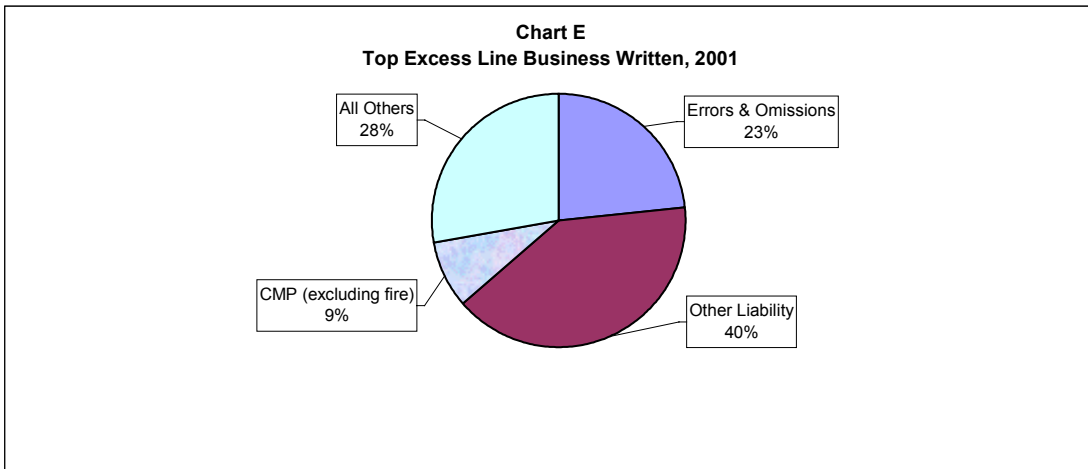
**Table 33  
EXCESS LINE PREMIUMS WRITTEN  
Risks Located in New York State  
1998-2001  
(dollar amounts in thousands)**

<b>Line of business</b>	<b>2001</b>	<b>2000</b>	<b>1999</b>	<b>1998</b>
Fire and allied lines	\$54,777	\$46,707	\$35,038	\$38,178
Inland marine	26,181	27,099	26,565	31,250
Auto liability	7,243	2,188	3,418	4,274
Malpractice	5,683	1,808	8,626	2,049
Errors and omissions	159,651	196,987	163,054	191,172
Commercial multiple peril (excluding fire)	59,723	42,321	37,588	32,713
Other liability	276,432	158,356	119,457	109,612
Auto physical damage	18,491	16,920	13,572	13,489
Aircraft physical damage	2,736	1,889	1,505	1,282
Burglary and theft	3,722	4,225	3,482	4,295
Fidelity and surety	22,340	3,425	1,646	21,145
Other lines	<u>48,418</u>	<u>16,059</u>	<u>24,506</u>	<u>7,568</u>
<b>Total</b>	<b><u>\$685,398</u></b>	<b><u>\$517,984</u></b>	<b><u>\$438,457</u></b>	<b><u>\$457,027</u></b>
 Excess line premiums as a percentage of all property and casualty insurance premiums written in New York	 3.09%*	 2.22%	 1.99%	 2%

\*Estimated

Source: Excess Line Association of New York

The pie chart below shows the three major lines of business written in the excess line market based on premium volume.



**b. National Christmas Tree Association**

An investigation of an illegal group policy revealed that brokers were marketing an insurance program nationally for Christmas tree dealers with an excess line company where no New York excess line broker was utilized. Both brokers have orally agreed to stop the program for New York insureds.

**c. Binding Authority**

Sections 2117 and 2118 of the Insurance Law were amended in 1997 to provide that an excess line broker, licensed pursuant to Section 2105 of the Insurance Law, may exercise binding authority, which the law defines as "...the authority to issue and deliver insurance policies on behalf of an insurer not licensed or authorized to do business in this state." Since the implementation of the amended statute, the Excess Line Association of New York (ELANY) has notified the Department that 64 excess line brokers, including 7 new brokers in 2001, have filed 161 binding authority agreements representing insurers not licensed or authorized to do business in this state. During calendar year 2001, the Excess Line Association of New York reviewed and accepted 28 new, amended and/or cancelled binding authorities from New York-licensed excess line brokers.

**d. EL-1 Review**

All EL-1 filings were reviewed to determine that the information complied with the requirements pursuant to Department Regulation 41. This included a check to determine if excess line brokers listed on the reports were New York-licensed excess line brokers. Any direct procurement information listed on the EL-1 was forwarded to the New York State Department of Taxation and Finance to determine whether the excess line tax on these premiums had been paid by the respective policyholder.

**e. Excess Line Tax Investigations**

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

**f. Ineligible Unauthorized Insurers**

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

**g. Excess Line Broker Investigation**

The Excess Line Unit received a complaint in December 2001 regarding an excess line broker's failure to remit premium totaling \$2.3 million dollars to an alien insurer. The Unit is investigating the matter.

**h. Legislation in 2001**

Chapter 74 of the Laws of 2001 extended the authority of the Excess Line Association of New York to operate until July 1, 2005. The bill also authorizes ELANY to create an electronic form of document submission and stamping for the benefit of its members provided the Superintendent approves the electronic method. Further, the requirement that an excess line broker applicant submit a bond in the penal sum of \$15,000 as a precondition for obtaining an excess line broker license was repealed.

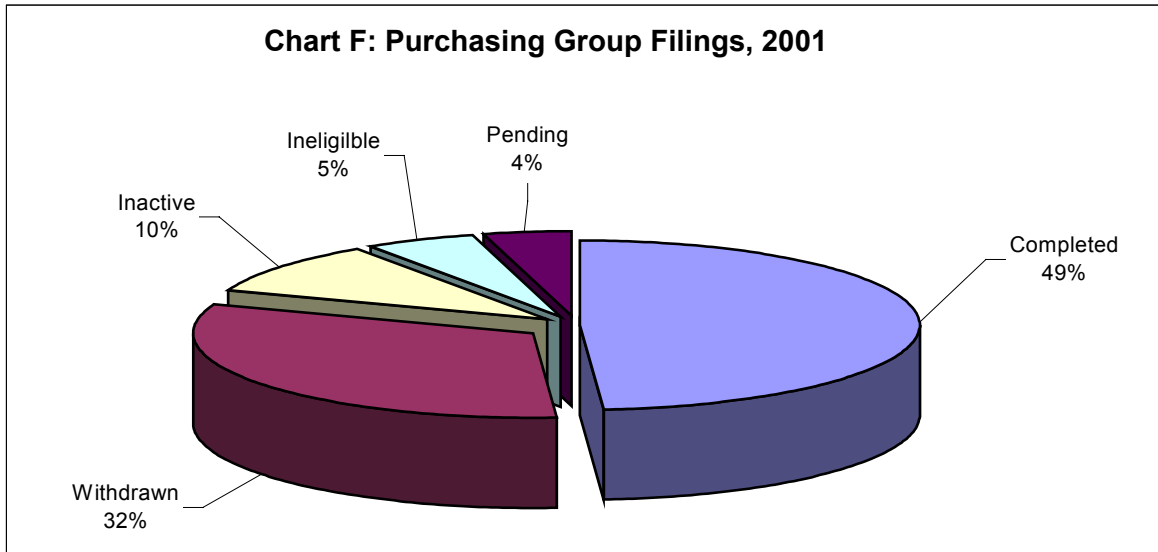
**i. Liability Risk Retention Act (LRRRA) of 1986 - Purchasing Groups**

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 796 purchasing groups. Subsequently, 251 have withdrawn their notice of intent, 80 have notified the Department of their inactive status, and 41 have been given ineligible status by the Department due to failure to comply with all the requirements of the applicable laws and regulations. As of December 31, 2001, 25% of the remaining 454 purchasing groups (36 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 339 complaints and inquiries regarding purchasing groups were received in 2001.

The following chart shows the purchasing group filings as of December 31, 2001 by status category:



## 22. Reports and Publications

### a. Consumer Guide For Automobile Insurance

On October 1, 2001, the Department published two editions of the 2001 *Consumers Guide to Automobile Insurance*, one for upstate and one for downstate residents. The guide is required by Section 337 of the Insurance Law to be updated annually. This comprehensive guide helps consumers determine how much auto insurance they need and explains all mandatory and optional coverages available in New York State. The guide contains lists of insurers, telephone numbers, and sample rates to facilitate comparison shopping, and advice regarding how to file a claim or make a complaint against an insurer. Copies of the guide were distributed to every Department of Motor Vehicles office and public library in the State. The guide is also available free of charge directly from the Insurance Department and can be accessed via the Department's Web site.

### b. Temporary Homeowners' Panel

Chapter 44 of the Laws of 1998 mandated that a special advisory panel be established to submit a report to the Governor and the Legislature on the problems affecting the availability and affordability of homeowners insurance in New York State. Since that time, the Department has produced the report on an annual basis. The Year 2001 Report reviews and summarizes measures implemented by the Legislature and the Insurance Department to alleviate problems faced by homeowners residing in coastal areas. The report indicates that the primary homeowners insurance market has sufficient surplus to handle the costs associated with major disasters. In addition, the report notes that the percentage of coastal homeowners obtaining homeowners' insurance from the voluntary market has increased over the past few years. As a result, fewer coastal residents are obtaining coverage through the New York Property Insurance Underwriting Association, New York's insurer of last resort.

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

### **a. Regulations Adopted in 2001:**

**i. The Fourth Amendment to Regulation 57** (Responsibilities in Construction and Application of Rates), effective January 17, 2001, provides guidance for insurers issuing premium credits when commercial vehicles over 10,000 pounds have daytime running lamps factory installed.

**ii. Regulation 170** (Mechanism for the Equitable Distribution of Insureds Unable to Obtain Medical Malpractice Insurance) which was effective March 7, 2001 established the New York Medical Malpractice Insurance Plan as required by Chapter 147 of the Laws of 2000. The Plan provides medical malpractice professional liability coverage to insureds of the Medical Malpractice Insurance Association (which was dissolved) and any other health care professionals who are unable to obtain insurance in the voluntary market.

**iii. The Second Amendment to Regulation 118** (Audited Financial Statements), effective May 9, 2001, amended the Regulation to conform to new provisions contained in Section 307 of the Insurance Law. The changes provided for an audited financial statement of every licensed insurer, with certain exceptions, and of any subsidiary described therein together with an opinion of an independent certified public accountant on the financial statement of the insurer and any subsidiary to be filed with the Department on or before May 31<sup>st</sup> of each year.

**iv. The Twenty-Seventh Amendment to Regulation 101** (Medical Malpractice Rate Modification, Provisional Rates, Required Policy Provisions and Availability of Additional Coverages) effective June 20, 2001, established physician and surgeon professional liability rates for primary and excess policies issued on or after July 1, 2000. The Amendment also established rules and guidelines for collecting and allocating surcharges to recover deficits based on experience on policies effective between July 1, 1985 and June 30, 1999.

**v. The Sixth Amendment to Regulation 41 (Excess Line Placements Governing Standards)**, effective July 11, 2001, contains the warning statement that must be issued on all documents issued by an unauthorized insurer from an address in New York State.

### **b. Circular Letters Issued in 2001:**

**i. Circular Letter No. 3** was issued January 23, 2001 to all insurers authorized to write motor vehicle insurance. The Circular Letter advised insurers of the Department of Motor Vehicle's Insurance Information and Enforcement System (IIES), an online electronic registry program that ensures that all motor vehicles registered and driven in New York State have adequate motor vehicle insurance to protect individuals from damages that may occur from operating these motor vehicles. Insurers were reminded that the Insurance Department will take appropriate disciplinary action against any insurer that is not in compliance with the IIES.

**ii. Circular Letter No. 10** was issued April 13, 2001 to all insurers authorized to write workers' compensation insurance in New York State. The Circular Letter advised that it is the opinion of the New York State Insurance Department and the New York State Department of Taxation and Finance that premium tax must be collected and paid on workers' compensation and employers' liability insurance policies containing deductibles. It reminded insurers that in 1993 the Insurance Department had stated its position that the amount of the deductible paid by the policyholder to the insurer should be treated as a premium paid to the insurer for the purpose of Section 1510 of the New York Tax Law.

**iii. Circular Letter No. 21** was issued August 8, 2001 to all insurers authorized to write motor vehicle insurance in New York State. The Circular Letter provided guidance to insurers in meeting their changed obligations under the Insurance Law, due to the expiration of certain provisions of the New

York Insurance Law on August 2, 2001 which affected cancellation and nonrenewal provisions pertaining to private passenger automobile policies. The expiration of the law also affected the filing of insurance rate changes which had been subject to the "file and use" provisions of Article 23 of the Insurance Law and are now subject to the prior approval of the Superintendent.

**iv. Supplement No. 1 to Circular Letter No. 21 (2001)** was issued September 20, 2001 to insurers authorized to write private passenger automobile policies. The Circular Letter clarified the fact that the rules contained in Regulation 150 for private passenger automobile multi-tiering programs which referenced the expired Section 3425 (f) still remain in effect for all policies. It also advised insurers that they may continue to apply the "3%" and "2 for 1" rules when implementing an uptier increase for any business, regardless of when the policy was originally written.

**v. Circular Letter No. 32** was issued October 19, 2001 to all licensed property/casualty insurers and insurer producer organizations. The Circular Letter provided instructions for insurers to follow in submitting information to the Department's 2000 Insurance Availability Survey. This survey is used by the Department as a mechanism to annually appraise insurance market conditions and trends and to develop coverage sources when difficult market conditions exist.

**vi. Circular Letter No. 36** was issued December 31, 2001 to all insurers licensed to write motor vehicle liability insurance and all motor vehicle self-insurers. The Circular Letter advised that the Department is engaged in a comprehensive review of the No-Fault arbitration process and is committed to significantly reducing the arbitration case inventory and the resulting delays in scheduling arbitration hearings. The Letter listed the various initiatives the Department has taken thus far in furtherance of this goal and advised insurers of the goals that they must meet in effectively reducing the number of cases they may have pending in the No-Fault arbitration system. Insurers were required to submit to the Department an action plan detailing the manner in which they will respond to their pending caseload in both the conciliation and arbitration processes.

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

Certain complaints and inquiries are processed independent of the Consumer Services Bureau. A total of 1,592 such complaints and inquiries were received by the Market Regulatory Section of the Property Bureau in 2001. This total consisted of 1,091 involving personal automobile insurance; 53 involving commercial automobile insurance; 59 involving homeowners insurance; 104 involving other liability insurance; 46 involving commercial multiple peril insurance; 41 involving medical malpractice insurance; 20 involving title insurance; and 178 involving other types of insurance (fire and allied lines, surety, inland marine, workers' compensation, etc.). In addition, the Market Regulatory Section processed 624 Freedom of Information (FOIL) requests on policy form and rate information.

## **25. 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. 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 2001.

All workers' compensation filings are subject to prior approval. All Automobile Insurance Plan filings, filings involving classification revisions, and voluntary insurer private passenger automobile rate filings greater than +/- 7.0% are subject to prior approval. For the first half of the year 2001, private passenger automobile filings for rate changes within +/-7.0% could generally be implemented without prior approval under New York's "flex-rating" statute. Starting July 1, 2001, as a result of the expiration of New York's "flex-rating" statute and the fact that it was not renewed, all private passenger automobile rate filings became subject to prior approval.



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

**a. Private Passenger Automobile Insurance**

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

In 2001, 124 private passenger automobile rate requests were implemented. Of these, 82 were prior approval or combination prior approval and file and use changes; 42 were file and use only changes. The following table lists both the requested and implemented rate changes and provides the liability and physical damage components of such changes.

The average change for insurers receiving rate changes in 2001 was approximately +10.5%. For these insurers, liability rates increased +17.2% on average while physical damage rates, primarily collision and theft coverages, decreased -2.4% on average. The insurers receiving rate changes in 2001 represent 77% of the total market for private passenger automobile insurance. The overall impact on the rate level for the entire market was an average increase of +8.1%.

**Table 34**  
**Private Passenger Automobile Rate Filings Reviewed In 2001<sup>1</sup>**

Date of Approval and/or Ack.	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 (%)
1/3/01	4/15/01	AIPSO <sup>4</sup>	4.83	24.10	19.80	-5.50	18.30
1/10/01	3/10/01	Nationwide Assurance Co <sup>3</sup>	0.20	7.00	8.70	1.40	7.00
1/12/01	1/13/01	Great American: Worldwide Ins Co <sup>3</sup>	0.21	7.00	13.71	-2.54	7.00
1/16/01	4/8/01	Worcester Ins Co <sup>3</sup>	0.11	7.00	16.32	-4.40	7.00
1/16/01	2/15/01	Michigan Millers Mutual Ins Co <sup>3</sup>	0.08	-1.20	-1.20	-1.20	-1.20
1/16/01	1/16/01	Country-Wide Ins Co <sup>4</sup>	0.76	5.50	5.90	0.70	5.50
1/18/01	3/17/01	Allstate Indemnity Co <sup>4</sup>	3.94	25.70	24.50	-7.40	16.70
1/23/01	4/1/01	Preferred Mutual Ins Co <sup>4</sup>	0.27	0.60	0.00	1.40	0.60
1/24/01	5/8/01	Dairyland Ins Co <sup>4</sup>	0.19	14.30	16.02	9.63	13.10
1/25/01	3/1/01	Statewide Ins Co <sup>3</sup>	0.22	7.00	8.58	0.00	7.00
2/2/01	4/10/01	Progressive: PNE;PNW;PNO <sup>4</sup>	6.46	9.00	11.30	-0.10	8.20
2/27/01	6/15/01	Response Ins Co <sup>4</sup>	0.27	7.20	15.30	-9.60	7.20
2/27/01	6/15/01	Response Indemnity Co <sup>4</sup>	0.07	7.20	14.80	-8.20	7.20
2/28/01	3/1/01	Kemper Auto & Home Ins Co; Kemper Independence Ins Co <sup>4</sup>	0.00	0.00	0.00	0.00	0.00
2/28/01	4/15/01	Reliance National Ins Co;United Pacific Ins Co <sup>4</sup>	0.12	9.80	12.62	4.00	9.80
3/8/01	5/1/01	Central Mutual Ins Co <sup>4</sup>	0.06	-1.30	0.00	2.70	1.00
3/9/01	2/5/01	Deerbrook Ins Co <sup>3</sup>	0.32	6.10	6.51	0.00	6.10
3/10/01	4/1/01	Merchants Mutual Ins Co <sup>3</sup>	0.06	6.30	5.66	0.63	6.30
3/10/01	4/1/01	Merchants Ins Co of New Hampshire <sup>3</sup>	0.29	2.70	2.65	-1.74	2.70
3/12/01	4/5/01	Leader Ins Co <sup>3</sup>	0.04	6.90	10.15	0.00	6.90
3/13/01	7/28/01	Allstate Indemnity Co(for new business only) <sup>4,5</sup>	*	23.80	21.60	0.00	16.40
3/21/01	4/1/01	Blue Ridge Ins Co; Blue Ridge Indemnity Co <sup>4</sup>	0.53	7.50	11.74	1.71	9.10
3/27/01	6/1/01	Encompass Ins: CIC; F&CCONY; GFIC; NBFICOI; FIC; BUIC <sup>4</sup>	1.87	6.00	5.63	-2.44	3.10
3/29/01	10/29/00	Atlanta Casualty Co; Atlanta Specialty Ins Co <sup>3</sup>	0.06	5.20	6.15	0.00	5.20
3/29/01	5/1/01	AIG: Granite State Ins Co <sup>4</sup>	0.30	15.00	17.50	-0.20	15.00
4/3/01	3/15/01	Newark Ins Co <sup>3</sup>	0.23	0.00	1.68	-5.00	0.00
4/6/01	4/6/01	Response Indemnity Co of Delaware <sup>4,5</sup>	0.00	0.00	0.00	0.00	0.00
4/6/01	6/19/01	National Grange Mutual Ins Co; Main Street America Ass. Co. <sup>3</sup>	0.55	3.00	5.01	0.00	3.00
4/11/01	5/26/01	Allstate Ins Co <sup>3</sup>	13.88	2.60	3.00	2.40	2.60
4/12/01	11/15/00	Metropolitan P&C Ins Co; Metropolitan Casualty Ins Co <sup>4</sup>	0.40	4.00	5.60	0.90	4.00
4/16/01	5/31/01	Trumbull Ins Co <sup>4</sup>	0.32	10.80	11.52	2.79	9.90
4/17/01	5/25/01	Chubb: FIC;VIC;CIIC;PIC;GNIC <sup>3</sup>	0.88	-0.10	8.85	-7.20	-0.10
4/17/01	7/5/01	Metropolitan Group P&C Ins Co <sup>4</sup>	0.78	4.30	7.40	-0.60	4.30
4/17/01	5/13/01	Integon: INIC;IPIC;ICIC <sup>4</sup>	0.66	10.40	16.36	-8.58	10.40
4/17/01	7/15/01	Clarendon National Ins Co <sup>4</sup>	0.11	25.90	30.66	-5.00	25.90
4/17/01	6/15/01	Hudson Ins Co <sup>4</sup>	0.00	4.10	4.50	0.00	4.10
4/17/01	6/15/01	Country-Wide Ins Co <sup>4</sup>	*	4.10	4.50	0.20	4.10
4/17/01	3/30/01	Nationwide: NMIC;NMFIC;NPCIC <sup>3</sup>	3.78	3.70	19.09	-20.11	3.70
4/18/01	7/1/01	Newark Ins Co <sup>4</sup>	*	80.20	17.40	0.00	13.00
4/30/01	5/1/01	Empire: EIC;AIC;CIC <sup>3</sup>	0.36	6.90	9.20	0.00	6.90
4/30/01	7/1/01	Empire: EIC;AIC;CIC <sup>4</sup>	*	42.80	13.20	4.00	10.90
5/9/01	4/29/01	Colonial Penn: CPIC;CPFIC;CPMIC <sup>3</sup>	0.80	6.70	12.10	-3.50	6.70
5/14/01	6/30/01	Atlanta Casualty Co; Atlanta Specialty Ins Co <sup>4</sup>	*	31.10	17.70	2.20	15.20
5/16/01	7/15/01	Merchants & Business Men's Mutual Ins Co <sup>4</sup>	0.30	32.40	14.72	5.31	13.80
5/22/01	7/16/01	Infinity Ins Co; Infinity Select Ins Co <sup>4</sup>	0.36	10.00	17.04	-8.57	10.00
5/22/01	7/1/01	Allmerica Financial: HIC;MBIC;CICOA <sup>3</sup>	0.83	5.00	3.81	7.92	5.00
5/22/01	7/31/01	Great American:Worldwide Direct Auto Ins Co <sup>3</sup>	0.04	7.00	9.12	2.12	7.00

**Table 34**  
**Private Passenger Automobile Rate Filings Reviewed In 2001<sup>1</sup>**

Date of Approval and/or Ack.	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 (%)
5/24/01	6/15/01	Metropolitan P&C Ins Co; Metropolitan Casualty Ins Co <sup>3</sup>	*	2.80	3.60	0.70	2.80
5/24/01	7/31/01	Great American: EAIC; ASIC; GAAIC; CIC; GAAC;GAIC <sup>3</sup>	0.03	6.50	7.14	5.84	6.50
5/24/01	7/9/01	AMEX Assurance Co <sup>3</sup>	0.20	6.70	13.05	-3.50	6.70
5/25/01	7/1/01	Nationwide Assurance Co <sup>4</sup>	*	17.10	11.70	0.00	9.00
6/8/01	7/23/01	Travelers: Farmington Casualty Co <sup>4</sup>	0.48	18.40	13.32	0.00	10.20
6/13/01	8/24/01	AIG: AIIC;AIUIC;BFIC;INIC <sup>4</sup>	0.08	13.00	14.50	8.90	13.00
6/13/01	8/24/01	AIG: ICOSOP;AHAC;NUFICOPP <sup>4</sup>	0.28	15.00	20.60	0.90	15.00
6/13/01	6/29/01	Prudential: PPCIC;PCIC <sup>3</sup>	0.85	5.40	8.49	-0.08	5.40
6/15/01	8/24/01	Windsor Ins Group: Regal Ins Co; Windsor Ins Co <sup>4</sup>	0.47	10.30	12.91	6.76	10.30
6/19/01	7/28/01	Titan Indemnity Co <sup>3</sup>	0.01	7.00	6.39	5.37	7.00
6/23/01	7/31/01	Merastar Ins Co <sup>3</sup>	0.00	6.00	5.03	4.30	6.00
6/26/01	8/15/01	West American Ins Co <sup>3</sup>	0.11	7.00	7.87	6.33	7.00
6/27/01	9/15/01	Colonial Penn: CPIC;CPFIC;CPMIC <sup>4</sup>	*	8.10	9.60	-6.50	4.60
6/28/01	9/1/01	Interboro Mutual Indemnity Ins Co <sup>4</sup>	0.39	16.40	21.44	-12.24	9.50
6/28/01	9/1/01	AIG: New Hampshire Indemnity Co <sup>4</sup>	0.03	100.50	29.50	-6.70	25.00
6/28/01	9/1/01	Utica First Ins Co <sup>3</sup>	0.00	7.00	7.00	7.00	7.00
6/28/01	8/1/01	Preferred Mutual Ins Co <sup>3</sup>	*	5.40	8.10	1.30	5.40
6/28/01	7/30/01	New York Casualty Ins Co <sup>3</sup>	0.22	6.80	10.08	6.44	6.80
6/29/01	8/1/01	Eveready Ins Co <sup>3</sup>	0.17	7.00	12.25	0.00	7.00
7/3/01	8/30/01	Metropolitan General Ins Co <sup>4</sup>	0.17	17.40	19.30	3.30	14.00
7/12/01	8/28/01	Great American:Great American Ins Co of NY <sup>4</sup>	0.05	12.20	11.64	3.39	8.90
7/18/01	10/15/01	Selective Ins Co of NY <sup>3</sup>	0.04	6.80	13.01	0.00	6.80
7/18/01	7/7/01	Victoria National Ins Co <sup>3</sup>	0.00	7.00	8.32	1.95	7.00
7/20/01	7/6/01	Fireman's Fund Ins Co; Associated Indemnity Corporation <sup>3</sup>	0.28	6.50	6.50	6.50	6.50
7/24/01	4/1/01	Lion Ins Co <sup>3</sup>	0.09	7.00	13.81	-6.40	7.00
7/25/01	8/13/01	Travelers: TICOC;TICOI (Spectrum Program) <sup>4</sup>	0.15	6.30	7.67	0.50	6.30
7/26/01	9/1/01	National General Ins Co <sup>4</sup>	0.15	1.40	4.68	-4.55	1.40
7/27/01	1/1/02	Long Island Ins Co <sup>3</sup>	0.00	6.90	11.07	4.49	6.90
7/27/01	9/14/01	Argonaut Ins Co <sup>3</sup>	0.00	7.00	8.90	5.00	7.00
7/30/01	6/15/01	New York Central Mutual Fire Insurance Co <sup>3</sup>	2.73	4.10	10.67	-6.84	4.10
7/30/01	7/15/01	Peerless Ins Co; Excelsior Ins Co; The Netherlands Ins Co <sup>3</sup>	0.34	6.90	6.72	6.19	6.90
7/30/01	8/15/01	Zurich: MCC;NICONY;ACOA <sup>3</sup>	0.26	6.10	15.29	-5.48	6.10
7/30/01	7/1/01	Michigan Millers Mutual Ins Co <sup>3</sup>	*	6.90	7.10	6.80	6.90
7/31/01	9/14/01	SAFECO: SICOA;SNIC;FNICOA <sup>3</sup>	0.17	4.80	6.68	2.06	4.80
8/3/01	5/1/01	Hartford:HFIC; HA&IIC; HCIC; HUIC; TCFIC <sup>3</sup>	1.01	7.00	10.92	-0.31	7.00
8/6/01	10/23/01	Progressive: PNE;PNW;PNO <sup>4</sup>	*	16.80	11.20	0.20	8.20
8/14/01	10/1/01	GE Auto & Home Assurance Co <sup>4</sup>	0.00	18.90	19.83	-5.00	11.10
8/15/01	11/1/01	State Farm Mutual Auto Ins Co <sup>4</sup>	10.37	7.60	10.54	3.37	7.60
8/15/01	11/1/01	State Farm Fire & Casualty Co <sup>4</sup>	0.57	9.50	12.09	3.29	9.50
8/20/01	9/15/01	Sterling Ins Co <sup>4</sup>	0.04	7.50	7.10	8.08	7.50
8/21/01	5/21/01	Hartford: P&CICOH <sup>3</sup>	0.08	7.00	13.88	-4.73	7.00
8/28/01	10/22/01	Liberty Mutual: LMFIC, LIC, TFLIC <sup>4</sup>	3.08	6.70	11.16	-4.29	5.00
8/29/01	8/4/01	Hartford: HICOM <sup>3</sup>	0.79	4.70	10.54	-11.06	4.70
8/29/01	9/29/01	GMAC: NSIC; CIM Ins Corp; MIC P&C Ins Corp <sup>3</sup>	0.00	6.90	6.90	6.90	6.90
9/10/01	1/4/01	Providence Washington; Providence Washington of NY <sup>3</sup>	0.12	4.50	5.90	2.05	4.50
9/18/01	10/1/01	Farmers New Century Ins Co <sup>4</sup>	0.00	5.50	5.58	5.64	5.50
9/20/01	10/1/01	Central Mutual Ins Co <sup>4</sup>	*	5.70	5.34	6.14	5.70

**Table 34**  
**Private Passenger Automobile Rate Filings Reviewed In 2001<sup>1</sup>**

Date of Approval and/or Ack.	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 (%)
9/28/01	11/1/01	Amica Mutual Ins Co <sup>3</sup>	1.01	3.00	7.15	-1.74	3.00
10/1/01	11/10/01	Electric Ins Co <sup>4</sup>	0.28	5.30	9.87	-1.87	5.30
10/9/01	11/26/01	Kemper Auto & Home Ins Co; Kemper Independence Ins Co <sup>4</sup>	*	8.20	12.40	1.20	8.20
10/11/01	11/1/01	Royal and SunAlliance: AFIC, GIC, RICOA, RIC, SIC <sup>4</sup>	0.90	7.90	2.99	3.36	3.20
10/12/01	12/17/01	GEICO Casualty Co <sup>4</sup>	0.69	22.90	24.17	-7.67	19.00
10/12/01	12/5/01	Metropolitan P&C Co; Metropolitan Casualty Co <sup>4</sup>	*	16.50	17.70	1.30	12.00
10/17/01	12/07/01	Victoria National Ins Co <sup>4</sup>	*	6.30	11.21	8.63	10.80
10/18/01	3/26/01	CGU:CUIC, EFIC, TNACOA, AEIC, CUMIC <sup>3</sup>	1.32	6.90	6.90	6.90	6.90
10/18/01	11/1/01	United Services Automobile Association <sup>3</sup>	1.58	5.10	20.09	-8.82	5.10
10/24/01	12/27/00	CGU: GAICNY;PGICNY;GAICA;TCFIA;PGIC, PICI;GAC <sup>3</sup>	0.67	6.60	10.80	0.30	6.60
11/1/01	1/4/02	Providence Washington; Providence Washington of NY <sup>3</sup>	*	6.90	17.80	-11.70	6.90
11/5/01	1/1/02	Holyoke Mutual Ins Co in Salem <sup>4</sup>	0.03	5.90	9.61	-4.17	5.90
11/9/01	1/5/02	Metropolitan Group P&C Ins Co <sup>4</sup>	*	18.60	20.60	-0.20	12.00
11/23/01	1/15/02	Response Ins Co <sup>4</sup>	*	42.70	17.90	-0.10	12.70
11/23/01	1/15/02	Response Indemnity Co <sup>4</sup>	*	31.20	22.80	-7.50	14.50
11/23/01	12/17/01	SAFECO: ASIC; GICOA; ASE <sup>4</sup>	0.01	18.70	10.48	9.51	12.50
11/27/01	1/1/02	AIG: Granite State Ins Co <sup>4</sup>	*	25.00	29.30	0.00	25.00
11/27/01	2/23/02	AIG: AIIC;AIUIC;BFIC;INIC <sup>4</sup>	*	19.40	19.00	6.20	15.00
11/27/01	2/23/02	AIG: ICOSOP;AHAC;NUFICOPP <sup>4</sup>	*	19.60	18.80	6.00	15.00
11/27/01	2/1/02	AIG: New Hampshire Indemnity Co <sup>4</sup>	*	24.90	26.90	11.80	24.90
11/29/01	1/1/02	Kemper: AMMIC, APIC <sup>4</sup>	1.23	6.60	11.72	-1.20	6.60
12/3/01	12/15/01	AIG: New Hampshire Indemnity Co <sup>4,5</sup>	*	0.00	0.00	0.00	0.00
12/5/01	1/28/02	Allstate Indemnity Co <sup>4</sup>	*	3.30	4.40	0.00	3.30
12/6/01	12/15/01	Drivers Ins Co <sup>4,5</sup>	0.00	0.00	0.00	0.00	0.00
12/11/01	3/1/02	Empire: EIC;AIC;CIC <sup>4</sup>	*	42.60	15.60	-1.90	11.80
12/17/01	2/3/02	Met: St. Paul Guardian Ins Co <sup>4</sup>	0.27	3.20	6.76	-9.16	-0.40
12/19/01	1/28/02	Allstate Ins Co <sup>4</sup>	*	17.40	17.80	-3.10	10.50
12/24/01	3/2/02	Metropolitan General Ins Co <sup>4</sup>	*	19.70	28.00	1.70	19.70
12/24/01	12/24/01	Response Ins Co of America <sup>4,5,6</sup>	0.00	0.00	0.00	0.00	0.00
12/31/01	2/26/02	Met: Economy Premier Assurance Co <sup>4</sup>	0.18	18.70	41.44	-2.09	18.70

**Note:** Summary data on next page

**2001 Rate Change Summary**

	<b>Prior Approval &amp; Prior Approval/ Flex-Rating Combination Filings</b>	<b>Flex- Rating Filings</b>	<b>Total</b>
• Number of companies implementing rate changes:	82	42	124
	(%)	(%)	(%)
• Average liability change for insurers implementing rate changes:	18.89	11.83	17.19
• Percentage of total liability industry premium affected:	59.83	18.72	77.66
• Impact on the entire market of the overall average liability rate change:	11.13	2.22	13.35
• Average physical damage change for insurers implementing rate changes:	-1.24	-5.62	-2.43
• Percentage of total physical damage industry premium affected:	56.23	20.95	77.18
• Impact on the entire market of the overall average physical damage change:	-0.70	-1.18	-1.88
• Average combined liability and physical damage change for insurers:	12.21	5.41	10.50
• Percentage of total industry premium affected:	58.01	19.49	77.49
• Impact on the entire market of the overall average liability and physical damage rate change:	7.08	1.05	8.14

<sup>1</sup> The flex-rating system was in effect for the first half of the year 2001. Under this system, rate changes were either prior-approval or file and use. For the second half of the year 2001, all filings were prior approval: the flex-rating statute expired **as of 6/30/02** and was not renewed. Rate filings that include any classification changes are prior approval.

<sup>2</sup> Many of these rate changes are calculated using 1999 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

\* Subsequent filing by this insurer

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

In 2001 the New York Automobile Insurance Plan (AIP) was granted an 18.3% rate increase for private passenger automobiles written through the AIP, covering those drivers who cannot obtain coverage in the voluntary market. It was the third rate change since October 1995. The change was effective March 1, 2001 for new business and April 15, 2001 for renewals. The change was divided into a 19.3% increase for liability coverages and a 5.6% decrease for physical damage coverages.

### **Plan Experience in 1999 and 2000**

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

An important indicator of the size of the Assigned Risk Plan is earned car years. This reflects the size of the Plan as measured by the duration of coverage. (One car insured for one year is one earned car year). The number of private passenger automobiles (not including commercial autos) insured through the Plan decreased 35.9% for liability and 19.1% for collision from 1999 to 2000. Table 37 shows a ten-year history for voluntary and assigned liability and assigned collision earned car years. This marks the tenth consecutive year that assigned collision earned car years decreased from the previous year and the sixth consecutive year that assigned liability earned car years decreased from the previous year.

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

In 2000, there were 207,802 private passenger earned car years for liability and 9,408 for collision coverage insured through the Plan. Table 38 shows the distribution of New York private passenger liability and collision assigned risks by surcharge category for 1998, 1999 and 2000.

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

The proportion of all private passenger liability risks that are assigned risks, listed by rating territory for 1999 and 2000, is shown in Table 36. During 2000, 2.5% of all New York State private passenger automobiles were assigned risks as opposed to 3.9% in 1999. The number of voluntary risks increased 75,780 while the number of assigned risks decreased by 116,553. The proportion of assigned risks was 10% or higher in 6 of the 70 rating territories in 1999 and was 10% or higher in 3 of the 70 in 2000. The highest 2000 ratio was 30.9% in the Bronx Territory and the lowest was 0.1% in the Elmira Territory. Between 1999 and 2000 the percentage of Assigned Risks decreased in all of the 70 rating territories. The congested urban areas of New York City produced the highest assigned risk-to-voluntary ratios in the State.

Table 35 displays a seven-year history of the percentage of assigned to voluntary risks by territory, ranked from the highest down to the lowest.

**Table 35**  
**Percentage of Private Passenger Automobiles Insured Through the Automobile Insurance Plan**  
**By Territory For Years 1994-2000\***

Territory	(%)	Rank	(%)	Rank	(%)	Rank	(%)	Rank	(%)	Rank	(%)	Rank	(%)	Rank
01 Bronx Territory	86.0	1	84.4	1	77.8	1	65.3	1	52.4	1	34.3	1	30.9	1
19 Queens	60.9	2	62.0	2	54.9	2	46.1	2	39.7	2	26.0	2	15.8	2
18 Manhattan	46.5	1995	46.5	1996	39.7	1997	30.1	1998	23.5	1999	14.7	2000	10.8	3
03 Bronx Suburban Territory	46.7	3	44.5	5	37.4	4	27.6	4	21.8	5	13.2	4	9.4	4
17 Kings County	46.4	5	45.2	4	36.9	5	25.8	5	22.3	4	13.1	5	6.9	5
55 Queens Suburban	38.0	6	37.2	6	32.6	6	24.2	6	19.9	6	11.9	6	6.9	6
94 Mount Vernon and Yonkers	26.9	7	26.7	7	21.8	7	16.5	7	12.3	7	7.2	7	5.2	7
76 Suffolk County East	16.1	10	16.6	11	14.4	9	11.2	8	7.9	9	4.4	9	3.0	8
05 Staten Island	19.5	9	18.6	9	14.8	8	10.0	12	8.0	8	4.6	8	2.7	9
75 Suffolk County West	15.4	13	15.8	12	13.6	11	10.8	9	7.6	10	4.3	10	2.5	10
97 New York City Suburban	13.9	17	13.0	17	10.7	14	7.9	14	5.8	14	3.2	12	2.5	11
20 Hempstead	15.9	11	15.8	13	13.5	13	10.3	11	7.5	11	4.1	11	2.3	12
95 White Plains	14.1	16	16.9	10	14.1	10	10.7	10	5.8	13	2.9	14	2.2	13
21 North Hempstead	12.2	22	12.0	21	10.0	16	7.6	16	5.4	15	3.1	13	1.9	14
22 Oyster Bay	11.0	25	10.9	24	8.9	20	6.8	19	4.7	16	2.8	15	1.9	15
64 Middletown	13.8	18	12.7	19	9.0	19	6.9	18	4.3	17	2.3	18	1.7	16
65 Ossining	9.9	33	9.2	34	7.1	30	5.2	25	3.7	22	2.2	19	1.6	17
82 Sullivan County Central	20.4	8	18.8	8	13.6	12	9.9	13	5.9	12	2.8	16	1.5	18
46 Putnam County	10.8	27	9.9	29	7.4	26	5.5	23	3.9	21	2.3	17	1.5	19
62 Highland, Kingston	13.6	19	12.5	20	8.8	22	6.2	22	3.5	23	1.8	21	1.3	20
58 Dutchess County (Balance)	10.6	29	10.0	27	7.4	27	5.1	27	3.2	26	1.6	25	1.1	21
83 Sullivan County (Balance)	14.8	14	13.5	16	9.6	17	6.8	20	4.2	18	2.1	20	1.1	22
67 Clinton County, etc.	10.4	30	9.7	30	7.0	31	4.5	32	2.7	31	1.4	26	1.0	23
07 Buffalo	14.2	15	13.7	15	9.1	18	6.7	21	3.4	24	1.2	31	1.0	24
33 Poughkeepsie	10.7	28	9.9	28	7.3	28	5.4	24	3.3	25	1.6	24	1.0	25
37 Oswego	12.1	23	11.9	23	8.9	21	7.2	17	4.2	19	1.7	23	0.9	26
34 Troy	13.0	20	11.9	22	8.0	24	5.2	26	3.0	27	1.3	28	0.8	27
61 Delaware County, etc.	10.3	31	9.5	32	6.5	33	4.2	34	2.5	33	1.2	29	0.8	28
81 Monticello-Liberty	15.7	12	14.8	14	10.5	15	7.7	15	4.0	20	1.7	22	0.8	29
54 Cortland County, etc.	8.5	43	8.2	42	5.5	41	3.5	38	2.1	37	1.1	33	0.8	30
68 Rockland County	11.2	24	10.1	26	7.3	29	4.7	30	2.7	32	1.2	30	0.8	31
59 Columbia County, etc.	9.2	37	9.0	35	6.4	34	4.2	33	2.7	29	1.3	27	0.7	32
32 Newburgh	9.7	34	9.6	31	6.8	32	4.8	29	2.7	30	1.1	32	0.7	33
42 Buffalo Suburban	6.6	61	5.8	61	4.1	52	2.7	49	1.7	42	0.9	36	0.6	34
28 Binghamton	7.3	54	6.8	53	4.6	45	3.6	37	1.9	40	0.9	39	0.6	35

**Table 35**  
**Percentage of Private Passenger Automobiles Insured Through the Automobile Insurance Plan**  
**By Territory For Years 1994-2000\***

Territory	1994		1995		1996		1997		1998		1999		2000	
	(%)	Rank	(%)	Rank	(%)	Rank	(%)	Rank	(%)	Rank	(%)	Rank	(%)	Rank
84 Allegany County, etc.	8.8	41	8.4	41	5.5	40	3.4	39	1.9	38	0.9	38	0.6	36
08 Buffalo Semi-Suburban	6.0	64	5.4	64	3.6	58	2.7	47	1.5	45	0.7	41	0.6	37
11 Rochester	7.6	53	7.1	48	5.0	43	3.3	40	1.8	41	0.6	46	0.6	38
13 Albany	9.7	35	9.0	36	5.9	36	3.8	36	2.1	35	1.0	35	0.5	39
36 Glens Falls	10.9	26	10.9	25	7.6	25	4.6	31	2.8	28	1.0	34	0.5	40
74 Jefferson County	10.1	32	9.3	33	6.2	35	3.9	35	2.1	36	0.9	37	0.5	41
51 Ontario County, etc.	8.1	47	7.7	44	5.2	42	3.2	43	1.9	39	0.8	40	0.5	42
52 Fort Plain, Herkimer	9.2	38	8.9	38	5.5	39	2.9	46	1.4	50	0.5	50	0.5	43
14 Niagara Falls	9.3	36	8.8	39	5.5	38	3.3	41	1.6	44	0.6	43	0.4	44
73 Rensselaer County (Balance)	8.1	48	7.5	46	4.6	48	2.4	55	1.5	46	0.6	45	0.4	45
24 Rome	7.6	52	7.0	51	3.7	56	2.6	53	1.2	53	0.5	52	0.4	46
86 Oneida	7.1	57	6.3	58	3.9	54	2.6	52	1.1	55	0.5	51	0.4	47
12 Syracuse	8.2	45	7.4	47	4.6	46	3.2	42	1.4	49	0.5	53	0.4	48
29 Gloversville	12.6	21	13.0	18	8.2	23	4.9	28	2.1	34	0.7	42	0.3	49
09 Schenectady County	7.7	49	7.0	49	4.5	50	3.0	45	1.7	43	0.6	44	0.3	50
60 Genesee County	6.6	60	5.6	63	3.2	64	1.9	59	0.8	60	0.4	55	0.3	51
47 Orleans County	8.8	40	8.1	43	4.6	47	2.6	51	1.3	52	0.5	49	0.3	52
41 Erie County (Balance)	7.7	50	7.0	50	4.1	51	2.6	50	1.4	48	0.6	48	0.3	53
31 Chautauqua County	8.8	42	8.9	37	5.8	37	3.1	44	1.4	47	0.6	47	0.3	54
43 Niagara Falls Suburban	8.4	44	7.7	45	4.7	44	2.7	48	1.3	51	0.4	58	0.2	55
35 Amsterdam	8.1	46	6.9	52	3.7	57	2.0	58	1.0	57	0.4	56	0.2	56
72 Albany County (Balance)	6.4	62	6.1	60	3.4	60	1.8	60	0.9	59	0.3	59	0.2	57
44 Broome County (Balance)	7.2	56	6.2	59	3.4	61	1.7	62	0.8	62	0.4	57	0.2	58
15 Utica	5.3	66	4.6	66	2.5	65	1.6	63	0.7	65	0.2	64	0.2	59
25 Auburn	6.9	59	6.7	55	4.1	53	2.5	54	1.1	54	0.3	60	0.2	60
30 Saratoga Springs	7.7	51	6.7	54	3.9	55	2.3	56	1.1	56	0.5	54	0.2	61
56 Saratoga County (Balance)	9.1	39	8.4	40	4.5	49	2.1	57	0.9	58	0.3	61	0.1	62
48 Monroe County (Balance)	7.1	58	6.6	56	3.3	62	1.7	61	0.7	63	0.2	68	0.1	63
38 Syracuse Suburban	4.7	70	3.9	70	2.1	69	1.3	67	0.7	64	0.3	62	0.1	64
71 Saratoga County South	4.9	68	4.3	67	2.2	67	1.2	68	0.6	67	0.2	67	0.1	65
49 Niagara County (Balance)	6.2	63	5.6	62	3.3	63	1.4	65	0.6	66	0.2	63	0.1	66
39 Rochester Suburban	4.7	69	4.0	69	2.4	66	1.3	66	0.5	68	0.2	65	0.1	67
16 Saratoga Springs Suburban	7.2	55	6.5	57	3.5	59	1.6	64	0.8	61	0.2	66	0.1	68
40 Corning	5.0	67	4.0	68	1.7	70	0.7	69	0.2	70	0.1	70	0.1	69
27 Elmira	5.6	65	5.3	65	2.2	68	0.6	70	0.3	69	0.1	69	0.1	70
<b>ENTIRE STATE</b>	<b>16.4</b>		<b>16.0</b>		<b>12.8</b>		<b>9.6</b>		<b>6.8</b>		<b>3.9</b>		<b>2.5</b>	

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



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

Territory	1999			2000			(#)	(%)	(#)	(%)
	Assigned	Voluntary	Total Market	Assigned	Voluntary	Total Market	Change In A/R	Change In A/R	Change In Market	Change in Market
01 Bronx Territory	17,868	34,179	52,047	16,437	36,826	53,263	-1,431	-8.0	1,216	2.3
19 Queens	13,919	39,715	53,634	8,312	44,365	52,677	-5,607	-40.3	-957	-1.8
18 Manhattan	23,012	133,467	156,479	16,685	137,554	154,239	-6,327	-27.5	-2,240	-1.4
03 Bronx Suburban Territory	20,542	135,276	155,818	15,207	146,640	161,847	-5,335	-26.0	6,029	3.9
17 Kings County	44,429	293,487	337,916	23,382	316,015	339,397	-21,047	-47.4	1,481	0.4
55 Queens Suburban	62,914	464,606	527,520	36,161	489,157	525,318	-26,753	-42.5	-2,202	-0.4
94 Mount Vernon and Yonkers	7,519	96,713	104,232	5,421	98,423	103,844	-2,098	-27.9	-388	-0.4
76 Suffolk County East	18,527	399,155	417,682	12,546	410,803	423,349	-5,981	-32.3	5,667	1.4
05 Staten Island	9,367	195,591	204,958	5,648	202,588	208,236	-3,719	-39.7	3,278	1.6
75 Suffolk County West	21,658	481,181	502,839	12,542	486,175	498,717	-9,116	-42.1	-4,122	-0.8
97 New York City Suburban	7,080	213,392	220,472	5,479	217,897	223,376	-1,601	-22.6	2,904	1.3
20 Hempstead	17,759	412,817	430,576	9,856	422,351	432,207	-7,903	-44.5	1,631	0.4
95 White Plains	1,275	42,221	43,496	969	42,602	43,571	-306	-24.0	75	0.2
21 North Hempstead	4,628	144,561	149,189	2,844	147,647	150,491	-1,784	-38.5	1,302	0.9
22 Oyster Bay	6,747	235,938	242,685	4,344	229,914	234,258	-2,403	-35.6	-8,427	-3.5
64 Middletown	3,196	135,410	138,606	2,340	138,053	140,393	-856	-26.8	1,787	1.3
65 Ossining	3,897	174,352	178,249	2,778	175,514	178,292	-1,119	-28.7	43	0.0
82 Sullivan County Central	359	12,687	13,046	188	12,549	12,737	-171	-47.6	-309	-2.4
46 Putnam County	1,675	70,354	72,029	1,050	70,471	71,521	-625	-37.3	-508	-0.7
62 Highland, Kingston	1,377	74,736	76,113	1,024	76,693	77,717	-353	-25.6	1,604	2.1
58 Dutchess County (Balance)	1,391	87,094	88,485	988	87,876	88,864	-403	-29.0	379	0.4
83 Sullivan County (Balance)	490	22,806	23,296	251	23,558	23,809	-239	-48.8	513	2.2
67 Clinton County, etc.	4,879	349,560	354,439	3,659	349,010	352,669	-1,220	-25.0	-1,770	-0.5
07 Buffalo	1,238	106,009	107,247	1,021	104,295	105,316	-217	-17.5	-1,931	-1.8
33 Poughkeepsie	1,590	96,973	98,563	943	96,749	97,692	-647	-40.7	-871	-0.9
37 Oswego	550	32,154	32,704	290	31,350	31,640	-260	-47.3	-1,064	-3.3
34 Troy	742	57,435	58,177	484	56,944	57,428	-258	-34.8	-749	-1.3
61 Delaware County, etc.	1,690	135,805	137,495	1,125	134,540	135,665	-565	-33.4	-1,830	-1.3
81 Monticello-Liberty	192	11,046	11,238	87	10,709	10,796	-105	-54.7	-442	-3.9
54 Cortland County, etc.	2,167	192,184	194,351	1,550	190,805	192,355	-617	-28.5	-1,996	-1.0
68 Rockland County	2,060	176,124	178,184	1,427	176,410	177,837	-633	-30.7	-347	-0.2
59 Columbia County, etc.	1,016	76,022	77,038	539	76,683	77,222	-477	-46.9	184	0.2
32 Newburgh	741	65,422	66,163	423	64,381	64,804	-318	-42.9	-1,359	-2.1
42 Buffalo Suburban	1,522	164,490	166,012	1,011	162,312	163,323	-511	-33.6	-2,689	-1.6
28 Binghamton	1,006	116,409	117,415	704	115,860	116,564	-302	-30.0	-851	-0.7

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

Territory	1999			2000			(#)	(%)	(#)	(%)
	Assigned	Voluntary	Total Market	Assigned	Voluntary	Total Market	Change In A/R	Change In A/R	Change In Market	Change in Market
84 Allegany County, etc.	1,661	186,659	188,320	1,064	183,066	184,130	-597	-35.9	-4,190	-2.2
08 Buffalo Semi-Suburban	1,544	204,835	206,379	1,132	196,922	198,054	-412	-26.7	-8,325	-4.0
11 Rochester	2,464	408,429	410,893	2,265	398,375	400,640	-199	-8.1	-10,253	-2.5
13 Albany	1,506	156,115	157,621	857	156,342	157,199	-649	-43.1	-422	-0.3
36 Glens Falls	416	41,355	41,771	206	41,394	41,600	-210	-50.5	-171	-0.4
74 Jefferson County	574	64,445	65,019	304	64,025	64,329	-270	-47.0	-690	-1.1
51 Ontario County, etc.	1,637	191,752	193,389	888	189,505	190,393	-749	-45.8	-2,996	-1.5
52 Fort Plain, Herkimer	202	37,908	38,110	170	37,491	37,661	-32	-15.8	-449	-1.2
14 Niagara Falls	441	69,371	69,812	282	68,421	68,703	-159	-36.1	-1,109	-1.6
73 Rensselaer County (Balance)	236	37,901	38,137	158	38,403	38,561	-78	-33.1	424	1.1
24 Rome	103	20,993	21,096	81	21,297	21,378	-22	-21.4	282	1.3
86 Oneida	214	40,892	41,106	153	40,864	41,017	-61	-28.5	-89	-0.2
12 Syracuse	997	213,014	214,011	800	214,785	215,585	-197	-19.8	1,574	0.7
29 Gloversville	193	26,118	26,311	91	26,623	26,714	-102	-52.8	403	1.5
09 Schenectady County	639	100,831	101,470	324	98,485	98,809	-315	-49.3	-2,661	-2.6
60 Genesee County	175	39,201	39,376	119	38,483	38,602	-56	-32.0	-774	-2.0
47 Orleans County	141	26,166	26,307	74	25,325	25,399	-67	-47.5	-908	-3.5
41 Erie County (Balance)	386	68,932	69,318	205	71,546	71,751	-181	-46.9	2,433	3.5
31 Chautauqua County	495	84,652	85,147	228	83,706	83,934	-267	-53.9	-1,213	-1.4
43 Niagara Falls Suburban	127	34,092	34,219	70	33,388	33,458	-57	-44.9	-761	-2.2
35 Amsterdam	80	20,029	20,109	41	20,317	20,358	-39	-48.8	249	1.2
72 Albany County (Balance)	43	12,509	12,552	27	13,406	13,433	-16	-37.2	881	7.0
44 Broome County (Balance)	62	15,524	15,586	29	15,116	15,145	-33	-53.2	-441	-2.8
15 Utica	154	64,175	64,329	99	62,330	62,429	-55	-35.7	-1,900	-3.0
25 Auburn	82	25,372	25,454	39	24,688	24,727	-43	-52.4	-727	-2.9
30 Saratoga Springs	86	19,008	19,094	31	20,467	20,498	-55	-64.0	1,404	7.4
56 Saratoga County (Balance)	83	25,755	25,838	38	26,053	26,091	-45	-54.2	253	1.0
48 Monroe County (Balance)	36	20,222	20,258	25	19,735	19,760	-11	-30.6	-498	-2.5
38 Syracuse Suburban	163	61,053	61,216	69	56,164	56,233	-94	-57.7	-4,983	-8.1
71 Saratoga County South	77	43,103	43,180	49	43,925	43,974	-28	-36.4	794	1.8
49 Niagara County (Balance)	80	33,202	33,282	36	33,332	33,368	-44	-55.0	86	0.3
39 Rochester Suburban	76	38,320	38,396	43	39,882	39,925	-33	-43.4	1,529	4.0
16 Saratoga Springs Suburban	85	45,387	45,472	44	44,597	44,641	-41	-48.2	-831	-1.8
40 Corning	23	24,846	24,869	19	25,712	25,731	-4	-17.4	862	3.5
27 Elmira	52	49,480	49,532	27	48,908	48,935	-25	-48.1	-597	-1.2
<b>Entire State</b>	<b>324,355</b>	<b>8,031,017</b>	<b>8,355,372</b>	<b>207,802</b>	<b>8,106,797</b>	<b>8,314,599</b>	<b>-116,553</b>	<b>-35.9</b>	<b>-40,773</b>	<b>-0.5</b>

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

**Table 37**  
**Liability and Collision Earned Car Years in the Voluntary and Assigned Risk Markets**  
**For Years 1991 - 2000**

Calendar Year	Voluntary Liability	Vol. (%) Change	A/R Liability	A/R (%) Change	Total Market Liability	Total (%) Change	A/R Collision	A/R (%) Change
1991	6,585,328		1,321,828		7,907,156		108,409	
1992	6,475,638	-1.7	1,331,695	0.7	7,807,333	-1.3	83,824	-22.7
1993	6,536,919	0.9	1,257,622	-5.6	7,794,541	-0.2	70,991	-15.3
1994	6,487,828	-0.8	1,276,617	1.5	7,764,445	-0.4	64,053	-9.8
1995	6,643,605	2.4	1,196,578	-6.3	7,840,183	1.0	62,517	-2.4
1996	6,662,881	0.3	970,552	-18.9	7,633,433	-2.6	51,547	-17.5
1997	7,049,333	5.8	744,973	-23.2	7,794,306	2.1	39,948	-22.5
1998	7,428,546	5.4	541,247	-27.3	7,969,793	2.3	23,988	-40.0
1999	8,031,017	8.1	324,355	-40.1	8,355,372	4.8	11,631	-51.5
2000	8,106,797	0.9	207,802	-35.9	8,314,599	-0.5	9,408	-19.1

**Table 38**  
**Distribution of Private Passenger Automobile Assigned Risk for Liability and Collision Coverages**  
**By Discount or Surcharge Category for Years 1998-2000**

Discount or Surcharge Category	Liability			Collision		
	1998 (%)	1999 (%)	2000 (%)	1998 (%)	1999 (%)	2000 (%)
Total, All Categories	100.0	100.0	100.0	100.0	100.0	100.0
Total Not Surcharged:	68.1	68.0	64.8	62.3	61.4	59.3
3 Years Claim Free (1 or less w/Plan) (Manual Rates)	32.7	30.3	36.1	28.7	26.6	36.3
Experience Discount:						
4 Years (1 or more with Plan) 18 % Credit	13.5	13.0	9.7	12.9	11.8	7.6
5 Years (2 or more with Plan) 25% Credit	10.1	11.5	9.1	10.7	11.3	7.4
6 Years or More (3 or more with Plan) 30% Credit	11.7	13.2	9.9	10.1	11.7	8.0
Total Surcharged	31.9	32.0	35.2	37.7	38.6	40.7
Inexperienced Operator Surcharge	13.6	14.5	18.0	9.8	10.4	13.6
Experienced Operator Surcharge:						
15%	11.6	11.2	10.9	16.6	16.7	15.5
25%	0.1	0.1	0.1	0.1	0.1	0.1
35%	2.6	2.5	2.5	4.7	4.7	4.7
50%	1.3	1.2	1.3	1.6	1.5	1.7
75%	1.0	1.0	1.0	2.2	2.2	1.9
100%-150%	1.7	1.5	1.4	2.8	3.1	3.1

**c. Workers' Compensation Insurance**

On October 1, 2001 the annual Workers' Compensation rate revision became effective producing no change in average premium. Including the change in the New York State Assessment, the overall total payments for Workers' Compensation coverage decreased by 1.8%.

The year 2001 continued the trend of a generally downward premium indication over the last five years. The past five years are shown in the table below:

<b>Year</b>	<b>Net Change*</b>
1997	-8.4%
1998	-6.0%
1999	3.9%
2000	0.0%
2001	-1.8%

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

<b>Table 39</b>		
<b>Workers' Compensation Dividend Classification Plans Approved</b>		
<b>2001</b>		
Plan Types: A = Flat B = Sliding Scale/ Loss Ratio C = Safety Group D = Retention		
<b>COMPANY NAME</b>	<b>PLAN TYPE</b>	<b>APPROVAL DATE</b>
<b>Atlantic Specialty Insurance Company</b>	<b>B</b>	<b>02/21/01</b>
<b>Commercial Union Insurance Company</b>	<b>B</b>	<b>07/25/01</b>
<b>Eastern Casualty Insurance Company</b>	<b>B</b>	<b>03/01/01</b>
<b>Fairmont Insurance Company</b>	<b>B</b>	<b>03/01/01</b>
<b>Greater New York Mutual Insurance Company</b>	<b>B</b>	<b>03/08/01</b>
<b>Kemper Insurance Companies</b>	<b>C</b>	<b>07/18/01</b>
<b>Magna Carta Companies</b>	<b>B</b>	<b>07/26/01</b>
<b>Merchants of New Hampshire Insurance Company</b>	<b>B</b>	<b>12/10/01</b>
<b>Royal &amp; Sunalliance Group</b>	<b>A, B, D</b>	<b>03/15/01</b>
<b>Universal Underwriters Insurance Company</b>	<b>B</b>	<b>12/26/01</b>

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Cumulative

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**Table 41: WORKERS' COMPENSATION--APPROVED RATE DEVIATIONS CURRENTLY IN EFFECT (as of February 1, 2002)**

<b>Company Name</b>	<b>Effective Date</b>	<b>Downward Deviation</b>	<b>Company Name</b>	<b>Effective Date</b>	<b>Downward Deviation</b>
Admiral Ins Co (formerly FICO Ins Co)	05/17/96	15.0	Clarendon National Ins Co	07/01/97	10.0
Agricultural Ins Co	10/01/00	10.0	Colonial American Casualty & Surety Co	10/15/97	10.0
AIU Ins Co	05/15/96	15.0	Commercial Compensation Ins Co	04/01/98	10.0
All America Ins Co	08/01/96	10.0	Commercial Union Ins Co	10/01/99	10.0
American Alliance Ins Co	10/01/00	15.0	Connecticut Indemnity Co	02/27/97	15.0
American Alternative Ins Corporation	01/08/99	10.0	Eastern Casualty Ins Co	03/19/01	10.0
American Automobile Ins Co	06/13/83	16.0	Erie Ins Co of New York	04/01/02	7.5
American Casualty Co of Reading, PA	03/01/01	15.0	Erie Insurance Company	11/01/96	5.0
American Economy Ins Co	06/01/96	10.0	Fairfield Ins Co	12/03/97	10.0
American Employers' Ins Co	10/01/99	15.0	Federated Mutual Ins Co	05/17/96	15.0
American Fire & Casualty Co	10/25/01	10.0	Fidelity & Deposit Co of Maryland	10/15/97	10.0
American Guarantee & Liability Ins Co	04/15/01	10.0	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	11/01/99	10.0	Fireman's Fund Ins Co	02/15/85	10.0
Argonaut-Midwest Ins Co	12/01/01	10.0	Florists' Mutual Ins Co.	08/01/98	10.0
Atlantic Mutual Ins Co	06/01/00	5.0	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	GA Ins Co of New York	01/01/01	17.5
Bankers Standard Ins Co	03/23/95	15.0	General Security P&C Ins Co	06/03/99	10.0
Blue Ridge Indemnity Co	05/01/01 <sup>1</sup>	10.0	Globe Indemnity Co	09/01/97	15.0
Blue Ridge Indemnity Co	06/01/01 <sup>2</sup>	10.0	Graphic Arts Mutual Ins Co	01/01/84	15.0
Business Ins Co	02/01/97	15.0	Great Northern Ins Co	08/12/85	7.0
Casualty Ins Co	10/28/97	15.0	Guidant Mutual (formerly Preferred Risk Mut)	02/01/94	12.5
Centennial Ins Co	07/15/88	10.0	Hartford Casualty Ins Co	04/01/99	15.0
Centre Ins Co (formerly Business Ins Co)	02/01/97	15.0	Hartford Fire Ins Co	10/01/86	15.0
Centurion Ins Co	08/01/99	10.0	Hartford Ins. Co. of the Midwest	05/02/86	10.0
CGU Ins Co of NY (was PG Ins Co of NY)	09/01/01	10.0	Hartford Underwriters Ins Co	04/01/99	5.0
Chubb Indemnity Co	05/01/96	15.0	Indemnity Ins Co of North America	01/01/97	15.0
Church Mutual Ins Co.	10/22/01	7.0	Insurance Co of Greater New York	02/01/01	10.0
Cigna Fire Underwriters Ins Co	03/23/95	10.0	Kemper Employers Ins Co	05/01/01	10.0
Cigna Property & Casualty Ins Co	01/01/97	10.0	Legion Ins Co	01/01/02	10.0
Cincinnati Ins Co	12/15/99	10.0	Liberty Insurance Corporation	01/01/00	14.0
Citizens Ins Co of America	10/01/01	10.0	Liberty Mutual Fire Ins Co	01/01/00	5.0

**Table 41: WORKERS' COMPENSATION--APPROVED RATE DEVIATIONS CURRENTLY IN EFFECT (as of February 1, 2002)**

<b>Company Name</b>	<b>Effective Date</b>	<b>Downward Deviation</b>	<b>Company Name</b>	<b>Effective Date</b>	<b>Downward Deviation</b>
Main Street America Assurance Co	06/24/96	10.0	Royal Indemnity Co	09/01/97	17.5
Massachusetts Bay Ins Co	10/01/01	5.0	Safeco Ins Co of America	02/01/97	15.0
Merchants Ins Co of New Hampshire	02/01/02	10.0	Safeguard Ins Co	05/01/95	10.0
Michigan Millers Mutual Ins Co	06/01/98	10.0	Safety National Casualty Corp	01/02/98	10.0
Mount Vernon Fire Ins Co	07/10/97	10.0	Selective Ins Co of South Carolina	09/01/01	10.0
National Fire Ins Co of Hartford	03/01/01	7.5	Selective Way Ins Co	12/21/01	5.0
Netherlands Ins Co	04/01/97	15.0	Sentry Select Ins Co (formerly John Deere)	08/01/97	10.0
New Hampshire Ins Co	05/15/96	15.0	St. Paul Mercury Ins Co	02/13/96	15.0
Newark Ins Co	05/01/95	7.5	Star Ins Co	01/08/97	15.0
NorGuard Ins Co	02/01/99	5.0	State Farm Fire and Casualty Co	06/01/01	15.0
North River Ins Co	01/01/02	10.0	Strathmore Ins Co	01/01/01	15.0
Northern Assurance Co of America	10/01/99	15.0	TIG Ins Co	01/01/01	7.5
Northern Ins Co of New York	01/04/02	5.0	TIG Ins Co of New York	01/01/01	12.5
Old Republic Ins Co	08/01/01	9.1	TM Casualty Ins Co	11/01/00	15.0
Oriska Ins Co	07/01/01	10.0	Transcontinental Ins Co	03/01/01	15.0
Pacific Indemnity Co	01/13/83	15.0	Travelers Casualty & Surety Co of Illinois	08/12/85	15.0
Paramount Ins Co	10/03/83	15.0	Travelers Indemnity Co of America	01/16/91	15.0
Patriot General Ins Co	01/01/87	15.0	Travelers Indemnity Co of Connecticut	08/01/98	10.0
Peerless Ins Co	05/01/96	7.5	Truck Insurance Exchange	06/01/01	10.0
Penn Millers Ins Co	03/01/01	10.0	Ulico Casualty Co	07/01/01 <sup>3</sup>	10.0
Pennsylvania General Ins Co	10/01/99	17.5	Ulico Casualty Co	06/24/96 <sup>4</sup>	10.0
Pennsylvania Manufacturers Assn. Ins. Co	12/11/01	7.0	Universal Underwriters Ins Co	04/01/98	10.0
Pennsylvania Manufacturers Indemnity Co	10/01/96	15.0	Utica National Assurance Co	01/07/98	17.5
Preferred Professional Ins Co	08/31/01	10.0	Valley Forge Ins Co	03/01/01	10.0
Professional Liability Ins Co of America	04/09/01	10.0	Wausau Business Ins Co	06/10/96	15.0
Providence Washington Ins Co	04/03/01	10.0	Wausau Underwriters Ins Co	10/08/98	7.5
Realm Ins Co	04/15/01	5.0	West American Ins Co	10/25/01	10.0
Regent Ins Co	07/01/99	10.0	White Mountains Ins Co	03/15/99	10.0
Republic-Franklin Ins Co	01/01/88	10.0	Worcester Ins Co	10/01/85	10.0

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

**d. Property/Casualty Insurance Security Fund (PCISF) Net Value and Contributions**

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

Prior to 1988, contributions were last required in 1973. In 1988, contributions resumed as a consequence of the Superintendent’s determination that the fund’s net value as of 12/31/87 had fallen below \$150 million. By statute, the quarterly contributions for the 1988 fund year were due on May 15, 1988, August 15, 1988, November 15, 1988 and February 15, 1989. Similarly contributions continued through 1992. For the 1993 fund year, the Superintendent determined that the PCISF net value was greater than \$150 million. Except for contributions that were due on February 15, 1993 from the prior fund year, no additional contributions were required in 1993. The same circumstances held true for the 1994 - 1997 fund years. In 1998, the Superintendent determined that the PCISF net value had once again fallen below \$150 million and contributions resumed. In 1999, however, the net value of the PCISF was determined to be greater than \$150 million, and in accordance with 7603 (C)(1), three additional contributions were due after this determination. In 2000 and 2001, the Superintendent determined that the PCISF net values had once again fallen below \$150 million and quarterly contributions were required.

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

**Table 42  
PCISF Contributions\*  
1988 - 2001**

<b>Fund Year</b>	<b>Estimated Quarterly Contributions (in millions)</b>
1988	\$15.0
1989	7.5
1990	5.5
1991	25.0
1992	7.5
1993 – 97	0
1998	8.3
1999	4.0
2000	18.8
2001	3.4

\* 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 2001 fund year net values and contribution amounts described above reflect the impact of the settlement.



## **C. HEALTH BUREAU**

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

The Health Bureau has responsibility for review and approval of accident and health insurance forms and rate adjustment filings made by any insurer licensed to write such insurance, including not-for-profit insurers, HMOs, several hundred commercial insurance companies licensed as accident and health insurers, life insurers or property/casualty insurers and fraternal benefit societies.

The Bureau had regulatory authority over all aspects of the fiscal solvency and market conduct of 87 insurers, HMOs and other managed care organizations as of December 31, 2001. These include 21 accident and health insurers, 1 life insurer (writing accident and health insurance only), 8 health service and medical and dental expense indemnity corporations, 2 Article 43 of the Insurance Law HMOs, 32 Article 44 of the Public Health Law HMOs, 12 Article 47 of the Insurance Law municipal cooperative health benefits plans, 1 Article 44 of the Public Health Law integrated delivery systems and 10 managed long term care plans.

In 2001, the Health Bureau licensed one accident and health insurer. Another accident and health insurer (Centre Life Insurance Company) amended its license to become a life insurer. This insurer is no longer regulated by the Health Bureau.

There were the following HMO mergers: Univera Healthcare - WNY, Univera Healthcare - Southern Tier and Univera Healthcare - CNY merged into Excellus Health Plan, Inc.'s line of business HMO; HMO-CNY, Inc., merged into Excellus Health Plan, Inc.; Healthsource HMO of New York, Inc. merged into CIGNA Healthcare of New York, Inc.; and NYLCare Health Plans of New York, Inc. and Prudential Health Care Plan of New York, Inc. merged into Aetna Health Inc., (formerly US Healthcare Inc.).

The Bureau is closely monitoring the financial condition of one distressed HMO and the winding down operation of another.

Article 47 of the Insurance Law, enacted in 1994, permits the formation of municipal cooperative health benefit plans. In addition to the two plans previously licensed six additional municipal cooperative health benefit plans were issued Certificates of Authority in 2001. Three applications are pending and one plan is in the process of being dissolved.

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

Sixteen stock and four mutual companies were licensed to transact only accident and health insurance at year-end 2000. In addition, the Bureau regulates one life insurer. The net premium written of the accident and health business for this life insurer is included in the following table.

**Table 43**  
**SELECTED ANNUAL STATEMENT DATA**  
**Accident and Health Insurers**  
**1998-2000**  
**(dollar amounts in millions)**

	<b>2000</b>	<b>1999</b>	<b>1998</b>
Number of Insurers	21	19	17
Net premiums written	\$4,890.6	\$4,288.5	\$3,682.0
Admitted assets	8,675.7	6,378.2	6,172.4
Policy and contract claims	1,055.8	958.6	930.0
Other liabilities	4,668.0	2,786.3	2,764.7
Capital	30.6	24.1	21.5
Surplus	2,921.3	2,609.2	2,456.2
Ratio of premiums written to capital and surplus	1.7	1.6	1.5

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 a procedure for premium rate changes for Article 43 and Article 44 corporations. This procedure replaced the prior approval requirements of Section 4308(c) of the Insurance Law under specific conditions. This law permits an Article 43 or Article 44 corporation to submit a filing for a premium rate adjustment and such filing will be deemed approved upon a certification that the expected loss ratio will meet the minimum and maximum loss ratios prescribed in Insurance Law Section 4308(g). Premium adjustments using this methodology were previously limited to no more than 10% annually, but the annual cap was removed on January 1, 2000. During the year 2001, the amount of filings were as follows:

<b>Type of Company</b>	<b>Filings</b>
HMOs	82
Article 43 Corporations	20
Article 42 Corporations	9

**b. Article 43 and Article 44 Corporations**

The following tables show aggregate figures on assets, liabilities, surplus funds, premium income and membership for years 1998-2000:

**Table 44**  
**HEALTH SERVICE CORPORATIONS\***  
**Selected Data, New York State**  
**1998-2000**  
**(dollar amounts in millions)**

	2000	1999	1998
Number of Companies	11	11	11
Admitted Assets	\$4,508.8	\$4,321.0	\$4,052.6
Liabilities	3,230.2	3,084.0	3,072.2
Surplus Funds	1,278.6	1,237.0	980.4
Net Premium Income:			
Hospital	\$6,594.2	\$5,916.7	\$5,136.9
Medical/Dental	4,692.8	4,222.7	4,032.0
Number of Contracts & Riders in Force:			
Hospital	2.7**	2.7**	2.6**
Medical/Dental	1.9**	2.3**	2.5**

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

\*\* in millions

**Note:** See first footnote, Table 46

Source: New York State Insurance Department

**Table 45**  
**MEDICAL & DENTAL EXPENSE INDEMNITY CORPORATIONS**  
**Selected Data, New York State**  
**1998-2000**  
**(dollar amounts in millions)**

	2000	1999	1998
Number of Companies	3	3	3
Admitted Assets	\$26.9	\$19.0	\$13.4
Liabilities	16.9	10.5	6.9
Surplus Funds	10.0	8.5	6.5
Net Premium Income	23.0	18.3	12.5
Number of Contracts in Force	762	622	556

Source: New York State Insurance Department

**Table 46**  
**HEALTH MAINTENANCE ORGANIZATIONS**  
**That Are a Line of Business of a Health Service Corporation\***  
**Selected Data, New York State**  
**1998-2000**  
**(dollar amounts in millions)**

	<b>2000</b>	<b>1999</b>	<b>1998</b>
Number of Companies	4	4	4
Net Premium Income	\$4,641.0	\$4,046.7	\$3,376.6
Number of Participants	2.2**	2.2**	2.1**

\* Figures shown in this Table are included in the corresponding figures shown in the Table 44, "Health Service Corporations."

\*\* in millions

Source: New York State Insurance Department

**Table 47**  
**HEALTH MAINTENANCE ORGANIZATIONS**  
**That Are Not a Line of Business**  
**Selected Data, New York State**  
**1998-2000**  
**(dollar amounts in millions)**

	<b>2000</b>	<b>1999</b>	<b>1998</b>
Number of Companies	32	34	32
Admitted Assets	\$3,266.2	\$3,137.8	\$2,975.6
Liabilities	2,195.3	2,247.8	2,344.1
Surplus Funds	1,075.9	890.0	631.5
Net Premium Income	9,504.2	9,875.0	9,415.2
Number of Participants	4.4*	4.7*	4.8*

\* in millions

Source: New York State Insurance Department

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

During the year 2001, the field unit of the Health Bureau conducted 41 examinations of regulated entities, as itemized in the following table:

	Total	Regularly Scheduled		Other	
		Initiated in 2001	Prior to 2001	Special	On Organization*
<b>By type of insurer</b>					
HMO	16	9	7	0	0
HMDI	7	3	4	0	0
Commercial	10	3	5	0	2
Other	8	0	0	3	5
<b>Total</b>	<b>41</b>	<b>15</b>	<b>16</b>	<b>3</b>	<b>7</b>
<b>By type of exam</b>					
Financial	18	4	7	0	7
Market Conduct	9	5	4	0	0
Combined	11	6	5	0	0
Other	3	0	0	3	0
<b>Total</b>	<b>41</b>	<b>15</b>	<b>16</b>	<b>3</b>	<b>7</b>

\*Examination conducted when insurer is first incorporated in New York State

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

The Health Bureau processed 8,513 accident and health policy forms in 2001.

**Table 48  
ACCIDENT & HEALTH  
Policy Forms Processed  
2001**

Individual Accident and Health	1,384
Group Accident and Health	5,337
Blanket	384
Article 43 Organizations (group)	390
Article 43 Organizations (individual)	55
HMO	913
Franchise	49
Fraternal Benefit Societies	1
<b>Total</b>	<b>8,513</b>

Of the 8,513 total, 3,485 forms were approved for use in state; 1,328 forms were disapproved, withdrawn, or closed for lack of company action. In addition, 1,649 forms were filed for use in states other than New York; 401 forms were filed for reference purposes or otherwise processed and closed; and 1,650 forms were closed pursuant to Circular Letter No. 14 (1997). This Circular Letter permits the Department to return all product and rate submissions that are incomplete, that are not drafted to comply with New York's statutory and regulatory requirements, or that are poorly organized or difficult to understand.

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

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

The Accident and Health Rating Section received 1,523 rate filings and processed 1,632 rate filings during 2001. These include initial rate filings for new policy forms submitted by commercial insurers and Article 43 and Article 44 corporations and HMOs, and rate adjustment filings for commercial insurers.

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

In conjunction with the policy form and premium rate review process, the Bureau processes pre-filings submitted in accordance with Section 52.32 of Regulation 62 (11 NYCRR 52.32) and responds to inquiries and complaints. The Bureau received pre-filings of policy form submissions in 2001 and provided written answers to 109 formal consumer and legislative inquiries and complaints concerning policy forms or related issues. In addition to formal responses to written complaints and inquiries, the Health Bureau monitors a dedicated mailbox on the Department's Web site. On average, between 15 and 20 e-mail inquiries or complaints are received each week. Also, the Bureau responds to over a thousand telephone inquiries each year.

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

New York's External Appeal Program recently completed its second year of operation. Since the program's inception there have been over 3,900 external appeal requests. Of the 41 states and the District of Columbia with external appeal programs currently in place, New York has received the highest number of external appeal requests.

New York's External Appeal Law became effective on July 1, 1999. The law provides health care consumers with the right to obtain an independent review of a health plan's denial of coverage on the basis that the services are not medically necessary or that the services are experimental or investigational. The law also enables health care providers to request an external appeal in limited circumstances, when there has been a retrospective adverse determination relating to medical necessity or regarding experimental/investigational services.

To be eligible for an external review, a denial must first be appealed through the health plan's internal appeal process or the patient and the health plan must jointly agree to waive the internal appeal process. External appeal requests must then be submitted to the New York State Insurance Department within 45 days of the notice of final adverse determination from the first level of appeal with the health plan or confirmation that the internal appeal process has been waived. The Insurance Department is responsible for reviewing external appeal requests and assigning those determined to be eligible and complete to an external appeal agent.

Decisions must be rendered by external appeal agents within 30 days for standard appeals, or within three days for expedited appeals if an attending physician has attested that a delay would pose an imminent or serious threat to the health of the patient. New York currently has three certified external appeal agents with extensive panels of clinical peers available to review appeals. Two external appeal agents, Island Peer Review Organization (IPRO), located in Lake Success NY and Medical Care Management Corporation (MCMC) located in Bethesda MD, were re-certified by the Health Bureau and the New York State Health Department for an additional two year period. HAYES Plus, located in Lansdale, PA, was certified on June 21, 2001 as a New York external appeal agent.

Information about the external appeal program is available on the Insurance Department's Web site. In addition, the Insurance Department operates a dedicated toll-free hotline (1-800-400-8882) to respond to questions and assist in the filing of external appeal requests. During the past two years of operation, over 9,000 calls came in on the external appeal hotline.

In 2001, the Insurance Department received 1,546 external appeal requests. During the year, 243 external appeal requests were closed because health plans voluntarily reversed the denial during the external appeal process; 360 external appeal requests were determined to be ineligible for external appeal and 950 determinations were rendered by external appeal agents.

Table 49A lists the number of external appeal determinations that have been either upheld or overturned based upon whether the appeal related to a medical necessity denial, an experimental or investigational denial or a clinical trial. Table 49B identifies external appeal results by agent. The tables reveal that 45% of health plan denials were overturned in whole or in part by external appeal agents and 55% were upheld by external appeal agents.

**Table 49**

**A. External Appeal Determinations by Type of Denial from January 1, 2001 to December 31, 2001**

Type of Denial	Total	Overtured	Overtured in Part	Upheld
Medical Necessity	855	318	72	465
Experimental/Investigational	89	33	0	56
Clinical Trial	6	1	0	5
Total	950	352	72	526

**B. External Appeal Determinations by Agent from January 1, 2001 to December 31, 2001**

Agent	Total	Overtured	Overtured in Part	Upheld
HAYES	55	16	4	35
IPRO	441	158	39	244
MCMC	454	178	29	247
Total	950	352	72	526

**9. External Review in the Courts**

**a. Federal Court**

The United States Supreme Court is considering whether state external appeal laws are preempted by the Employee Retirement Income Security Act of 1974 (ERISA). ERISA is a federal law regulating employee pension and benefit plans which preempts state law unless the state law regulates insurance and does not conflict with a substantive provision of ERISA.

In *Moran v. Rush Prudential HMO, Inc.* 230 F.3d 959 (7th Cir. 2000), the U.S. Court of Appeals for the 7th Circuit held that the Illinois External Appeal Law does not provide the same relief as ERISA and therefore is not preempted by ERISA. In *Corporate Health Ins. Plans, et al. v. Texas Dept of Ins.*, 215 F.3d 526 (5th Cir. 2000), the U.S. Court of Appeals for the 5th Circuit held that the Texas External Review Law is preempted by ERISA because it conflicts with a substantive provision of ERISA.

A petition for a writ of certiorari for U.S. Supreme Court consideration was filed for both decisions and the Court granted certiorari for the *Moran v. Rush Prudential* case. Oral arguments were heard on January 16, 2002 and a decision is expected by June. The U.S. Supreme Court's holding in this case could impact all states that currently have external appeal laws in place.

## **b. State Court**

The Healthcare Association of New York State (HANYS) and Citizen Action of New York commenced an Article 78 proceeding challenging the external appeal regulations, 11 N.Y.C.R.R. 410 and 10 N.Y.C.R.R. 98-2. The case sought to overturn the definition of “designee,” the definition of “retrospective adverse determination,” the requirement that patients consent to the release of medical records in order for their records to be released, the requirement that an attending physician attest that a patient is eligible to participate in a clinical trial, and the definition of “attending physician” for the purpose of requesting an expedited appeal.

The Albany County Supreme Court issued a decision on February 8, 2002, and found that the regulations were properly promulgated and upheld all provisions in the regulations with the exception of the definition of “designee.” The Court also acknowledged the Departments’ stipulation that the definition of “attending physician” in the external appeal application would be revised to reflect the definition in the regulations.

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

The Health Bureau oversees the operations of The New York Market Stabilization Pools. The Pools, initially established by Regulation 146 in 1993 to stabilize premium rates in the individual and small group markets, process annual revenues averaging in excess of \$100,000,000 through contributions from HMOs and insurers who insure a low proportion of high-risk, high-cost persons under their individual and small group health insurance policies. Under the pool formula, contributions are paid out each year to carriers that insure a disproportionately large share of high-risk, high-cost persons under their individual and small group health insurance policies. The purpose is to protect HMOs and insurers against potential excessive losses associated with high-risk exposures with the aim of maintaining such carriers’ presence in the individual and small group markets, thereby sustaining viable competition and making affordable coverage available to individuals and small businesses. The Health Bureau is responsible for the oversight of all pool activities and operations, including, but not limited to:

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



During the past year, the Insurance Department's Health Bureau implemented the provisions of the Third Amendment to Regulation 146, which was promulgated in November 2000 establishing interim mechanisms for distribution of funds for pool years 1997 and 1998. Pursuant to the provisions of that Amendment, approximately \$90 million was distributed to participants by the pool administrator early in the year, under the direct supervision of Health Bureau staff. Subsequently, the Bureau oversaw the audit of claim data submitted by participants pursuant to the Third Amendment, and upon completion of the audit process, directed the administrator to calculate a re-apportionment of pool funds to reflect audit corrections and other adjustments. A re-distribution was made late in 2001.

The Health Bureau also proposed a Fourth Amendment to Regulation 146 that would establish a permanent mechanism for calculating contributions to and distributions from market stabilization pools from January 1, 1999 forward. The proposed mechanism utilizes a claims-based relative weighting formula, which will require certain claims data submission that was not required under the former demographic pools. Upon publication of the proposed amendment in the State Register, substantive comments were received from a number of interested parties, representing both commercial insurers and HMOs. Health Bureau staff met with industry representatives to discuss their concerns, and after careful assessment of the parties' comments determined that substantive revision to the Amendment was needed. A revised proposed amendment was published in the State Register on February 27, 2002 and final adoption is anticipated by spring 2002.

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

The Health Care Reform Act of 2000 (HCRA) requires the Insurance Department to administer the ongoing operations of a unique program designed to ensure that individual consumers have continued access to comprehensive health insurance. HCRA allocated \$130 million over a 3 ½ -year period commencing January 1, 2000 and ending July 1, 2003 to direct payment market reforms. The Department has been working since early 1999 to build and implement the components of this program.

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

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

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

The Department is also responsible for oversight of the distribution of the allocated funding to HMOs submitting valid claims for reimbursement from the stop loss funds. For administration of the stop loss funds in year 1, the Department developed a Request for Proposal to hire a stop loss fund administrator and convened a bidders conference to review questions and related matters. The Department has selected an administrator and while the terms of a proposed contract were being reviewed by the Comptroller's Office, the Health Bureau handled the administration of the stop loss

funds directly. This entailed developing a claims-submission process for the HMOs to permit claims to be made against the stop loss funds and providing HMOs with guidance on utilization of this process. The Department also developed a quarterly reporting process that will track expected expenditures from the stop loss pools. The Department was in frequent discussions with industry representatives, responding to questions.

Upon approval of the contract by the Comptroller's office, the Department transmitted all data collected for year 1 to the administrator. The Department directed the administrator to conduct the necessary audit procedures with respect to the data and once the administrator was satisfied as to the legitimacy and accuracy of the reimbursement requests, to tabulate and render a comprehensive proposed distribution summary for Department review. The summary indicated the total reimbursement requests for year 1 exceeded total funding available in both the standard direct payment business and the direct payment out-of-network (point of service) business. The administrator was directed to reduce the amounts requested to match available funding in each of the respective funds. The total funding available, requests for reimbursement and pro-rata reductions were as follows:

	<b>Total Appropriation</b>	<b>Total Requested Reimbursement</b>	<b>Reimbursement Percentage</b>
Standard HMO Direct Payment	\$17,500,000	\$20,714,206	84%
Out-of Plan (POS) Direct Payment	\$17,500,000	\$29,462,322	59%

The schedule of payments for all participants was reviewed by the Health Bureau and transmitted to the Department of Health which has the responsibility for the distribution of funds appropriated under HCRA 2000. Payments went out in January 2002.

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

The Health Care Reform Act of 2000 (HCRA) requires the Insurance Department to administer the Healthy NY program. The program is designed to bring health insurance coverage to a portion of New York's 3.1 million uninsured residents and has been allocated \$219 million over a 2 ½ -year period, commencing January 1, 2001.

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

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

The major responsibilities of the Department in connection with implementation of the Healthy NY program for year 2001 included:

**a. Program Development**

Throughout calendar year 2000, the Department engaged in extensive outreach to the insurance industry, the small business community, providers, interested parties, the legislature and other agencies in the development of the Healthy NY program. Based upon this input, regulations designed to serve as the foundation for program implementation were drafted, put through a formal comment period, revised based upon input from interested parties and ultimately adopted. As the program began accepting enrollees, the Department has continued to respond to questions of first impression and to provide guidance to the health plans.

**b. Eligibility Screening and Industry Education**

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

**c. Related Documents**

The Department has provided extensive guidance to the HMOs to ensure standardized administration of the Healthy NY product. This has been facilitated by electronic guidance memos to designated contact staff at each HMO. This approach ensures wide dissemination of information concerning the program, and assists in standardization of its administration. The benefit package remains the same and it has not been necessary to review any further contracts at this point. However, if the Department should add additional benefit packages, contracts and/or riders would need to be reviewed by the Department. In 2001, health plans prepared for the recertification process. Guidance was provided to the plans and the Department drafted model recertification forms for use by the health plans.

The Department has developed a Healthy NY consumer guide. This document describes the program and answers common questions on eligibility. It is available to callers of the Healthy NY hotline, consumers making inquiries to the Department, and is also mailed by the HMOs to interested callers.

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

The Department is responsible for the review and approval of the rates for the Healthy NY product. Given the uniqueness of the Healthy NY product, it was necessary for the Department to provide extensive guidance to insurers to ensure that the premium rates were established appropriately. Rates needed to account for the availability of stop loss funding. Twenty-six rate reviews were conducted during calendar year 2000 to establish initial 2001 program rates. Other than a few rates that were approved as "rolling rates," there were no rate increases in year 2001. Toward the end of 2001, the Department received several requests for rate increases for Healthy NY. Rate increases must be monitored based on actual claim and stop loss experience.

**e. Recertification**

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

**f. Stop Loss Fund Administration**

The Department is responsible for oversight of the distribution of the allocated funding to HMOs submitting valid claims for reimbursement from the stop loss funds. The first year covered by the Healthy NY program is 2001. Quarterly preliminary notifications of potentially eligible claims are required beginning with the first quarter of 2001. The first reimbursement requests are due by April 1, 2002. For administration of the stop loss funds in year 1, the Department developed a Request for Proposal (RFP) to hire a fund administrator and convened a bidders conference to review questions and related matters. The Department selected a fund administrator and while the terms of a proposed contract were being reviewed by the Comptroller's Office, the Health Bureau handled the administration of the stop loss funds directly. The Department developed a claims-submission process for the HMOs to permit claims to be made against the stop loss funds and provided HMOs with guidance on utilization of this process. The Department also developed a quarterly reporting process that will track expected expenditures from the stop loss pools. The Department had daily discussions with industry representatives, responding to questions. Upon approval by the Comptroller, a contract was executed and the Department now oversees the fund administrator in the processing of preliminary notifications and claims requests for the program.

The Department must make application to the Department of Health for the release of the allocated stop loss funding and must distribute such funds to the eligible HMOs. The Department is responsible for the annual submission of a report on the affairs and operations of the stop loss funds to the Senate Finance Committee and the Assembly Ways and Means Committee.

**g. Tracking Maximum Enrollment in Healthy NY**

The Department must monitor enrollment in Healthy NY and, as enrollment climbs, estimate maximum enrollment in the program in order to suspend enrollment in the event that demand for the program exceeds available funding. The Department has been working to develop estimates of enrollment and the resulting calendar year paid stop loss claims for that enrollment, based on modeling of the variation of expected stop loss calendar year paid claims, by issue month. A process has been established to track monthly enrollment in the Healthy NY program. Monitoring of actual enrollment by month will include adjusting maximum enrollment if necessary.

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

The Department is responsible for an annual study of the Healthy NY program which includes at least an examination of employer participation, an income profile of covered employees and qualified individuals, claims experience, and the impact of the program on the uninsured. The first annual study was finalized December 31, 2001.

**i. Coordination with Other Public Programs.**

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

#### **j. Consumer Issues**

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

#### **k. Market Conduct**

The Department has been handling market conduct issues relating to HMO participation in the Healthy NY program. The Department conducted several market conduct surveys during 2001. The market conduct surveys were intended to review the plan's responses to telephone inquiries for information and application materials for the Healthy NY program.

#### **l. Marketing and Outreach**

The Healthy NY statute allows for the expenditure of up to 10% of the program's funds on public education, radio and television outreach and facilitated enrollment strategies. Since the first year's funding was limited, the funds available for marketing were also limited. Such marketing and outreach efforts are crucial to the success of the program. The Department has established a toll-free hotline to provide consumers with information about the Healthy NY program. The Department has also developed and distributed informational materials regarding the program and has made extensive information available on a Healthy NY Web site. The Department developed and distributed Healthy NY marketing materials and brochures. Mailings were sent to small businesses across the State. Public presentations were also conducted to reach many small businesses and chambers of commerce.

#### **m. Standardized Application Process**

The Department revised its Healthy NY regulation in November 2001 to require the health plans to accept standardized applications developed by the Department. Prior to this requirement, each health plan had its own set of applications for Healthy NY coverage and an interested applicant would have to contact a particular health plan directly for application materials. The new standardized applications are much simpler to complete and are made available on the Healthy NY Web site, by calling the toll-free hotline, at presentations and discussions on Healthy NY and in response to consumer inquiries. This change has allowed the Department to begin to widely distribute the Healthy NY application materials. The applications also incorporate clearer definitions of "household member" for purposes of determining household income.

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

During 2001, the Voucher Insurance Program provided subsidized health insurance coverage to approximately 1,000 uninsured individuals in Westchester and Rensselaer counties. The Voucher Insurance Program was a demonstration program designed to lessen inappropriate use of emergency room services, reduce the need for inpatient care and improve the overall health of persons covered under the Program by providing them coverage for primary and preventive health care services.

On December 31, 2001, the pilot Voucher Insurance Program ended. The legislative intent was for the Voucher Insurance Program to be replaced with the Family Health Plus Program and the Healthy NY Program. In order to assist participants with this transition to one of the new programs, the Health Bureau sent letters and information packets detailing the Family Health Plus Program and the

Healthy NY Program. The letter also reminded the participants of the time frames for applying for the new coverage to ensure that they would not have a lapse in their health insurance.

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

During 2001, the Department continued its role of reviewing and approving subscriber contracts and premium rates for the Child Health Plus program, including a permissible premium increase for several participating health plans that elected to perform facilitated enrollment for the program. Department staff also participated in meetings sponsored by the Department of Health with insurers and other interested parties to discuss issues regarding the ongoing operation of the program.

In December 2001, the Superintendent of Insurance and the Commissioner of Health, with input from the Governor's Office, decided to include the new pre-hospital emergency medical services benefit in the Child Health Plus program. Health Bureau attorneys and actuaries worked with Department of Health staff to assist insurers with guidance documents for provider contracts and premium rate filings needed to implement the benefit.

#### **15. Utilization Review Reports**

Article 49 of the Insurance Law requires health insurers and utilization review agents under contract with health insurers to biennially report to the Superintendent on utilization review activities. During 2001, 12 reports of insurers and utilization review agents were reviewed for compliance with Article 49 and placed on file with the Department.

#### **16. Electronic Imaging/Management Reporting System**

In December, the Health Bureau put into production an electronic imaging and management reporting system utilizing the VisiFlow software package. All policy form and initial rate submissions coming into the Bureau for review and approval are scanned and stored electronically. All Bureau correspondence and subsequent company responses are also captured in the same electronic file. It is anticipated that this system will simplify Bureau record keeping and will consolidate all information relating to a particular filing in one electronic file. The expanded reporting capabilities of the system will allow management to monitor Bureau workload and allocate resources in an effective manner in order to assure prompt processing of industry submissions and allow new and innovative health insurance products to reach the market as expeditiously as possible.

#### **17. Medicare+ Choice Terminations**

The HMO exodus from the Medicare+ Choice marketplace continued during 2001. Four HMOs notified the Center for Medicare and Medicaid Services (CMS) (formerly known as the federal Health Care Financing Administration) of their intent to leave all or part of their service areas. The Department reacted immediately to assist those New Yorkers losing coverage by working with CMS to ensure that useful information detailing the protections provided by New York Law was provided to persons affected by the withdrawal. Information was posted to the Department Web site for interested parties.

#### **18. Continuing Care Retirement Communities (CCRCs)**

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

periodic onsite examinations of the financial condition of a community. To this end, the Department has developed an annual statement format for financial filings effective December 31, 2001.

There are now eight CCRCs in New York with a Certificate of Authority issued by the CCRC Council. The Andrus on Hudson was granted a Certificate of Authority in October of 2000 to construct and operate a community. That Certificate of Authority has been surrendered by the community sponsors because they were unable to secure the necessary zoning approvals from the local government and were forced to abandon the project.

## **19. Long Term Care Insurance**

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

Chapter 585 of the Laws of 1998 amended the Civil Service Law by adding a new article XI-A entitled "Long Term Care Insurance For State And Retired State Employees." This law establishes a program for current and retired state employees and their dependents to purchase long term care insurance.

Representatives of the Health Bureau worked with the Department of Civil Service in selecting the benefit package that would be offered under this long term care insurance program. The Bureau was also involved in evaluating and scoring the bids submitted in response to the Department of Civil Service Request for Proposal (RFP) for an insurer to offer coverage through the long term care insurance program. The evaluation of bids involved consideration of both the proposed contract language and the premium rates submitted by the insurers who responded to the RFP.

After consultation with the Health Bureau, the Department of Civil Service selected MedAmerica Insurance Company of New York (formerly Finger Lakes Long Term Care Insurance Company) to provide coverage to state and retired state employees through the long term care insurance program, effective May 31, 2001. The Health Bureau approved the forms and rates for MedAmerica to implement this new long term care insurance program.

### **b. Long Term Care Insurance Partnership Program**

The Health Bureau participated in meetings with the New York State Department of Health throughout 2001 to discuss updates to the New York State Partnership for Long Term Care Program, established in 1989 as a demonstration program and made permanent pursuant to Chapter 659 of the Laws of 1997. During these meetings consideration was given to the possible impact of the federal offering of long term care insurance to federal employees and their dependents. The federal offering was announced by the Office of Personnel Management (OPM) on December 18, 2001. OPM indicated that John Hancock Life Insurance Co. and Metropolitan Life would be the contractors for this offering. OPM also indicated that the potential pool of insureds for the program could exceed 20 million people, with a possibility of 300,000 to 500,000 persons enrolling between the time the program is first scheduled to be offered on March 25, 2002 and the end of 2002.

In 2001 the Health Bureau also worked on disseminating long term care insurance information. The Health Bureau assisted in the preparation and issuance of the Department booklet, *Insurance Policies Covering Long Term Care Services in New York State – 2001*. The Health Bureau also assisted in the preparation of the biennial report to the Governor and Legislature on Long Term Care Plans in New York State, issued on December 31, 2001. This report, *Health Insurance Plans for Long Term Care* has been issued biennially as mandated by §1117 of the Insurance Law, enacted in 1986.

## **20. Medicare Supplement Insurance**

The 27th Amendment to Regulation 62 was adopted on March 21, 2001. The Amendment made necessary revisions to New York's minimum standards for the form, content and sale of Medicare supplement insurance so that they comply with amendments to the requirements for such type of insurance mandated by federal law. In particular, the Amendment addresses changes enacted by the Balanced Budget Act of 1997, the Balanced Budget Refinement Act of 1999 and the Ticket to Work and Work Incentives Improvement Act of 1999. Such changes were adopted by the NAIC and incorporated into the NAIC Model Regulation on Medicare supplement. Such amendments needed to be made to Regulation 62 to ensure continued federal certification of New York's Medicare supplement insurance regulatory program and the policies issued to residents of NY. In order to expedite and facilitate insurers' compliance, the Health Bureau sent a copy of the Amendment with an explanatory letter to each of the insurance companies in the Medicare supplement insurance market two weeks in advance of the Proposed Amendment's publication in the State Register on January 3, 2001. Thus, insurers had ample time to prepare the revisions to their policy forms in order to bring the forms into compliance in a timely manner.

## **21. Specified Disease Coverage**

Specified disease coverage became available in New York State effective April 15, 1998 pursuant to strict standards in Regulation 62. Prior to April 15, 1998, the issuance of specified disease coverage was not permitted in New York State. As of the end of 2001, eleven insurers had policies approved for issuance of specified disease coverage in New York State as individual, franchise and/or group coverage. Recently, an increasing number of insurers have been increasing their marketing efforts for this type of coverage, focusing on work sites.

## **22. Health Insurance Bills**

Several health insurance bills became effective in 2001. The new mandates set forth in the bills required the Health Bureau to approve policy forms and premium rates submitted by companies to conform to these bills. The following is a brief description of the new mandates that went into effect in 2001:

### **a. End of Life Care**

This bill amends §4406-e of the Public Health Law and §4805 of the Insurance Law. The new law requires HMO contracts and managed care health insurance contracts that provide coverage for hospital, surgical or medical care that includes coverage for acute care services to cover services for insureds diagnosed with advanced cancer. The insured must have no hope of reversal of the primary disease and fewer than 60 days to live at an acute care facility licensed pursuant to Article 28 of the Public Health Law. This bill was signed by the Governor on December 8, 2000 and went into effect retroactively to apply to all contracts issued or amended on or after January 1, 2000.

### **b. Health Insurance for Full-Time Students on Medical Leave**

This bill adds Sections 3237 and 4306-a to the Insurance Law to require insurance policies providing coverage for dependent children who are full-time students to continue the coverage for a period of 12 months from the last date of attendance in school for a dependent student who takes a leave of absence from school due to illness, provided however, that coverage is not required for a dependent student beyond the age at which coverage would otherwise terminate. This bill was signed by the Governor on December 8, 2000.



### **c. Licensed Home Health Care Services Insurance Coverage**

This bill amends Sections 3216(i)(6)(A), 3221(k)(1) and 4303(a)(3) of the Insurance Law to expand the types of agencies that can provide covered home health care services to include licensed home care services agencies as well as certified home health agencies. The legislation also requires the Insurance Department to analyze and compare expenditures, utilization rates and utilization patterns for claims for home health care services covered by individual and group accident and health insurance. This bill was signed by the Governor on November 1, 2000 and went into effect in March 2001 and will expire on December 31, 2003.

### **d. Prostate Screening Coverage**

This bill amends Sections 3216, 3221 and 4303 of the Insurance Law to require every policy that provides medical coverage that includes coverage for physician services in a physician's office and every policy that provides major medical or similar comprehensive-type coverage, to provide coverage for diagnostic screening for prostatic cancer. Coverage is required for standard diagnostic testing including but not limited to a digital rectal examination and a prostate-specific antigen test for men age 50 and over who are asymptomatic and for men age 40 and over with a family history of prostate cancer or other prostate cancer risk factors. This bill was signed by the Governor on December 20, 2000 and became effective on January 1, 2001.

### **e. Occupational Therapy Insurance Coverage**

This bill amends the Insurance Law to include occupational therapy among the services covered under the ambulatory care benefits that must be made available for sale upon a group's request. It also amends the Insurance Law to recognize occupational therapists as covered providers of service. The bill amends Sections 3221(l)(3)(B)(i), 4235(f), 4235(f)(4)(A), 4301(b)(1)(G), 4301(b)(3), 4303(e)(2) and adds a new §3216(i)(23) to the Insurance Law. This bill was signed by the Governor on December 8, 2000 and became effective in September 2001.

### **f. Family Coverage for Alcoholism and Substance Abuse Treatment**

This bill amends Sections 4303(l) and 3221(l)(7) of the Insurance Law to clarify the scope of coverage available to a family member of a person suffering from alcoholism, substance abuse or chemical dependency. This bill applies to group, group remittance and school blanket coverage written by hospital service corporations, health service corporations, HMOs, and commercial insurers delivering a group or school blanket policy. This bill was signed by the Governor on November 11, 2000 and went into effect in January 2001.

## **23. Federal Initiatives**

### **a. Federal Legislation**

The U.S. Senate and the House of Representatives have each passed their own version of a Patients' Bill of Rights, Senate bill S.1052 and House bill H.R. 2563. The bills include protections similar to those mandated by New York's Managed Care Reform Act and New York's External Appeal Law such as requirements for a grievance procedure, a utilization review procedure, a prudent layperson standard for emergency care, access to specialty care and external appeal of health plan determinations. Both bills have provisions providing that state standards will not be preempted if the standards are substantially similar to federal requirements, however, the House bill states that state standards regarding utilization review, grievance, and external review will be preempted by the federal law.

The Health Bureau has been monitoring the bills due to the potential impact on New York requirements. The bills have been referred to a conference committee to reconcile inconsistent provisions. To date the committee has not been appointed and no further action has been taken. If no action is taken, the bills will expire when the 107<sup>th</sup> Congress adjourns at the end of the year, 2002.

#### **b. Department of Labor Claims Processing Regulations**

The U.S. Department of Labor (DOL) recently issued a "Benefit Claims Procedure Regulation" (29 CFR Part 2560.503-1). The regulation applies to self-insured and fully insured employer group policies and will be applicable to claims filed on or after July 1, 2002. The regulation establishes standards and time frames for claim determinations including, but not limited to, those involving utilization review. The regulation supersedes state law to the extent that state law prevents the application of a requirement of the regulation. The Health Bureau has been reviewing the DOL regulation to determine the impact on state requirements. The standards and timeframes established by the DOL regulation for processing claims and rendering utilization review determinations are not fully consistent with New York law and it is likely that some New York requirements will have to be modified.

#### **24. First Interactive Health Consumer Guide Produced**

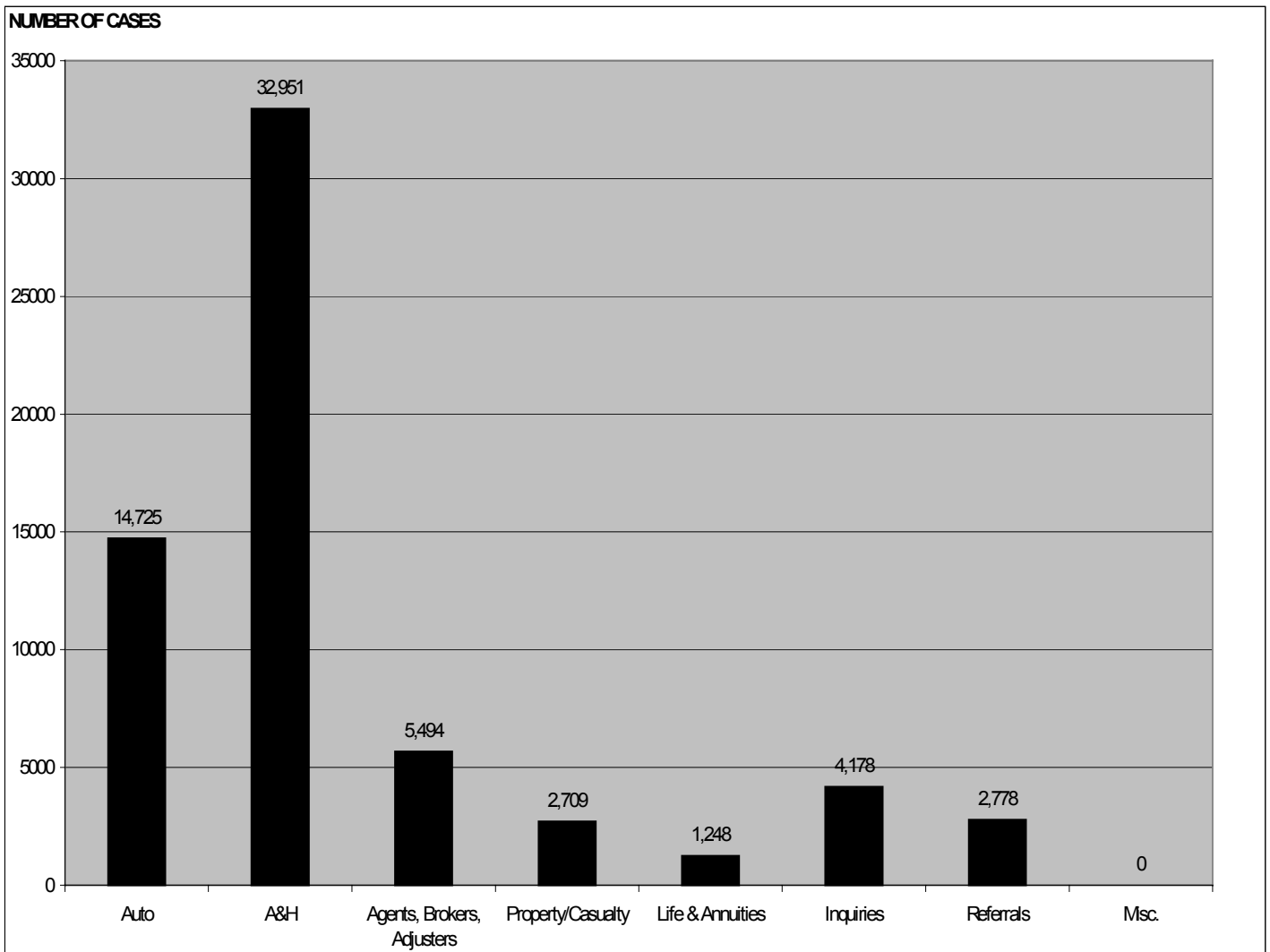
Section 210 of the Insurance Law requires the Department to annually publish the *New York Consumer Guide to Health Insurers*. The Guide includes a ranking of insurers and HMOs based on complaints upheld by the Consumer Services Bureau, a "prompt pay" complaint ranking and various quality of care comparisons. In 2001, the Department published for the first time a separate *Consumer Guide to HMOs* and created an interactive guide to HMOs on the Department's Web site. The interactive guide permits consumers to quickly obtain complaint and other information about HMOs that operate where they live and work. The Department worked closely with the National Committee for Quality Assurance (NCQA) and Consumers Union to produce the three guides.

## D. CONSUMER SERVICES BUREAU

### 1. Consumer Complaints

The Consumer Services Bureau is responsible for responding to consumer complaints and inquiries and investigating the actions of licensed producers. The Bureau closed a total of 64,257 cases in 2001. Of these, 51,633 involved loss settlements or policy provisions, of which 29% were automobile complaints, 64% were accident and health complaints, 5% were property and liability complaints and 2% were life and annuity complaints. An additional 211 cases were closed when the complainants failed to furnish additional information deemed necessary in order to proceed with the case. Another 5,494 cases involved complaints against agents, brokers and adjusters. Written inquiries accounted for 4,178 and referrals accounted for 2,778 cases. In total, the Bureau received 67,226 cases during 2001.

**Chart G**  
**Total Complaints & Investigations Closed**  
**Consumer Services Bureau, 2001**



The Bureau responded to approximately 400,000 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 will access a multi-lingual telephone service. This interpretive service, provided by AT&T Language Line Services, can translate 140 languages.

In addition, the Bureau also maintained a toll-free line dedicated to providing information about the New York State Partnership for Long Term Care. The Partnership allows individuals to qualify for Medicaid after their long-term care policy benefits are exhausted without divesting themselves of their assets. The Program thus encourages self-sufficiency by guaranteeing asset protection for policyholders and the saving of the state's Medicaid funds.

In 2001, the Consumer Services Bureau received over 8,650 calls on the Partnership hotline, an increase of approximately 60% over last year's calls. The Bureau also worked with the Department of Health to begin updating and streamlining the information provided by the hotline's automated menu. This action was taken in view of the expected increase in interest about the Partnership due to the group long term care policy scheduled to be offered to New York State government workers beginning in 2002.

## **2. Prompt Payment Statute**

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

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

Since the effective date of the legislation, the Department has fined 31 insurers and HMOs almost \$5 million for violation of the prompt pay statute. The Consumer Services Bureau continues to take enforcement action against health insurers and HMOs that violate the prompt payment statute by levying periodic fines and increasing the amount of fines for repeat offenders. In addition, the Department has met with representatives of insurers, HMOs, and the provider community in order to discuss payment issues and reach agreement on procedures that will allow more timely payment of health insurance claims.

## **3. External Review**

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

The Consumer Services Bureau staffs a toll-free telephone line dedicated to respond to inquiries pertaining to the external review process. During 2001, the Bureau responded to 3,367 calls for this line.

#### **4. Reorganization of Consumer Services and Licensing Services Bureaus**

As part of the continuing effort to enhance the Department's effectiveness and serving consumers and licensees, the Consumer Services and Licensing Services Bureaus were reorganized into one bureau. As a result, the Licensing operation unit is no longer a paper-driven function struggling with substantial backlogs. It has moved into the e-commerce era with several initiatives.

One such initiative was the development of a Web-based application for the issuance of temporary adjuster permits (see *Responding to September 11* section, beginning p. 9). In June, the Bureau introduced an online renewal process for individuals licensed as Life and Accident and Health agents. In less than two weeks, the Bureau had renewed over 2,400 licenses within 24 to 48 hours of their submission.

The Bureau has also have participated in the development of a national licensing database. The Bureau is also participating in a Web-enabled appointment and termination process. Both of these projects are essential to the development of an online licensing process that will allow applicants to be licensed in multiple jurisdictions after the submission of one application.

#### **5. Other Bureau Activities**

##### **a. Filing Complaints on the Internet**

On October 24, 2001, the Consumer Services Bureau implemented a new online complaint process allowing consumers to file a complaint on the Internet. Once the consumer submits an online complaint, a file number is assigned and confirmation of this case number is immediately transmitted to the consumer. This allows for the immediate tracking of the file as the complaint automatically routes through the Consumers' Information and Imaging Management System (CIIMS).

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

Bureau examiners staffed the Department's information booth at the State Fair in Syracuse from August 23 through September 3, 2001. Examiners also staffed an information booth at the Erie County Fair from August 8 through August 19, 2001. At these booths, the examiners answered consumer questions, took complaints and distributed the Department's various consumer guides and booklets. Over 55,000 publications and mementos were distributed to the public at these fairs.

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

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.

##### **c. Investigation Unit**

The Bureau's Investigation Unit processes complaints against licensed agents, brokers and adjusters; provides background investigations for proposed officers and directors of insurance companies; and performs investigations of applicants for new and renewal licenses who have answered affirmatively to irregularities on their applications. During 2001, the unit processed approximately 5,500 such investigations.

#### **d. Department of Motor Vehicles Insurance Information Enforcement System (IIES)**

During the past year the Consumer Services Bureau has assisted in excess of 500 individuals, families and businesses in overcoming problems due to erroneous or untimely electronic submissions by their insurers to the Insurance Information and Enforcement System (IIES) maintained by the New York State Department of Motor Vehicles. Five cases involving questionable activity by licensees are currently under investigation. Two cases involving unlicensed insurance sales have been referred to the Frauds Bureau. Of these two cases, one has resulted in the arrest of an individual selling insurance without a license from an office in Woodside, New York.

Company-designated IIES personnel are climbing the learning curve at different rates. Most companies understand the required transmissions, time frames, and, when necessary, the corrective transactions. Many, however, have some difficulty matching the data elements they submit with the vehicle registration/transaction data already on the record. Companies are also having difficulty understanding the resulting "no-hit" error reports returned to them by DMV. The Bureau is in the unique position of being able to help make their learning process more efficient. For example, when a company advises us that they have sent the necessary transaction on multiple occasions, but the transmission still does not appear on the report, the Bureau put them in touch with the people at DMV that can recommend a solution. (See Property Bureau section for more information on this program.)

#### **e. Miscellaneous**

The Healthy NY Program became effective on January 1, 2001. This program is designed to make affordable health benefits accessible to New York State's small business owners and working uninsured individuals. The Bureau began receiving complaints from consumers that HMOs were not providing the information necessary to apply for coverage in the Health NY Program. Bureau staff conducted market surveys at different intervals during 2001 in order to determine whether plans that are required to make the program available were preventing access to the program. As a result of the surveys, three plans were sent disciplinary letters.

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

The Department to annually publishes the *New York Consumer Guide to Health Insurers*, which ranks insurers and HMOs based on complaints upheld by the Consumer Services Bureau and includes a separate ranking based on the number of upheld prompt payment complaints. Bureau staff review the information contained in the Guide for accuracy and completeness. In 2001, the Department published for the first time a separate *Consumer Guide to HMOs* and created an interactive guide to HMOs on the Department's Web site.

**Table 50  
Consumer Services Bureau Cases  
Involving Loss Settlements or Policy Provisions  
Closed In 2001**

<b>Line of Business</b>	<b>Total Processed</b>	<b>Upheld</b>	<b>Adjusted in Consumers Favor</b>	<b>Not Upheld</b>	<b>Prompt Pay Violation</b>	<b>Other Action Taken</b>
Total	51,633	4,293	4,458	22,354	4,423	16,105
Life & Annuities, Total	1,248	197	94	814	N/A	143
Individual Life	953	163	72	613	N/A	105
Individual Annuity	129	17	8	88	N/A	16
Group Life & Annuity	147	12	13	102	N/A	20
Viatical Settlements	0	0	0	0	N/A	0
Credit Life	19	5	1	11	N/A	2
Accident & Health, Total	32,951	900	2,695	14,150	4,423	10,783
Individual Accident & Health	248	32	52	107	9	48
Group Accident & Health	3,019	186	463	1,181	535	652
Article IX-C Corps	5,536	130	570	3,390	484	962
HMO	20,081	480	1,437	8,778	3,152	6,234
Medicare	939	7	5	12	0	915
Medigap	137	15	29	59	3	31
Long Term Care	38	1	6	26	0	5
Self-Insured Health Plan	1,822	1	7	37	4	1,773
Travel, Health	94	4	22	46	0	22
Health Alliance	0	0	0	0	0	0
Medicaid	658	12	51	309	232	54
Municipal Co-ops	64	4	7	45	4	4
Credit Disability/DBL Income	315	28	46	160	0	81
Auto, Total	14,725	2,749	1,368	6,263	N/A	4,345
Auto, Liability (B.I.)	1,694	480	218	829	N/A	167
Auto, Liability (P.D.)	2,322	273	319	791	N/A	939
Auto, Physical Damage	2,006	269	245	1,072	N/A	420
No-Fault	8,703	1,727	586	3,571	N/A	2,819
No Frills Stated Value	0	0	0	0	N/A	0
Other Property & Liability, Total	2,709	447	301	1,127	N/A	834
Liability Other Than Auto	196	13	22	73	N/A	88
Professional Malpractice	33	4	2	17	N/A	10
Fire & Extended Coverage	47	6	3	23	N/A	15
Homeowners	1,027	108	90	462	N/A	367
Inland/Ocean Marine	37	7	5	10	N/A	15
Workers Compensation	867	229	127	343	N/A	168
Commercial Multiple Peril	377	61	38	147	N/A	131
Burglary & Theft/Fidelity Surety	36	6	5	7	N/A	18
Flood	3	1	1	1	N/A	0
Title	35	6	3	17	N/A	9
GAP	1	0	0	1	N/A	0
Service Contracts	16	1	2	8	N/A	5
Other – Umbrella	34	5	3	18	N/A	8

**Table 51  
Consumer Services Bureau Cases Not Involving  
Loss Settlements or Policy Provisions  
2001**

<b>Subject of Cases or Investigations</b>	<b>Total Processed</b>	<b>Fines Revocations &amp; Other Actions</b>	<b>Not Upheld</b>
Total	5,494	4,604	890
Misleading Advertising	25	3	22
Application for License	2,135	2,133	2
Acting Without License	2	1	1
Aiding Unauthorized Company	9	7	2
Misappropriation of Premium	68	46	22
Issuing Bad Checks	257	231	25
Rebating	3	3	0
Misrepresentation of Coverage	167	86	81
Excess Comp Without Contract	20	13	7
Twisting	116	58	58
Public Adjuster, Prohibited Practice	7	2	5
Violation of NYAIP/NYPIUA Rules	146	86	60
Commissions Dispute	57	39	18
Return Premium-Producer	185	79	106
Other Violations of Insurance Law	213	151	62
Violations of Other Laws	17	14	3
Fraudulent Applications	24	17	7
Incorporators and/or Directors	1,149	1,148	1
Ending of Agency/Broker Account	0	0	0
Miscellaneous	363	133	226
Delay in Issuing Policy	10	4	6
Misleading Sales, Life	88	52	36
Failure to Return License	19	19	0
Other	31	24	11
Terminated by Insurance Company	23	23	4
Inquiry	54	54	0
Federal Omnibus Crime Act	6	5	1
Service Contracts	19	18	1
Misleading Sales, LTC	47	25	22
Fraudulent Loans	6	4	2
Forged ID Cards	3	1	2
Misappropriation of Funds	93	52	41
Misrepresentation Coverage & Rates-Life	120	65	55
Bail Bonds	5	5	0
Acting as an Unauthorized Insurer, including MEWA	7	6	1



## **E. Insurance Frauds Bureau**

### **1. General Overview**

A particular focus during the past year was the training of police recruits, since as police officers they are often the first to respond to the scene of an accident. The training centered on how to recognize staged accidents and fraudulent identification cards and how to deal with these situations when they arise. As a result of the Bureau's efforts, federal and state law enforcement agencies regularly seek assistance in the investigation and preparation of their cases.

#### **a. Joint Investigations**

The Bureau pooled resources to conduct multi-agency operations to a greater degree than at any time in the past, including a five-county Capital Region sweep, the first such case of its kind in the State. The Bureau worked with the District Attorneys of Rensselaer, Albany, Saratoga, Schenectady and Washington counties in this investigation that led to charges against 81 upstate residents for workers' compensation, no-fault, auto, and homeowners fraud. The Bureau recorded several successful workers' compensation fraud investigations in conjunction with the Workers' Compensation Inspector General's Office and the State Insurance Fund. In addition, the Bureau teamed up with the NYPD Auto Crime Division on many no-fault fraud cases, including two major sweeps that together resulted in charges against 179 persons involved in two large-scale no-fault fraud rings. The Bureau worked side by side with District Attorneys' Offices and local Police and Sheriffs' Departments in every corner of the State.

#### **b. Cooperative Enforcement Efforts**

The Bureau is an active participant in several task forces and working groups designed to encourage cooperation among fraud-fighting agencies in the State. Membership in these groups provides the Bureau with the opportunity to team up with the many agencies that share similar goals.

The Fraud Insurance Strike Team, or FIST, was established in 2000. FIST is sponsored by the Onondaga County District Attorney's Office and includes the State Insurance Fund and the Workers' Compensation Inspector General's Office. The Bureau met in December with the Onondaga County District Attorney's Office to discuss methods by which the Bureau can support an Assistant District Attorney and an investigator who will spearhead investigations into all types of auto insurance fraud, *e.g.*, no-fault, auto theft, unscrupulous body shops, etc. The program is being underwritten by a grant from the Department of Criminal Justice Services.

#### **c. Data Sharing**

The Bureau is committed to taking full advantage of the tools of technology to bring greater efficiency to the detection of insurance fraud.

- ◆ **Electronic Fraud Reporting System** – The Bureau's current system, available to all insurers since March 2000, allows insurers to submit data online, making fraud reporting more efficient and effective. More importantly, the system provides valuable cross-references. Once a report has been transmitted, the Bureau's database provides the insurer with information on all other reports that share information with the report just transmitted, *e.g.*, the same name and/or address of the suspect, the vehicle identification number (VIN) in cases of auto insurance fraud, or other matching data. Insurers can also access the details contained in these cross-reference reports and are provided with the name and telephone number of a contact person at any other company on the cross-reference list. About 300 insurers were

hooked into the system at the end of 2001. The Bureau is pursuing ways to shift to an all-electronic reporting system as soon as is practicable. The number of reports of suspected insurance fraud received by the Frauds Bureau reached 26,028 in 2001, a year-to-year increase of 17%.

- ◆ **NYPD Accident Report Database** – The number of reports of no-fault insurance fraud has soared over the past decade, increasing from 489 in 1992 to 15,219 in 2001, now representing nearly three of five reports of suspected fraud received by the Bureau. In an innovative program initiated in 2000, the Bureau has direct access to the New York City Police Department's accident report database. When an insurer reports an incident of suspected auto insurance fraud that occurred in any of the five boroughs of New York City, Bureau investigators can access the NYPD system and view pertinent information related to the accident online. Comparison of the data enables investigators to identify any discrepancies, e.g., other "victims" added to the report submitted to the insurer. In addition, the Bureau supports insurer efforts to collect data through on-site review of medical facilities in order to more quickly identify medical mills. A comprehensive, industry-wide database would be an invaluable tool in the investigation of cases where such facilities begin operating, make a few million dollars, and then move on to a new location using a new name.

## 2. 2001 Highlights

- With a total of 554 arrests, the Bureau set a new record in 2001, topping last year's total by 10%.
  - The first statewide sweep ever conducted in New York led to the arrest of more than 40 suspects in May for workers' compensation and no-fault fraud, as well as various other types of insurance fraud. In August, 67 individuals were indicted and 55 arrested for their involvement in one of the largest no-fault fraud rings ever to operate in New York.
  - In accordance with Governor Pataki's Executive Order naming the Attorney General as Special Prosecutor to coordinate efforts to combat auto insurance fraud, the Bureau and the AG's no-fault team developed a strategy for partnership and cooperation in the investigation and prosecution of auto fraud cases. By year-end, two joint investigations were in process.
  - In response to the attack on the World Trade Center on September 11, the Bureau instituted a dedicated hotline and fax line for reporting potential fraud, established a procedure for fast-tracking WTC-related fraud claims, and staffed an emergency center 12 hours a day, 7 days a week.
  - The Bureau expanded its outreach program and now conducts training for the NYPD Auto Crime Division once or twice a month. The Bureau also conducted a Fraud Awareness Course for recruits at the NYPD and Rockland County Police Academies.
  - Working with Consumer Services and Public Affairs, the Bureau prepared "A Handbook for Livery Drivers." The brochure, available in English and Spanish, offers tips to help livery drivers avoid becoming victims of insurance fraud.
  - The Bureau sponsored an all-day conference in May, focusing on no-fault insurance fraud which now accounts for almost 60% of all reports of suspected insurance fraud received. The conferences have become increasingly popular with members of the industry and law enforcement as a forum for education, networking, and honing investigative skills.

### **3. Investigations**

The Frauds Bureau received 26,028 fraud reports in 2001. Of these, 25,999 were received from licensees required by New York Insurance Law to submit such reports to the Department; the remainder emanated from other sources, such as consumers and anonymous tips. A total of 939 new investigations were opened during the year, while numerous investigations continued in cases pending from prior years. The new investigations led to the referral of 150 cases to prosecutorial agencies for criminal prosecution and 29 for civil settlement or referral to the Department's Office of General Counsel for civil proceedings.

### **4. Arrests and Prosecutions**

The Frauds Bureau participated in investigations that resulted in the arrest of 554 individuals for insurance fraud and related crimes during 2001, outpacing last year's performance by 10%. The number of arrests posted in 2001 sets a new record for the Bureau and represents an increase of more than 380% since Governor Pataki took office. Criminal convictions obtained by prosecutors in Frauds Bureau cases totaled 210 at year-end. Moreover, 194 individuals were sentenced in connection with Frauds Bureau cases.

Frauds Bureau activities led to stiff fines against 57 individuals who were sentenced to more than \$6.6 million in court-ordered restitution in 2001. Individuals made voluntary restitution totaling almost \$1.8 million in 34 cases during the year. In another 9 instances, insurers were able to achieve savings of nearly \$4.4 million in connection with fraudulent claims under investigation by Bureau staff.

### **5. Major Cases**

The Frauds Bureau was involved in a number of major investigations during 2001. For example, Bureau investigators carried out several multi-agency sweeps, including the first statewide sweep ever conducted in New York. Some of the cases that contributed to the record number of arrests chalked up in 2001 are summarized here.

#### **a. Not Dented Enough**

Charges were brought against 67 individuals involved in one of the largest no-fault fraud rings ever to operate in New York; 55 were arrested on 8/15/01 and the investigation will continue. The ringleader, by his own admission, had been staging accidents for more than 20 years. Other participants indicted were two New York City police officers, the manager of a medical clinic, a police officer with the Health and Hospitals Corporation and an NYPD school safety officer. This major, multi-agency investigation was conducted by the Frauds Bureau, the U.S. Attorney's Office, the FBI, the NYPD and the New York City Department of Investigations.

#### **b. Record Breaker**

A 129-count indictment in September 2001 charged nine individuals and four businesses in a criminal enterprise that staged accidents, created "paper" accidents and enhanced damage claims primarily involving motorcycles. In a typical scenario, a person known as a "hitter" would report he had an accident with a "claimant," *i.e.*, the person who would submit a claim for payment. The hitter would accept full responsibility. Then the defendants would put damaged parts on the claimant's motorcycle and submit false repair bills, estimates, and towing and storage receipts. In some cases, actual damage was caused to the motorcycles. The investigation uncovered over 200 suspicious claims involving payments by insurers of approximately \$2 million. More than 140 arrests have been made in this ongoing investigation which is the largest insurance fraud case in Suffolk County history.

**c. Five-County Sweep Nets 81**

A major sweep covering five upstate counties led to the filing of criminal charges against 81 residents of the Capital Region on 10/2/01. The Frauds Bureau worked closely with the District Attorneys of Rensselaer, Albany, Saratoga, Schenectady and Washington Counties, as well as other State agencies and state and local law enforcement agencies, on the five-month investigation.

**d. Operation Whiplash**

Superintendent Serio and Queens District Attorney Richard A. Brown announced on 12/5/01 the conclusion of a massive undercover investigation conducted by the Frauds Bureau, the Queens District Attorney's Office, the NYPD and the New York State Police. The investigation led to charges against 112 individuals and four corporations in connection with the operation of a multi-million dollar automobile insurance fraud ring in the New York metropolitan area. Among those charged were three doctors, two medical clinics, two chiropractors, a physical therapist, an acupuncturist, two lawyers, and an NYPD Administrative Aide. The 14-month investigation, dubbed "Operation Whiplash," uncovered an organized network of individuals and corporations engaged in a systematic scheme to defraud insurers by filing false accident reports and fictitious claims of physical injury. More than 90 persons have been arrested and the investigation is ongoing.

**6. Civil Enforcement**

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

In 2001 the Frauds Bureau directed more resources to criminal, rather than civil cases. As a result, the Bureau pursued civil fines only in those cases with a clear potential for monetary settlements. Thus the number of cases and the amount of civil fines imposed declined over the year. However, the Frauds Bureau posted a record high 554 arrests in 2001.

**Table 52  
Civil Enforcement Program  
1998-2001**

	<b>1998</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>
Fines Proposed	\$365,071	\$610,041	\$499,020	\$131,032
Settlements With IFB	\$ 93,904	\$230,097	\$305,718	\$180,013
Hearing Determinations	\$268,510	\$1,180,855	\$82,506	\$57,745
Total Fines Imposed	\$362,414	\$1,410,952	\$388,224	\$237,758
Cases*	97	135	41	32

\*Number of Cases in which the Frauds Bureau collected civil penalties or Office of General Counsel imposed civil penalties.

## **7. Capital for a Day**

Members of the Frauds Bureau were among Insurance Department specialists and members of other New York State agencies that participated in the Governor's "Capital For a Day" initiative in Batavia in Genesee County (7/01) and Buffalo (9/01). As a result of the visit to Batavia, the Frauds Bureau conducted a training session for the District Attorney's Office and local law enforcement in an effort to expand insurance fraud prosecutions in the Genesee County area.

## **8. No-Fault Fraud**

As part of the most comprehensive overhaul of auto insurance in New York State in almost 30 years to combat fraud and reduce auto insurance premiums, the Governor issued an Executive Order naming the Attorney General as Special Prosecutor to coordinate auto fraud investigation and prosecution efforts at the State level. The Executive Order directed the Frauds Bureau to authorize the Special Prosecutor to undertake investigations and prosecutions directly. The Special Prosecutor will also work with local prosecutors and law enforcement officials to augment their efforts to stop fraud.

In response to this directive, the Bureau's No-Fault Unit began meeting with members of the Attorney General's staff to coordinate these investigation and prosecution efforts. Several investigators from the Attorney General's Office visited to the Bureau's New York City Office to receive training in the intake and triage procedure used for fraud reports. In addition, the Bureau has referred several complaints to the Attorney General's staff and are assisting them in the initial stages of investigation. Investigators from the Frauds Bureau and the Attorney General's Office have already begun joint investigations on two cases.

## **9. Fraud Prevention Plan Implementation**

The Second Amendment to Regulation 95 requires all insurers that meet certain criteria to submit to the Department a Fraud Prevention Plan that includes establishing a Special Investigations Unit. All required plans have been submitted; 145 plans representing 416 insurers were active as of year-end 2001. In order to best implement the provisions of Regulation 95, the Bureau developed a Request for Proposal (RFP) for an outside vendor to conduct on-site audits to monitor insurers' compliance with the Regulation. The vendor will also audit any outside contractor (not licensed by the Department) hired by an insurer to provide such services, as permitted by the Regulation. The audits will include a review of all major segments of the fraud plans, such as a random review of closed claims, a review of fraud detection and procedures manuals, and an examination of in-service training programs for investigative, underwriting and claims staff for identification and evaluation of suspected fraud. This vendor will conduct between six and ten audits in the first year as a pilot project. Once firm guidelines for the audits have been established, the Bureau anticipates an audit of each plan every two years.

## **10. Public Awareness Programs**

The Frauds Bureau is responsible for enforcement of Regulation 95, including the provision that requires insurers to develop a public awareness program focused on the cost and frequency of insurance fraud. Major advertising campaigns, using newspapers, radio, television and outdoor billboards, are carried out several times a year by the New York Alliance Against Insurance Fraud and the National Health Care Anti-Fraud Association, as well as Allstate and State Farm Insurance Companies. The programs must be geared to reach a wider audience than an insurer's policyholders. One measure of the success of these campaigns is the volume of calls to the Bureau's fraud hotline which increases from a normal average of fewer than 20 calls per week to more than 60 per week during campaign time. The Bureau has provided strong support to the industry in this initiative and closely monitor the campaigns for effectiveness.

## **11. Directions for 2002**

### **a. Web-Based Fraud Reporting**

The Bureau's Electronic Fraud Reporting System has been available industry-wide since March 2000. The system allows insurers to submit data online, making fraud reporting more efficient and effective. As of the end of the year, about 300 insurers were reporting electronically. Now the Frauds Bureau is examining a Web-based system of fraud reporting for insurers whose computer systems are not compatible with the AT&T Global Network the Bureau uses for the current system. The Bureau has appointed a committee which is in the process of designing the Web site, establishing what will be available from Frauds Bureau files to those reporting via the Web, the need for Use and Dissemination Agreements and various server requirements. The Bureau's goal is to achieve 100% electronic reporting.

### **b. Underwriting Fraud**

The Frauds Bureau has partnered with a number of insurance companies to address no-fault insurance fraud issues on the underwriting level. This partnership, the Underwriting Insurance Fraud Working Group, meets on a regular basis to develop strategies for legislative and other solutions to the problem of underwriting fraud. In addition, members exchange ideas for improving the detection, investigation and prevention of underwriting fraud. The Bureau's No-Fault Unit Supervisor represents the Frauds Bureau on this Working Group. One of the tasks of the Group is to examine existing New York Insurance Law and policies currently available to insurers to combat underwriting insurance fraud.

### **c. Multi-County Investigations**

At the direction of the Governor and the Superintendent, the Frauds Bureau has initiated a program for the collaboration of efforts with district attorneys, other State agencies, and law enforcement officials on the federal, state and local levels to better marshal resources in Bureau efforts to eliminate insurance fraud. The Frauds Bureau participated in a number of highly successful multi-agency investigations during the past year, proving that the pooling of resources and manpower gives more bang for the fraud-fighting buck. These efforts will be expanded in the coming year.

## **12. Legislation**

The Frauds Bureau supports the following legislative changes:

- Establishing minimum standards for the public awareness programs that insurers are required to develop under the provisions of Regulation 95;
- Making it a crime for third parties, known as runners, to recruit patients and clients for health care providers and attorneys in insurance fraud schemes;
- Requiring a periodic certification of continued eligibility by recipients of workers' compensation or disability benefits;
- Creating a class D felony for unlicensed activity by certain previously licensed individuals and entities that are no longer licensed at the time of the violation;
- Creating a class E felony for unlicensed activity by any individual;
- Subjecting unlicensed activity to civil penalties after notice and Department hearing;
- 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;
- 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 on the books of account of insurers
- 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;
- Upgrading the status of Insurance Frauds Bureau investigators from peace officers to police officers, enabling them to act independently in the execution of such tasks as search and arrest warrants, court orders relating to electronic surveillance and summary arrests;
- Modifying the reporting date for the Annual Frauds Report (pursuant to Section 405 of the Insurance Law) from January 15 to March 15 of each year; and
- Modifying the reporting date for insurer Special Investigations Units annual reports (pursuant to Section 409 of the Insurance Law) from January 15 to February 15 of each year.

Section 405(d) of the New York Insurance Law requires the Superintendent to submit to the Governor and the Legislature by January 15 of each year a comprehensive summary and assessment of the operations of the Frauds Bureau. The *2001 Insurance Frauds Bureau Annual Report* is available on the Department's Web site at [www.ins.state.ny.us](http://www.ins.state.ny.us). Hard copies may be obtained through the Department's Publications Unit at 1-800-342-3736.

## F. LIQUIDATION BUREAU

The Liquidation Bureau, in the fiduciary capacity of the Superintendent of Insurance, administers 57 insurance companies in rehabilitation, conservation or liquidation. The combined assets of these companies at year-end 2001 was almost \$4 billion.

The year 2001 was a memorable one in the history of the Liquidation Bureau. First and foremost were the heroic actions of the Bureau employees in assisting each other and fellow New Yorkers in evacuating the building and lower Manhattan during the horrific morning of September 11. The Executive staff demonstrated their leadership ability and preparedness by operating the Liquidation Bureau from a back-up facility in Brooklyn only two days after the tragedy. Within five business days, the Bureau was back at 123 William Street, providing full service to the policyholders of the companies it administers.

The year 2001 was a year of significant growth for the Bureau. The rehabilitation of Frontier Insurance Company and the ancillary receivership of Reliance Insurance Company more than doubled the number of open claim files the Bureau is responsible for. Frontier Insurance Company was a major property and casualty insurance company that wrote over \$266 million of premiums in virtually all lines of business in all fifty states. The Bureau took control of Frontier under a temporary rehabilitation order at the end of August. A permanent rehabilitation order was issued in October. About 250 Frontier employees nationwide maintained their positions while being supervised by the Bureau.

Reliance Insurance Company is a worldwide insurance company domiciled in Pennsylvania. As an ancillary receiver, the Bureau will be responsible for settling or closing over 16,000 claims and returning premiums to about 60,000 policyholders. The servicing of Reliance and Frontier will continue to be major undertakings of the Bureau in 2002.

Other major undertakings of the Bureau in 2001 were the liquidations of the Medical Malpractice Insurance Association and American Agents Insurance Company, a major writer of substandard auto insurance in the New York metropolitan area. As always, the Bureau was instrumental in providing service to both policyholders and claimants of those companies.

The upgrading and enhancement of technology continued during the year. The planned renovations at 123 William Street commenced and should be completed by the middle of 2002.

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

**Note:** See p. 176 of this Report for the 2001 Rehabilitation, Liquidation, Ancillary Receivership and Conservation Proceedings.



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

The Information Systems & Technology Bureau (Systems) provides information technology products and services to approximately 950 Insurance Department employees and also supports the Department's technical infrastructure.

In addition to providing the technical infrastructure, the Bureau provides a variety of support services including troubleshooting, training, consulting, maintenance and research and development. A Help Center has been established to support Department-wide information technology initiatives including customized and commercial off-the-shelf applications, office automation, electronic mail and word processing.

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

The Financial Services Unit (FSU) works with applications that are specifically designed to handle, process and analyze thousands of insurer financial statements. FSU is responsible for the automation, verification, troubleshooting, updating and maintenance of the annual statement, supplement and other electronic data capture projects, which form the Department's integrated financial database..

The Applications Services Unit (ASU) develops, enhances, maintains, purchases, supports and customizes all applications that do not fall under the FSU. These include systems that support the Department's administration and bureau operations and aid in fulfilling regulatory requirements.

The Data Base Administration/Data Communications Unit (DBA/DCU) is responsible for data communications, database administration, network installation and maintenance.

The Technical Services Unit (TSU) maintains servers, LAN, WAN, and microcomputer equipment. TSU is responsible for backup and recovery, antivirus protection, and all third-party software installation and maintenance.

Systems operates more than 40 servers which comprise the Local Area Network (LAN) and Wide Area Network (WAN) environment. Components of the network include file and print servers, Lotus Notes e-mail servers, Sybase servers, and imaging and document management servers.

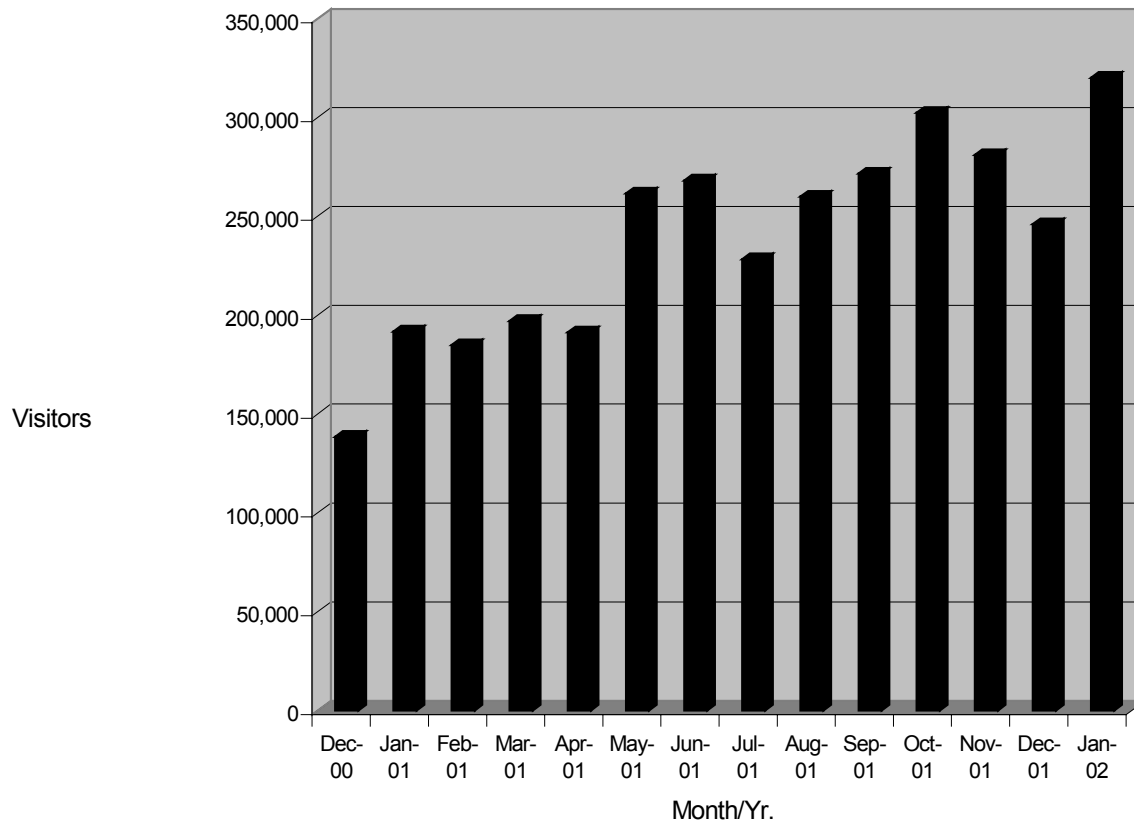
The Operational Services Unit (OSU) is responsible for production and for the Computer Operations, and Help Center functions. The Help Center is the first line of support in assisting the client base, and encompasses a wide range of significant responsibilities and functions.

The Project Office makes use of the team approach to accomplish large, complex projects as well as those of a special or unique nature.

### **1. Web Site**

Development of the Department's Web site remains a Department priority. Visits to the site increased dramatically during 2001. During this 12-month period, 2,884,084 users visited the Department's Web site, an average of 240,340 hits per month. This was an 82% increase from the previous year. Visits to the Web site are graphically displayed in the following chart.

**Chart H: New York State Insurance Department Web Site Activity - Monthly Visitors**



The Web site continued to receive praise from consumers, the insurance industry, and other groups during 2001, primarily for its depth of content, and the speed with which the content is updated.

During 2001, the following additional major items were developed and maintained on the Department's Web site:

- A Healthy NY mini-Web site with its own domain name ([www.healthyny.com](http://www.healthyny.com) and four other variations) — in both English and Spanish.
- An online Consumer Complaint Form.
- An Interactive New York Consumer Guide to HMOs.
- Life Agent online license renewal application.
- An Approved Independent Livery Programs Section, which included those with approval to use the Latest ISO Public Auto Loss Costs.
- Numerous links and Frequently Asked Questions were entered in the State Web site with links to the Department's Web site.
- Continued use and improvement of the Department's icontract customer service application that allows Department "NetReps" to offer real-time assistance to Web visitors.
- The complete set Annual Statement and New York Supplement Filing Instructions and Forms.
- An Office of General Counsel Privacy Section consisting of privacy opinions, regulations, press releases and circular letters.
- Examination Reports of 90 insurance companies.

## **2. Intranet**

The Department's Intranet has evolved into a strategic internal communication device. Its initial content included various forms, templates, handbooks, training materials and NAIC information. As a standard, Department staff have their browser's homepage set to the Intranet Homepage.

During 2001, the following major items were integrated onto the Department's Intranet that included:

- A system for accessing annual and quarterly statement supplement filings online
- A wide-ranging array of Department PowerPoint presentations
- Updated schedules of insurance company examinations for the three major bureaus in a password protected area
- Updated New York State Legislative Summaries
- An updated and improved, easily navigated General Administration Manual

## **3. Annual Statement Filings**

The year 2001 was significant as the Department added to processes already in place that have changed the way Annual Statement filings are received and utilized. The Department is committed to the concept of electronic filing of insurer financial statements via the National Association of Insurance Commissioner's (NAIC) Web site. Until 1999, the Department received diskettes and loaded statements into its own, New York-only database, while companies provided national form filings to the NAIC.

## **4. External Review**

The External Review process has been in production since July 1, 1999. This process allows requests to be received either by normal mail or electronically by facsimile which is converted to images and automatically routed by the computer application to an internal e-mail repository. The file is then forwarded to an external review agent for a decision. Once a determination is made, it is conveyed back to the Department and finally, communicated back to the client and the Department of Health.

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

## **5. Imaging/Workflow**

The Consumers Imaging and Information Management System (CIIMS) has been in production for more than three years and the Bureau continues to work with the Consumer Services Bureau to improve the original design of the system, increase functionality, make the application more e-commerce efficient and more productive. This enhancement streamlines the complaint processing procedure significantly, reduces the use of "snail mail," reduces paper handling and allows the Department to provide faster feedback to the consumer and respondent. The Department is now working to add functionality for Par Providers and is seeking to "marry" CIIMS and LION (the Department's Licensing System) as several aspects overlap.

## **H. CAPITAL MARKETS BUREAU**

### **1. General Overview**

The Capital Markets Bureau was formed in late 1999. Its mission is to provide the Insurance Department with analysis and recommended actions on matters affecting the regulation of capital markets and risk management activities of New York-licensed life, property/casualty and health insurers. The Bureau fulfills its mission by providing examination support, by developing training for the Department's staff in capital markets and asset/liability dynamics as they pertain to insurers, by designing and applying financial analytics to insurers' portfolios, and by directing special projects dealing with major emerging industry and legislative issues.

In 2001, the Bureau continued to be active in identifying and hiring specialized staff for its risk/investment management oversight function. By year-end, the Bureau achieved its goal of being fully staffed for the near term. The staff comprises seven specialists with diverse capital markets expertise, an attorney, and two administrative support personnel.

During 2001, the Bureau was instrumental in establishing a financial analysis framework to assess the key investment ratios of life and property/casualty insurers. This methodology, which continues to be refined, primarily utilized data from the NAIC I-SITE database. It identified insurers that were outside the normative range of their sector's financial measurements. The investment portfolios of these identified insurers were then subject to additional analysis. If areas of concern remained following this targeted assessment, the Bureau then solicited additional information on the companies' investment management criteria and objectives. If necessary, meetings with the affected companies were arranged to gain additional insight into the configuration of their portfolios and investment approaches.

Last year, the Capital Markets Bureau solidified its integration in the Department by initiating participation in on-site examinations, developing training programs and information dissemination processes that serve to enhance examiner understanding of the financial markets, and completing Bureau-specific special projects.

### **2. 2001 Highlights**

#### **a. Capital Market Reviews**

The Bureau performed capital markets reviews on insurance companies designated for Priority –1 Desk Audits by the Life, Property and Health Bureaus. In addition, it targeted for more extensive evaluation a number of other companies whose measurements/investment parameters were at marked variance with their sector's norms. Following supplemental assessment, certain targeted companies were required to provide more information on investment policy, performance expectations and related data.

The staff developed a template for transferring certain investment data from Schedule D for further analysis in conjunction with pre-exam meetings. The pre-exam report featured the application of Bloomberg analytics to yield value-at-risk calculations, duration computations, average investment yields and if applicable, beta and P/E data. Depending on the outcome of the review of these results by Capital Markets specialists, a recommendation for further action was made. These reports and recommendations were provided to the examination staff prior to pre-exam meetings.

In addition, the Bureau developed various databases to facilitate sector and special situation analysis, such as evaluation of balance sheet strength post-September 11, and assessment of policy loans vs. life company assets. In order to augment the Bureau's in-house metrics and identify analytical frameworks that would make more efficient the evaluation of diverse portfolios, the staff met

with companies marketing sophisticated risk-measurement systems. Expectations are that a suitable vendor will be selected in 2002.

The Bureau continued to refine its various metrics to address the prevailing risk management and capital market concerns in a changing economic and industry environment. In 2001, it kept abreast of shifting quality of fixed income investments, the increasing usage of derivatives, and the suitability of asset allocations.

**Table 53  
ANALYTICAL EVALUATIONS AND REPORTS  
2001**

Type of Insurer	Priority 1 Desk Audits	Pre-Exam Reports	Targeted Evaluations
Health	5	1	--
Life	8	25	19
Property	16	22	48

The Bureau reviewed the Derivative Use Plans (DUPs) of a number of life and property/casualty insurance companies. These reviews entailed overseeing the compliance with Department regulations and directives. Follow-up work was done on companies which did not meet the established standards, and on those that could benefit from modifications in how their derivatives area was being managed.

**Table 54  
DUP REVIEWS  
2001**

Type of Review	LIFE	PROPERTY
Completed Plan Reviews	14	13
Pending Reviews	2	1

#### **b. Examination Participation**

As an information-gathering exercise and in conjunction with the regulation of insurers' capital market and financial risk management activities, the Bureau staff met with the management of insurance companies scheduled for near-term examinations. At these Fourth Quarter meetings, the specialists addressed the companies' investment activities as well as their asset/liability management practices. Particular attention was given to derivatives, asset allocation and quality, and insurance securitization.

In 2001, the Bureau was active in formulating risk-focused examination procedures applicable to capital markets oversight. To further this aim, it commenced the development of a Bureau Policies and Procedures Manual and identified a vendor to assist in establishing a protocol for targeted capital markets examinations.

Several companies scheduled for exams in 2001 were selected for onsite participation by Bureau staff based on the outcome of prepared pre-exam reports and field examiners' capital markets queries. Some of these companies' statements either contained atypical measurements associated with their capital markets involvement or possibly misrepresented actual transactions.

### **c. Special Projects**

The Bureau was involved in a number of special projects stemming from a variety of events, including the continued downturn in the stock market and the economy, 11 reductions in the Fed Funds rate, key legislative initiatives, and September 11. The Bureau staff addressed and evaluated a wide range of technical topics, emerging concerns, and transactions, such as:

- the diminished credit quality of select collateralized debt obligations (CDOs) held by insurers necessitating writedowns;
- the erosion in equity values;
- competitive domestic industry impact of the establishment of a new financial guaranty insurer with implicit sovereign support;
- proforma valuation of the portfolio of a health insurer following a proposed acquisition;
- effects of mortgage prepayments on portfolio performance;
- high yield debt concentration in investment portfolios;
- acquisitions, including a purchase of a structured Special Purchase Reinsurance Vehicle, by P/C insurers;
- portfolios' degree of exposure to Enron and California utilities;
- valuation of a failing insurer's investments in private equity; and
- September 11 and its aftermath: insurance companies' projected losses and capital-raising efforts.

### **d. Other Activities**

The Capital Markets Bureau participated in the formulation, enhancement and completion of legislative and regulatory initiatives. These included:

- Regulation 163;
- Protected Cells/Special Purpose Reinsurance Vehicles;
- Captive Insurers;
- New Letter of Credit Standards for off-shore trusts; and
- Modernization of Admitted Assets Holding Systems.

The staff also made presentations at diverse venues, including LICONY's Legislative & Regulatory Conference, a Casualty Actuarial Society's seminar, a Reinsurance Association of America's symposium, and the Bond Market Association's Risk-Linked Securities Conference.

The Bureau actively contributed to the different Working Groups/Task Forces of the NAIC. Specifically, the Bureau continued its involvement in three NAIC groups working with the Federal Reserve regarding: (1) assessing what risks insurers bring to financial holding companies; (2) comparing the risk-based formulas of banks and insurers and determining arbitrage potential; and (3) reviewing the NAIC Model Holding Company Act as well as other models to ascertain what changes can enhance the Gramm-Leach-Bliley Act (GLBA). In order to advance the financial modernization issues addressed by GLBA, the Capital Markets Bureau coordinated the execution of Information Sharing Agreements with the Federal Reserve Bank, Office of Thrift Supervision, Office of the Comptroller of Currency, and the Federal Deposit Insurance Corporation.

Representatives from the Bureau familiarized themselves with the proposals stemming from the Basel Capital Accord. Their applicability to insurance companies' operational and financial risk management activities continues to be explored.

## I. MOTOR VEHICLE ACCIDENT INDEMNIFICATION CORPORATION

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

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

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

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

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

### 1. Recent Legislation and Regulations:

- ◆ Chapter 511 Laws of 1999 – This new law increased the self-insured assessment per vehicle from \$1.50 to \$3.50. The New York State Department of Motor Vehicles will continue to handle the self-insured fees.
- ◆ New Regulation 68 (No-fault) –*See Property Bureau section of this Report for an update on Regulation 68.*

### 2. 2001 Activity

During 2001, MVAIC opened 3,404 new files. A total of 2,732 cases were settled with payment in 2001 at a moving average cost per claim of \$8,093. In 1999 and 2000, the average settlement per claim was \$8,591 and \$8,152, respectively. An additional 1,882 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 2001 was 5,301 versus 5,937 in 2000.

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 55**  
**SOURCES OF FUNDS**  
**Motor Vehicle Accident Indemnification Corporation**  
**1999-2001**

<b>Source</b>	<b>2001</b>	<b>2000</b>	<b>1999</b>
Net assessments	\$21,000,000 *	\$ 21,000,000*	\$ 30,006,556
Self-insurers' fees	193,448	134,920	107,778
Investment/income/profit/loss	3,669,958	3,804,622	3,120,045
Subrogation recoveries	2,839,077	3,019,678	2,782,254
<b>Total</b>	<b>\$27,702,483</b>	<b>\$ 27,959,220</b>	<b>\$ 36,016,633</b>

\*originally assessed for \$28.0 million; waived 4th quarter assessment; total annual assessment--\$21.0 million.

Source: Motor Vehicle Accident Indemnification Corporation



**Table 56**  
**TRANSACTIONS**  
**Motor Vehicle Accident Indemnification Corporation**  
**1999-2001**

Transaction	2001	2000	1999
<b>Number of Cases</b>			
Pending at beginning of year	5,937	6,527	9,190
Total opened cases	3,978	3,881	5,157
Reported qualified	0	0	0
Reported tort and no-fault <sup>a</sup>	3,404	3,014	4,667
Reopened <sup>a</sup>	574	867	490
Total closed cases <sup>a</sup>	4,614	4,471	7,820
Cases closed without payment	1,882	2,303	4,648
Settled cases with payment	2,732	2,168	3,172
Qualified persons	0	0	0
No-fault and tort	2,732	2,168	3,172
Pending at end of year <sup>a</sup>	5,301	5,937	6,527
<b>Payments of Settled Claims (Before Subrogation)</b>			
Payments to claimants	\$23,529,405	\$18,587,520	\$21,825,874
Qualified persons	0	0	0
No-fault and tort	23,529,405	18,587,520	21,825,874
Allocated claims expense <sup>b</sup>	3,560,779	3,630,350	3,963,651
<b>Reserves Year End (in 000s)</b>			
Total reserves <sup>c</sup>	\$50,704	\$48,781	\$46,206
On pending claims	25,898	24,983	24,494
On claims (IBNR)	18,000	18,000	16,500
Special expense reserve	6,547	5,548	4,967
Unallocated claims expense	259	250	245

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

<sup>b</sup> The corporation also expended \$5,676,878 in 2001, \$5,990,777 in 2000; \$5,430,046 in 1999 for operations and maintenance (unallocated expenses).

<sup>c</sup> Surplus was \$1,863,954 in 2001; \$10,331,593 in 2000; \$7,487,664 in 1999. In 2001, the Corporation established a reserve of \$1,565,000 in accordance with FASB No.106 (Insurance Benefits for Retirees/Revised). In 2000, the FASB reserve was \$1,060,000.

Source: Motor Vehicle Accident Indemnification Corporation

The following table distributes, by type of case, the 3,404 claims newly reported during 2001. The uninsured New York automobile driver represents 45.04% of the total reported cases compared with 44.99% the previous year, an increase of 0.05 percentage points.

**Table 57**  
**NEWLY REPORTED CASES BY TYPE**  
**Motor Vehicle Accident Indemnification Corporation**  
**2001**

<b>Type of Case<sup>a</sup></b>	<b>Number of Cases</b>	<b>Percent of Total</b>
Total qualified, <sup>b</sup> no-fault PIP	3,404	100.00%
Uninsured out-of state automobiles	154	4.52
Uninsured hit-and-run drivers	1,533	45.04
Uninsured New York automobiles	1,708	50.18
Stolen automobiles	3	0.09
Automobiles operated without consent of owners	3	0.09
Insured automobiles where the insurance is inapplicable to the accident	1	0.03
Unregistered automobiles	2	0.05

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

<sup>b</sup> The Statute of Limitations on qualified cases has now run out; consequently, no such cases were reported during 2001. MVAIC has been involved in No-Fault since December 1, 1977. 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 2001 and provides the amount paid. Unidentified hit-and-run drivers, while representing only 40.45% of all cases, accounted for 48.89% of the total amount paid. This is attributable to the large proportion of these cases involving pedestrians in which the incidence of severe injuries and fatalities is relatively high.

**Table 58**  
**SETTLED CASES WITH PAYMENT BY TYPE**  
**Motor Vehicle Accident Indemnification Corporation**  
**2001**  
**(dollar amounts in thousands)**

Type of Case	Number of Cases	Percent of Total	Amount Paid*	Percent of Total
<b>Total</b>	2,732	100.00%	\$23,529	100.00%
Uninsured out-of-state autos	301	11.02	1,519	9.59
Unidentified hit/run drivers	988	36.16	10,331	48.89
Uninsured New York automobiles	1,399	51.21	11,351	39.41
Stolen automobiles	19	0.70	111	1.18
Automobiles operated without consent of the owner	0	0.03	1	0
Insured automobiles where the insurance is inapplicable to the accident	7	0.26	65	0.14
Unregistered automobiles	17	0.62	151	0.79

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

Source: Motor Vehicle Accident Indemnification Corporation

### III. Insurance Legislation Enacted

(Legislation is presented in numeric order based on 2001 Chapter Law)

This portion of the report covers bills enacted during the 2001 Session amending the Insurance Law. Where a bill amends laws other than the Insurance Law, only provisions of interest are noted. *These brief descriptions of the laws are intended only to provide highlights of the legislation and should under no circumstances be used in place of the full text of the law or regarded as interpretation of legislative intent or of Insurance Department policy.*

**1. Chapter 25 of the Laws of 2001** amends the Insurance Law as follows:

- Sections 1 and 2 of the bill amend Sections 5411 and 5412(g) of the Insurance Law, respectively, to extend the effective dates set forth in such sections relating to the New York Property Insurance Underwriting Association (NYPIUA) from April 30, 2001 to April 30, 2003, thereby permitting NYPIUA to operate for two additional years.
- Section 3 of the bill amends Section 13 of Chapter 42 of the Laws of 1996 to continue to April 30, 2003 the provisions of Section 2351 (pertaining to multi-tier programs for homeowners' insurance policies) and Section 3425 (subsections (n) and (o) pertaining to withdrawal from the homeowners' insurance market) of the Insurance Law which would otherwise expire on April 2001. The bill also continues the Temporary Panel on Homeowner's Insurance Coverage for two additional years (from April 30, 2001 to April 30, 2003).

**2. Chapter 26 of the Laws of 2001** amends the Insurance Law as follows:

- Section 1 of the bill amends subsection (b) of Section 1209 of the Insurance Law to permit domestic mutual insurers to hold meetings of their boards of directors outside of the United States and Canada. The bill maintains the requirement that at least four board meetings must be held annually, at least one of which shall be held in New York State.

**3. Chapter 74 of the Laws of 2001** amends Chapter 630 of the Laws of 1988 (amending the insurance law relating to establishing an excess line advisory organization) and the Insurance Law as follows:

- Section 1 of the bill amends Section 5 of Chapter 630 of the Laws of 1988, the enabling legislation to extend the Excess Lines Association of New York (ELANY) for four years to July 1, 2005. Section 2 of the bill adds a new subsection (i) to Section 2130 of the Insurance Law to authorize ELANY to file, receive, record and stamp excess line insurance documents through electronic means, as approved by the Superintendent of Insurance.

**4. Chapter 130 of the Laws of 2001** amends the Vehicle and Traffic Law as follows:

- Section 1 of the bill amends paragraph (a) of subdivision 4 of Section 398-d of the Vehicle and Traffic Law relating to the language required to be contained in a sign which must be displayed in motor vehicle repair shops. Section 398-d (4) (a) makes a reference to Section 3410 of the Insurance Law. The reference is in error. The proper reference to the Insurance Law regarding the choice of repair shops is Section 2610. The bill would make a technical amendment to correct an erroneous reference to Section 3410 of the Insurance Law and substitute a correct reference to Section 2610.

5. **Chapter 146 of the Laws of 2001** amends Chapter 510 of the Laws of 1996 (amending the Insurance Law in relation to expanding provisions relating to insurable interests and providing for the repeal of such provisions upon the expiration thereof) as follows:
  - Section 1 of the bill amends Section 2 of Chapter 510 of the Laws of 1996 to remove the five-year sunset provision of such Chapter, thereby making the provisions of such Chapter permanent. Chapter 510 of the Laws of 1996 added a new paragraph (3) to subsection (b) of Section 3205 of the Insurance Law which permits a Type B charitable, educational or religious corporation, or its agent, to procure or cause to be procured, directly or by assignment or otherwise, a contract of life insurance upon the person of another and to designate itself or cause to have itself designated as the beneficiary of such contract.
6. **Chapter 225 of the Laws of 2001** amends the Public Health Law and the State Finance Law as follows:
  - Section 2 of the bill amends the Public Health Law by adding a new Section 2816. The new section of law codifies the Department of Health's existing Statewide Planning and Research Cooperative System. The bill continues this system and authorizes regulations relating to the collection and reporting of data related to inpatient hospitalization and emergency department data from general hospitals and ambulatory surgery data from hospital-based ambulatory surgery services and all other ambulatory surgery facilities licensed under Article 28 of the Public Health Law.
7. **Chapter 232 of the Laws of 2001** amends the Vehicle and Traffic Law and the Insurance Law as follows:
  - Section 1 of the bill amends subdivision 3 of Section 370 of the Vehicle and Traffic Law to require rental or leasing vehicle entities that are self-insurers to pay an annual fee, in addition to other required fees, of an amount per vehicle to be determined by the Motor Vehicle Accident Indemnification Corporation (MVAIC) in accordance with Section 5207 of the Insurance Law. This fee replaces the current annual payment by such self-insurers of \$1.50 per registered vehicle.
  - Section 2 of the bill amends subsection (h) of Section 5202 of the Insurance Law to add self-insurers subject to Section 370 of the Vehicle and Traffic Law to the definition of "member" of MVAIC.
8. **Chapter 252 of the Laws of 2001** amends the Insurance Law as follows:
  - Section 1 of the bill adds three new paragraphs (9), (10) and (11) to subsection (b) of Section 4238 of the Insurance Law to make three additional types of groups eligible to purchase group annuity contracts in New York. The three new groups include membership associations, financial affinity groups and groups of plaintiffs in class actions.
9. **Chapter 306 of the Laws of 2001** amends the Insurance Law as follows:
  - Section 1 of the bill adds a new Section 3407-a to the Insurance Law, which requires property/casualty insurers issuing policies insuring against loss or damage to real property to furnish to the insured's designated representative, or if none has been designated, to the insured, a copy of any written estimate or estimates of the cost of damages to real property resulting from the loss, which the insurer has independently prepared or had prepared for its own use, specifying all the appropriate deductions. Such estimate or estimates must be

furnished by the insurer to the insured within 30 days after the request is made or the date of preparation of such estimate or estimates, whichever is later.

**10. Chapter 379 of the Laws of 2001** amends the Insurance Law as follows:

- Section 1 of the bill amends subsection (b) of Section 6605 of the Insurance Law to permit cooperative property/casualty insurance companies to offer boiler and machinery insurance as defined in Section 1113 (a) (9) of the Insurance Law.

**11. Chapter 389 of the Laws of 2001** amends the Insurance Law as follows:

- Section 1 of the bill repeals paragraph 11 of subsection (c) of Section 3201 of the Insurance Law thereby eliminating the existing requirement that the Superintendent shall not approve a group accident and health policy providing long-term care coverage except for issuance to a specifically identified policyholder, and permitting the Insurance Department to approve long-term care policy forms for general use rather than on a case-by-case basis.

**12. Chapter 391 of the Laws of 2001** amends the Vehicle and Traffic Law as follows:

- Section 1 of the bill amends paragraph 1 of subsection (m) of Section 3221 of the Insurance Law to conform state continuation requirements for group contracts issued by commercial insurers to federal COBRA continuation provisions.
- Section 2 of the bill amends paragraph 1 of subsection (e) of Section 4305 of the Insurance Law to conform state continuation requirements for group contracts issued by not-for-profit health insurers and HMOs to federal COBRA continuation provisions.
- Section 3 of the bill amends subparagraph (A) of paragraph 7 of subsection (g) of Section 4305 of the Insurance Law, which describes supplementary state conversion and continuation rights for members of a reserve component of the armed forces of the United States, including the National Guard, but does not pertain to COBRA-type continuation of coverage.

**13. Chapter 417 of the Laws of 2001** amends the Insurance Law as follows:

- Section 1 of the bill amends paragraph (1) of subsection (g) of Section 1117 of the Insurance Law to exclude federally qualified group long-term care contracts as described in Section 2 of the bill from the existing requirement that the premiums on these contracts are deductible for state income tax purposes only if approved by the Superintendent.
- Section 2 of the bill adds a new paragraph (4) to subsection (g) of Section 1117 of the Insurance Law to provide that group contracts issued or having a situs outside of the State, but which are qualified long-term care insurance contracts as defined in the Internal Revenue Code, are deemed to qualify for the state long-term care insurance premium deduction without such group long-term care insurance contracts being approved by the Superintendent.
- Section 3 of the bill amends paragraph (1) of subsection (g) of Section 1117 of the Insurance Law to exclude federally qualified group long-term care contracts as described in Section 4 of the bill from the existing requirement that the premiums on these contracts are deductible for state income tax purposes only if approved by the Superintendent.
- Section 4 of the bill adds a new paragraph (4) to subsection (g) of Section 1117 of the Insurance Law to provide that group contracts issued or having a situs outside of the State, but which are qualified long-term care insurance contracts as defined in the Internal Revenue Code, are

deemed to qualify for the long-term care insurance state tax credit without such group long-term care insurance contracts being approved by the Superintendent.

**14. Chapter 419 of the Laws of 2001** amends the Insurance Law as follows:

- Section 1 of the bill amends subsections (b) and (c) of Section 1110 of the insurance law to allow charitable annuity societies to invest their assets in accordance with the "prudent investor standard" as defined in Section 11-2.3 of the Estates, Powers and Trusts Law and no longer requires them to be subject to the investment restrictions set forth in the Insurance Law that are applicable to insurers.
- Section 2 of the bill repeals subsection (f) of Section 1110 of the Insurance Law, which subsection contains investment restrictions applicable to charitable gift annuities.

**15. Chapter 506 of the Laws of 2001** amends the Insurance Law as follows:

- Section 1 of the bill adds a new subsection (i) to Section 3216 of the Insurance Law to require that individual health insurance policies providing major medical or similar comprehensive-type coverage also provide coverage for pre-hospital emergency medical services when such services are provided by an ambulance service issued a certificate to operate under the Public Health Law. Section 1 of the bill further provides that the certified ambulance service must accept the insurer's reimbursement as payment in full and shall not charge or seek reimbursement from an insured except for collection of any copayment, coinsurance or deductible set forth in the insurance policy. In addition, Section 1 of the bill states that the insurer is to provide reimbursement at negotiated rates or, in the absence of negotiated rates, at the usual and customary charge for such services.
- Sections 2 and 3 of the bill amend Sections 3221 and 4303 of the Insurance Law, respectively, to make those changes addressed by Section 1 of the bill applicable to group and blanket insurance policies and to contracts issued by Article 43 corporations and HMOs.

**16. Chapter 531 of the Laws of 2001** amends the Insurance Law as follows:

- Section 1 of the bill adds a new subsection (e) to Section 1114 of the Insurance Law to permit a nonprofit health service corporation organized under Article 43 of the Insurance Law to reinsure policies of other Article 43 corporations, HMOs and the long term care insurance policies written by for-profit accident and health insurers organized under Article 42 of the Insurance Law.

**17. Chapter 536 of the Laws of 2001** amends the Vehicle and Traffic Law and the Insurance Law as follows:

- Section 1 of the bill adds a new paragraph (c-1) to subdivision 4 of Section 502 of the Vehicle and Traffic Law to provide that a new component on "Road Rage" awareness be added to the pre-licensing course and to the defensive driving course. The DMV Commissioner of the is responsible for defining the term "Road Rage" and for establishing the "Road Rage" curriculum in accordance with the standards set forth in the bill.
- Section 2 of the bill amends paragraphs (a), (b) and (d) of subdivision 4 of Section 502 of the Vehicle and Traffic Law by adding provisions related to "Road Rage" awareness. These provisions include specifying that a question on the pre-licensing driving test be devoted to "Road Rage" and that instructors of the pre-licensing course be given training necessary for the competent instruction of "Road Rage" awareness.

- Section 3 of the bill amends subsection (a) of Section 2336 of the Insurance Law by adding a requirement that all accident prevention courses approved by the Department of Motor Vehicles include a component of instruction in "Road Rage" awareness.

**18. Chapter 557 of the Laws of 2001** amends the General Business Law, Public Health Law and the Insurance Law as follows:

- Section 1 of the bill sets forth the legislative findings.
- Section 2 of the bill amends subdivision 1 and paragraph (c) and subparagraph (iii) of paragraph (e) of subdivision 3 of Section 453 of the General Business Law to clarify that the requirement to place in trust any money to be used to purchase funeral merchandise in advance which is paid in connection with a sales agreement shall also include any option to enter into such an agreement. The bill reaffirms the intent of the current law by clarifying that all pre-need funeral monies must be placed in trust in an interest-bearing account until the funeral merchandise is actually physically delivered.
- Section 3 of the bill amends paragraph (1) of subdivision 1 of Section 3450 of the Public Health Law to prohibit a funeral director from accepting any consideration from an insurance company or agent thereof for the sale, offer or promotion of any insurance policy payable at the death of the insured for funeral or burial expenses.
- Section 4 of the bill amends paragraphs (2) and (3) of subsection (d) of Section 3208 of the Insurance Law. Paragraph (2) is amended to prohibit any person, firm, association, society or corporation engaged in the business of providing for the payment of funeral, burial or other expenses of deceased members and any insurer from paying any commission or other consideration to any funeral director, funeral directing concern or employee thereof to induce such person to sell any insurance contract or policy that is designated or marketed as payable for funeral or burial expenses on the death of the insured.

**19. Chapter 567 of the Laws of 2001** amends the Insurance Law as follows:

- Section 1 of the bill adds a new paragraph (iv) to subdivision (a) of Section 7502(a) of the CPLR to revive the time for making an application to confirm or contest an arbitration award. The revival applies to the very limited instances in which the relief had previously been timely applied for but was denied solely on the ground that relief was sought in the wrong forum, by motion instead of a special proceeding.

**20. Chapter 578 of the Laws of 2001** amends the State Technology Law as follows:

- Section 1 of the bill adds a new Article II (entitled "Internet Privacy Policy Act") to the State Technology Law consisting of new Sections 201 through 208, inclusive. Section 203 provides that any state agency which provides an interactive computer service shall not collect or disclose personal information concerning a user to any person, firm, partnership, corporation or other entity, including internal staff who do not need the information in the ordinary course of business of such agency's mission, unless the user expressly states that he or she has received the notice provided for in Section 204 (providing the details of the agency's internet privacy policy), and has consented to the collection or disclosure. The bill provides that the Office for Technology shall develop a model on-line sample privacy notice which may be made available to other public or private entities. The bill also sets forth detailed provisions regarding a user's ability to obtain access to personal information regarding such user and provides a reasonable opportunity for the user to correct errors in personal information.



## IV. Regulations Promulgated or Repealed

The following is a summary of Insurance Department regulations promulgated or repealed in 2001. These brief descriptions of the regulations are intended to provide general information and, therefore, should under no circumstances be used in place of the full text of the regulations or regarded as interpretation of Insurance Department intent or policy.

*The 4th Amendment to Regulation 57 (11 NYCRR 160): Responsibilities in the Construction and Application of Rates (Adopted on a permanent basis effective 1/17/01)*

Insurance Law Section 2336(h) provides for rate reductions of commercial motor vehicle insurance premiums when such vehicles are equipped with factory-installed auxiliary running lamps. The statutory provision requires the Superintendent, after consultation with the Department of Motor Vehicles and the Department of Transportation, to promulgate regulations establishing the qualifications and standards for the approval, utilization and installation of such lamps. Chapter 475 of the Laws of 1998 added subsection (h) to Section 2336 in order to provide incentives to commercial risk insureds to reduce risk levels to their commercial motor vehicles and, as a result, receive a reduction in the applicable insurance premiums..

*The New Regulation 155 (11 NYCRR 390): Service Contracts (Adopted on a permanent basis effective 2/7/01)*

Chapter 614 of the Laws of 1997 added a new Article 79 to the Insurance Law governing the making of service contracts by service contract providers, and service contract reimbursement insurance, which was added as a new kind of insurance under Section 1113(a)(28). Section 7911 specifically authorizes the Superintendent to promulgate regulations necessary to effectuate Article 79. Chapter 198 of the Laws of 1999 amended Section 1113(a)(28) of the Insurance Law to add indemnification coverage to the definition of service contract reimbursement insurance.

Section 7901 states that the Legislature's goals in enacting Article 79 were to create a legal framework within which service contracts may be sold in New York; encourage the marketing and development of more economical and effective means of providing services under service contracts; and permit and encourage fair and effective competition among different systems of providing and paying for these services. The regulation furthers these goals by implementing, interpreting and clarifying the provisions of Chapter 614.

Prior to passage of Chapter 614, the service contract business was not regulated under the Insurance Law, though the making of service contracts by persons unrelated to the product ("third party") was generally considered to be the doing of an insurance business. Consequently, the making of such contracts without a license as an insurer constituted the doing of an insurance business without a license in violation of Section 1102 of the Insurance Law. Service contracts made by a manufacturer or retailer on products made or sold by the manufacturer or retailer ("first party") were generally considered to be warranties, which are exempt from the Insurance Law if made as merely incidental to another legitimate business or activity of the warrantor, and not done as a vocation.

The new article creates a framework for regulating service contract providers. The new law also authorizes service contract reimbursement insurance, which is intended to provide one of the three forms of financial security required to ensure that the provider will meet its obligations. The regulation establishes rules governing and regulating the service contract business, and accomplishes several goals. It establishes a procedure for the registration of providers, including specifying minimum information necessary for the Superintendent to determine whether to register the provider. It establishes minimum provisions and requirements regarding service contract reimbursement insurance

and service contracts. It also clarifies the relationship of mechanical breakdown insurance to service contracts.

*The New Regulation 166 (11 NYCRR 410): External Appeals of Adverse Determinations of Health Care Plans (Promulgated numerous times as an emergency measure from 12/29/99 – 1/30/01; Adopted on a permanent basis effective 2/14/01)*

Chapter 586 of the Laws of 1998 provides enrollees of managed care plans and insureds the right to an objective, independent external appeal of a final adverse determination made by their health care plan. The law was intended to provide consumers with the right to obtain a review of their health plans' decisions through an objective body of medical experts, at the health plan's expense.

The regulation, consistent with legislative intent, provides a description of the external appeal process, sets criteria for entities wishing to act as external appeal agents, and establishes a process whereby such entities can obtain such certification.

*The Repeal of Regulation 117 (11 NYCRR 58) and Adoption of the New Regulation 151 (11 NYCRR 99): Valuation of Annuity, Single Premium Life Insurance, Guaranteed Interest Contract and Other Deposit Reserves (Adopted on a permanent basis effective 2/28/01)*

The new regulation establishes an appropriate methodology to calculate and determine adequate reserves to help ensure the solvency of life insurers doing business in New York. The Insurance Law specifies mortality and interest standards but does not specify an explicit method to be used to value annuities, single premium life insurance policies, and guaranteed interest contracts, and relies on the Superintendent to specify the method. Without this regulation, there would be no standard method for valuing such products. This could result in inadequate reserves for some insurers, which would jeopardize the security of policyholder funds.

With the adoption of this regulation, Part 58 of 11 NYCRR (Regulation 117) was repealed. Part 58 was repealed because its mortality tables for determining liabilities for annuities and pure endowments had been updated for new business and included in new Part 99.

*The New Regulation 170 (11 NYCRR 430): Mechanism for Equitable Distribution of Insureds Unable to Obtain Medical Malpractice Insurance (Promulgated 6/30/00 as an emergency measure; Effective 6/30/00; Promulgated 9/25/00 as an emergency measure; Effective 9/25/00; Promulgated 12/22/00 as an emergency measure; Effective 12/22/00; Adopted on a permanent basis effective 3/7/01)*

Insurance Law Section 5502, as amended by Chapter 147 of the Laws of 2000, directs the dissolution of the Medical Malpractice Insurance Association ("Association") at such time and under such conditions as the Superintendent deems proper, pursuant to a plan of dissolution approved by the Superintendent and requires that all policies of the Association expire or be transferred prior to such dissolution. The Association had written medical malpractice insurance for health care providers who were unable to secure such coverage in the voluntary market. This regulation establishes the New York Medical Malpractice Insurance Plan ("Plan") to provide for the equitable distribution required by the legislature. Through the Plan, eligible health care providers as defined in the regulation, unable to obtain insurance in the voluntary market, will be assigned to an insurer writing the appropriate coverage in the insured's geographical territory.

*The 27th Amendment to Regulation 62 (11 NYCRR 52): Minimum Standards For The Form, Content And Sale Of Health Insurance, Including Standards For Full And Fair Disclosure (Adopted on a permanent basis effective 3/21/01)*

The enactment of the Federal Omnibus Budget Reconciliation Act of 1990 ("the Act") required the mandatory standardization and federal certification of policies of Medicare supplement insurance. As a

result of the Act, states were required to amend their laws and regulations to conform to the federal standards for Medicare supplement insurance. The revisions contained in this amendment made technical corrections to New York's Medicare supplement regulation to ensure continued compliance with federal standards.

*The 2nd Amendment to Regulation 118 (11 NYCRR 89): Audited Financial Statements (Adopted on a permanent basis effective 5/9/01)*

Section 307(b) of the Insurance Law provides for an audited financial statement of every licensed insurer, with certain exceptions, and of any subsidiary described therein together with an opinion of an independent certified public accountant on the financial statement of the insurer and any subsidiary to be filed on or before May 31<sup>st</sup> of each year. Section 307(b) was amended by Chapter 324 of the Laws of 1992 thereby necessitating amendment to Regulation 118. Sections 201 and 301 authorize the Superintendent to prescribe regulations interpreting the Insurance Law as well as effectuating any power granted to the Superintendent under the Insurance Law and to prescribe forms or otherwise make regulations.

Regulation 118 was originally promulgated in 1984 to implement the provisions of Section 307(b) of the Insurance Law. This amendment to the regulation continues to implement the provisions of Section 307(b), as amended by Chapter 324 of the Laws of 1992. This information is crucial for the Insurance Department to monitor the financial solvency of insurers licensed to do business in the State of New York. With the exception of the revised record retention period, all of the requirements imposed by this rule are mandated by statute.

*The New Regulation 172 (11 NYCRR 420): Financial Statement Filings and Accounting Practices and Procedures (Promulgated 12/29/00 as an emergency measure; Effective 12/29/00; promulgated 3/23/01 as emergency measures, effective 3/23/01; Adopted on a permanent basis effective 5/23/01)*

The purpose of this regulation is to enhance the consistency of the accounting treatment of assets, liabilities, reserves, income and expenses by entities subject hereto, by clearly setting forth the accounting practices and procedures to be followed in completing annual and quarterly financial statements required by law. Certain provisions of the Insurance Law provide that authorized insurers and other entities shall file financial statements annually and quarterly with the Superintendent, on forms prescribed by the Superintendent. Except in regard to filings made by Underwriters at Lloyd's, London, the Superintendent has prescribed forms and Annual and Quarterly Statement Instructions that are adopted from time to time by the National Association of Insurance Commissioners, as supplemented by additional New York forms and instructions. To assist in the completion of the Financial Statements, the National Association of Insurance Commissioners ("NAIC") also adopts and publishes from time to time certain policy, procedure and instruction manuals. One of these manuals, *The Accounting Practices and Procedures Manual Effective January 1, 2001 as of March 2000* ("Accounting Manual") includes a body of accounting guidelines referred to as Statements of Statutory Accounting Principles. The Accounting Manual is incorporated by reference into this regulation.

The Accounting Manual is to be effective January 1, 2001. The Accounting Manual represents a codification of statutory accounting principles. The purpose of the codification of statutory accounting principles is to produce a comprehensive guide for regulators, insurers and auditors. Statutory Accounting Principles (SAP) prior to codification did not always provide a consistent and complete basis of accounting and reporting. The prescribed statutory accounting model resulted in practices that varied from state to state. Insurers were often uncertain about what rules to follow and regulators were sometimes unfamiliar with the accounting rules followed by insurers in other states. As a result, financial statements were not always prepared on a comparable basis. The codification project results in more comparable financial statements and in more complete disclosures, which will make regulators' analysis techniques more meaningful and effective. Codification will provide examiners and analysts

with uniform accounting rules against which insurers' financial statements can be evaluated. Also, calculations under Risk Based Capital will be reported more consistently under codification.

Codification does not preempt state legislative and regulatory authority. Statutory financial statements will continue to be prepared on the basis of accounting practices prescribed or permitted by the states. Further, auditors will be permitted to continue to provide audit opinions on practices permitted by the Insurance Department of the state of domicile, even if those practices diverge from the codification standards. In some instances, a New York statute or regulation may preclude implementation of particular codification rules. In a few instances, for various reasons, the Department has not implemented the codification rule.

*The 1<sup>st</sup> Amendment to Regulation 27A (11 NYCRR 185): Credit Life and Credit Accident and Health Insurance (Promulgated 9/19/00 as an emergency measure; Effective 9/19/00; Promulgated 1/8/01 as an emergency measure; Effective 1/8/01; Promulgated 4/3/01 as an emergency measure; Effective 4/3/01; Adopted on a permanent basis effective 5/30/01)*

Insurance Law Sections 4216 and 4235 authorize credit life insurance and credit accident and health insurance as permitted coverages in this state. Section 4216(b)(3)(C) clearly indicates that the legislature intended that coverage could terminate because of the attainment of a specified age. Part of this amendment removed a restriction on the use of age terminations.

Previously, the regulation specified the rates for vendor business. The most common examples of vendor business are automobile dealerships. The rates specified in the regulation for some blocks of vendor business were inadequate. Part of this amendment allows for the rates for blocks of vendor business to be based on their actual experience. Prior to this change coverage was not available at some vendors. Sections 4216 and 4235 also require that the premium not be unreasonable in relation to the benefits provided. This part of the amendment balances the legislative objective of having the product available with the legislative objective that the insured receive fair value for their premium dollar.

*The 27th Amendment to Regulation 101 (11 NYCRR 70): Medical Malpractice Insurance: Required Notices and Rate Modifications (Promulgated 12/28/00 as an emergency measure; Effective 12/28/00; Promulgated 3/23/01 as an emergency measure; Effective 3/23/01; Adopted on a permanent basis effective 6/20/01)*

This regulation establishes the framework for the rates and forms of policies of physicians medical malpractice insurance. This amendment established the rates and surcharges for primary policies of physicians and surgeons' medical malpractice insurance effective July 1, 2000.

*The 6th Amendment to Regulation 41 (11 NYCRR 27): Excess Lines Placements Governing Standards (Adopted on a permanent basis effective 7/11/01)*

Section 1101(b) of the Insurance Law was amended by Chapter 597 of the Laws of 1999 to provide for a new paragraph (5). It permits unauthorized insurers that are affiliated with an insurer licensed in this state, to have an office in this state to provide services to support its insurance business. Section 2117 was also amended by Chapter 597 of the Laws of 1999 to provide for a new subsection (i) which allows authorized insurers to provide support services, from its office in New York, to unauthorized affiliates, provided that the unauthorized insurer has satisfied all applicable requirements for placement by excess line brokers. Both sections of law require that any documents issued by unauthorized insurers from an office in this state contain a prominent notice that the insurer is not licensed in New York, in accordance with regulations promulgated by the Superintendent.

This rule amends the regulation to ensure that consumers receive this information by establishing a mandatory and uniform notice instead of permitting each insurer to establish its own notice.

Additionally, the notification to the Superintendent of the New York office of the unauthorized insurers is necessary in order to allow the Superintendent to properly regulate these activities.

*The New Regulation 171 (11 NYCRR 362): The Healthy New York Program and Direct Payment Market Stop-Loss Relief Programs (Adopted on a permanent basis effective 7/18/01)*

A significant number of New York residents are currently without health insurance. Due in part to the rising cost of health insurance coverage, many small employers have been unable to provide such to their employees. A large portion of New York State's uninsured population is made up of individuals employed in small businesses. The Legislature enacted Chapter 1 of the Laws of 1999 to provide for the Healthy New York Program which is an initiative designed to encourage small employers which do not currently provide health insurance coverage to their employees to offer such coverage and also designed to make coverage available to uninsured employees whose employers do not provide group health insurance coverage. By creating a standardized health insurance benefit package to be offered by all health maintenance organizations which is made more affordable through the availability of state funded stop loss reimbursement, more small employers and uninsured employed individuals should be encouraged to purchase health insurance coverage. This regulation was necessary to clarify eligibility for the Healthy New York Program and to establish procedures for enrolling in the Healthy New York Program. (See the Health Bureau section for more information regarding Healthy NY.)

*The New Regulation 164 (11 NYCRR 101): Financial Risk Transfer Agreements between Insurers and Health Care Providers (Adopted on a permanent basis effective 8/22/01)*

Section 45 of Chapter 586 of the Laws of 1998 (the Law), commonly referred to as the external review law, gives the Commissioner of Health and the Superintendent of Insurance the authority to promulgate regulations to implement, *inter alia*, the financial risk transfer sections of the legislation. In particular, Sections 41-d and 41-e of the Law amended Sections 3217-b and 4325 of the Insurance Law to add a new paragraph (f) to each of those statutes. The amendments broadly discuss the requirement that no contract entered into between an insurer and a health care provider shall be enforceable if it includes terms that transfer financial risk to providers in a manner inconsistent with the provisions of Section 4403(1)(c) of the Public Health Law.

Chapter 586 of the Laws of 1998 gives the Superintendent of Insurance and the Commissioner of Health broad powers to promulgate regulations regarding all aspects of the Law, including provisions that apply to the transfer of financial risk in contracts between an insurer and a health care provider. Based on this grant of authority, a regulation was developed by the Insurance Department, in consultation with the Department of Health, to ensure that contractual arrangements between an insurer and a health care provider were consistent with Section 4403(1)(c) of the Public Health Law.

The regulation establishes minimum requirements by which an insurer, as defined in the regulation, can assess the financial responsibility of a health care provider to ensure that such provider can fulfill its obligations under the financial risk transfer agreement. Previously, there were no regulatory requirements specifically addressing the method by which an insurer could determine the financial responsibility of the health care provider and adequately protect itself and its subscribers against the risk of default by the health care provider to fulfill its obligations under the financial risk transfer agreement.

*The 1st Amendment to Regulation 35-C (11 NYCRR 64-2): Liability Insurance Covering All Terrain Vehicles (Adopted on a permanent basis effective 9/1/01)*

Section 2407 of the Vehicle and Traffic Law requires that all-terrain-vehicles (ATV's) be covered by a policy of liability insurance, which includes no-fault coverage for the pedestrian victims of ATV accidents. This amendment incorporates the applicable no-fault insurance forms into Regulation 68, which was adopted simultaneously.

*The Repeal of Regulation 68 (11 NYCRR 65) and Adoption of the New Regulation 68 (11 NYCRR 65):  
Motor Vehicle Insurance Reparations Act (Adopted on a permanent basis effective 9/1/01)*

Insurance Law Sections 201 and 301 authorize the Superintendent to prescribe regulations interpreting the Insurance Law as well as effectuating any power granted to the superintendent under the Insurance Law, to prescribe forms or otherwise make regulations. Section 2601 prohibits insurers from engaging in unfair claim settlement practices and requires insurers to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies. Section 5221 specifies the duties and obligations of the Motor Vehicle Accident Indemnity Corporation (MVAIC) in the payment of no-fault benefits to qualified persons. Article 51 of the Insurance Law authorizes the superintendent to promulgate simplified procedures for settlement of disputes involving no-fault claims.

Regulation 68 contains provisions implementing Article 51 of the Insurance Law, known as the Comprehensive Motor Vehicle Insurance Reparations Act, popularly referred to as the no-fault law. No-fault insurance was introduced to rectify many problems that were inherent in the existing tort system utilized to settle claims, and to provide for prompt payment of health care and loss of earnings benefits. The no-fault insurance coverage endorsement contained in Regulation 35-C, which is incorporated into Regulation 68 by this revision, implements Section 2407 of the Vehicle and Traffic law, which affords no-fault coverage to the pedestrian victims of ATV accidents.

The Insurance Department is taking this action in order to implement a new regulation which will ensure that the public receives the benefits of reduced fraud and abuse provided by this proposed regulation at the earliest moment and to minimize, to the greatest extent, any disruption and confusion in the handling of no-fault claims. The regulation reduces the time periods from 90 days to 30 days for notice of claim and from 180 days to 45 days for submission of health care claims respectively. The Department recognizes that in rare circumstances, a claimant will not be able to provide notice or a medical provider may not be able to submit a claim within the new time periods. In light of such recognition, the Department has repealed the former requirement that a provider or claimant must show that compliance was impossible in order to file a claim outside of the time requirements, and replaced it with a more flexible "reasonableness" standard that allows additional time for notice or submission of a claim if reasonable justification is provided. The public will benefit from these rules since more timely notices will discourage abusive claims practices and permit insurers to verify claims in a more timely manner while also providing adequate protection for injured persons consistent with the no-fault law. By reducing abusive behavior, insurance costs can be reduced, resulting in lower auto insurance costs for all New York motor vehicle insurance policyholders.

The regulation has also been amended to reflect the transfer of the no-fault conciliation function from the Insurance Department to an organization designated by the Superintendent. By this amendment of the conciliation procedures, rather than diminishing its role in the process, the Department will strengthen its regulatory function with respect to compliance with the no-fault insurance statutes. The Department will continue to monitor conciliation activity, and will identify potential problems by analyzing trends via reports to be generated regularly by the designated organization on all aspects of the conciliation function, such as (but not limited to), provider overcharges, dilatory claims handling by insurers and overutilization of the arbitration system by claimants' representatives. Staff resources will be freed from the functions of file processing and will be in a position to focus on insurer compliance and reduction of the systemic costs of the no-fault insurance program, which should ultimately lead to cost savings to the state's automobile insurance consumers.

Prior to the effective date of this regulation, litigation was commenced in Supreme Court, New York County, challenging the regulation on both substantive and procedural grounds. See *In the Matter of the Application of the Medical Society of the State of New York, et al. v. Serio*. In an opinion dated February 19, 2002, Justice William A. Wetzel issued a decision and judgment that upheld the regulation in its entirety. On February 20, 2002 the Appellate Division, 1st Department, issued an interim stay pending the Appellate Division's determination of petitioner's motion for injunctive relief pending appeal.

*The 1st Amendment to Regulation 111 (11 NYCRR 175): Rules Governing Bona Fide Hedging Transactions, the 1st Amendment to Regulation 142 (11 NYCRR 177): Rules Governing Bona Fide Hedging and Income Enhancement Transactions or Authorized Property/Casualty Insurers and the New Regulation 163 (11 NYCRR 178): Derivative Transactions (All Adopted on a permanent basis effective 10/31/01)*

Chapters 650 and 651 of the Laws of 1998 amended Article 14 of the Insurance Law, effective July 1, 1999 and revised the provisions of the Insurance Law governing derivative transactions and derivative instruments entered into by domestic life, property/casualty, reciprocal, mortgage guaranty, co-operative property/casualty and financial guaranty insurers. Chapter 507 of the Laws of 2000 expanded the authority of those insurers to allow replication transactions. The legislation also included provisions concerning the applicability of the law to certain foreign insurers and to accredited reinsurers. The revisions to Article 14 establish consistent authority to enter into derivative transactions for all the aforementioned insurers. The law provides that the Superintendent shall promulgate regulations for the purposes of applying the provisions of Section 1410.

The regulations define certain terms; establish the content of the derivative use plan; establish effective management oversight standards; require that the insurer establish adequate systems of internal control; establish documentation and reporting requirements; and establish appropriate accounting standards.

Derivative transactions provide insurers with a mechanism to hedge their investments to insure they have the funds to meet policyholder obligations without increasing premiums. The regulations add additional protection for policyholders by requiring carriers to have the proper credentials in place to reduce the risk of financial insolvency. Replication transactions provide an insurer with the ability to create in whole or in part the characteristics of an otherwise authorized investment through the use of derivatives and other cash market instruments. This provides the insurer enhanced liquidity and a more attractive risk reward profile while reducing transaction costs.

*The 3rd Amendment to Regulation 29 (11 NYCRR 20): Fiduciary Responsibility of Insurance Agents and Brokers, Minimum Recordkeeping Requirements (Adopted on a permanent basis effective 11/7/01)*

Insurance Law Sections 2119 and 2120 require that an agent/broker keep records which reasonably demonstrate moneys collected from insureds and that those records demonstrate the portion of those funds that are held on behalf of insurance companies that represent net premiums (premiums paid less commissions earned.) Section 2121 acknowledges that a broker who traditionally represents the insured will, for the collection of premium, be an agent of the insurer who delivers a contract.

This amendment underscores the requirement that insureds payments to Insurance Department licensees must be clearly identified in the agent's or broker's records and that those premiums, when so identified, will be deemed paid to the insurer for the protection of the insured. The regulation clarifies what records are necessary in order to keep the regulated parties in compliance with the law. This will allow the licensee, the company and the consumer to readily resolve questions and complaints without regulatory intervention.

*The New Regulation 169 (11 NYCRR 420): Consumer Information Privacy (Promulgated 11/10/00 as an emergency measure; Effective 11/10/00; Promulgated 2/8/01 as an emergency measure; Effective 2/8/01, Promulgated 4/3/01 as an emergency measure; Effective 4/3/01; Promulgated 5/31/01 as an emergency measure; Effective 5/31/01; Promulgated 7/23/01 as an emergency measure; Effective 7/23/01; Promulgated 9/21/01 as an emergency measure; Effective 9/21/01; Adopted on a permanent basis effective 11/21/01)*

Title V of the Gramm-Leach-Bliley Act ("GLBA"), enacted into law by Congress as P.L. 106-102, required all "financial institutions" (including persons engaged in the insurance business) to comply with the privacy requirements contained therein. Pursuant to Section 505, Title V and regulations prescribed thereunder "shall be enforced... by the applicable State insurance authority..." Failure by a state to establish rules for privacy of consumer and customer financial information precludes the state from overriding the consumer protection regulations prescribed by a Federal banking agency under Section 45(a) of the Federal Deposit Insurance Act.

Section 501 of GLBA states that it "is the policy of the Congress that each financial institution has an affirmative and continuing obligation to respect the privacy of its customers and to protect the security and confidentiality of those customer's nonpublic personal information." The GLBA requires financial institutions to comply with certain obligations regarding disclosure of nonpublic personal information. State insurance authorities retain primary responsibility to regulate the activities of persons engaging in the business of insurance.

The regulation assures that individual consumers and customers will have an opportunity to prevent unwarranted disclosure of non-public personal financial and health information. Absent this regulation, licensees of the Department would remain subject to the provisions of GLBA, but they would not have sufficient guidance to protect them from litigation challenging their attempts at compliance. In addition, consumers would not be adequately protected because the Department would be unable to take action against licensees based upon violations of GLBA's provisions.

### **Emergency Regulations**

The following is a summary of Insurance Department Regulations promulgated on an emergency basis in 2001 that were in effect on December 31, 2001. No final action was taken with regard to these Regulations in 2001, although it is anticipated that they will be permanently adopted in 2002. These brief descriptions of the regulations are intended to provide general information and, therefore, should under no circumstances be used in place of the full text of the regulations or regarded as interpretation of Insurance Department intent or policy.

*The 24th Amendment to Regulation 68 (11 NYCRR 65): Motor Vehicle Insurance Repairs Act (Effective on an emergency basis since 4/3/01)*

Sections 201 and 301 authorize the Superintendent to prescribe regulations interpreting the Insurance Law as well as effectuating any power granted to the Superintendent under the Insurance Law and to prescribe forms or otherwise make regulations. Section 5106 of the Insurance Law authorizes the superintendent to promulgate simplified procedures for settlement of disputes involving no-fault claims.

Regulation 68 contains provisions implementing Article 51 of the Insurance Law, known as the Comprehensive Motor Vehicles Insurance Repairs Act, popularly referred to as the No-Fault Law. No-fault insurance was introduced to rectify many problems that were inherent in the existing tort system utilized to settle claims, and to provide for prompt payment of health care and loss of earnings benefits. The Insurance Department has performed a no-fault conciliation function since 1978 in an effort to provide speedy resolution of disputes while saving costs for the industry, costs that are



ultimately borne by the consumer. Cases that cannot be conciliated are forwarded to American Arbitration Association (AAA), to be resolved.

In recent years there has been a substantial increase in volume of cases to be conciliated (19,380 cases received in 1995 to 42,906 cases received in 1998 and 52,988 cases received in 1999). Consequently, there has been a substantial delay in processing these cases. In order to process these cases expeditiously, the decision was made to transfer this function to a designated organization that is familiar with the Insurance Department statutes and regulations applicable to no-fault insurance. The designated organization should be able to conciliate a greater number of cases on a more expeditious basis, thereby reducing the cost to insurers of proceeding to arbitrations as well as reducing interest payments by insurers on overdue unpaid claims. Currently the Department has designated the AAA as the organization to perform this function.

By this amendment of the conciliation procedures, the Department will strengthen its regulatory function with respect to compliance with the no-fault insurance statutes. The Department will continue to monitor conciliation activity, and will identify potential problems by analyzing trends via reports to be generated regularly by the designated organization on all aspects of the conciliation function, such as (but not limited to), provider overcharges, dilatory claims handling by insurers and over utilization of the arbitration system by claimants' representatives. Staff resources will be freed from the functions of file processing and will be in a position to focus on insurer compliance and reduction of the systemic costs of the no-fault insurance program, which should ultimately lead to cost savings to the state's automobile insurance consumers.

*The 1st Amendment to Regulation 120 (11 NYCRR 33): Managing General Agents (Effective on an emergency basis since 6/8/01)*

Insurance Law Section 308 requires licensees to respond in writing to written inquiries or requests for reports, statements or data made by the Superintendent. Sections 2101, 2102 and 2103 give the Superintendent the authority to license and regulate the activities of agents, brokers and adjusters.

One of the main functions of the Superintendent is to regulate for the financial stability of insurers and to protect the general public and insureds from abuses that may occur. This amendment requires that certain contract provisions, at a minimum, must be included in a written contract between an insurer and a managing general agent ("MGA"). The amendment implements minimum provisions of the National Association of Insurance Commissioners' ("NAIC") model law for MGA's, which has been adopted by several other states. These new provisions will help ensure that an insurer maintains proper supervision over an MGA and does not relinquish its authority, responsibilities and control to an MGA. This will help maintain the insurer's financial stability, thereby safeguarding the interests of both insureds and the general public, and help protect against any other abuses to insureds that may occur when another entity manages the affairs of the insurer. There have been many abuses in the past where MGAs have engaged in activities that proved to be harmful to the insurer and the public.

Section 33.4(c) also clarifies what a manager is for the purposes of the exception contained in Insurance Law 2101(g)(1)(A) from the definition of independent adjuster. While the law provides an exception for a "manager", it does not define the term.

*The 8th Amendment to Regulation 120 (11 NYCRR 125): Credit for Reinsurance from Unauthorized Insurers (Effective on an emergency basis since 9/15/01)*

Insurance Law Sections 1301(a)(14) and (c) give the Superintendent the authority to prescribe, by regulation, the conditions under which a ceding insurer may be allowed credit, as an asset or as a deduction from loss and unearned premium reserves, for reinsurance recoverable from an assuming insurer not authorized in this state.

This amendment implements minimum provisions of the National Association of Insurance Commissioners' ("NAIC") model law relating to "Credit for Reinsurance". By modifying the requirements regarding when ceding insurers can take credit for certain reinsurance contracts, these new provisions will help maintain the insurer's financial stability, thereby safeguarding the interests of both insureds and the general public.

*The 9th Amendment to Regulation 120 (11 NYCRR 125): Credit for Reinsurance from Unauthorized Insurers (Effective on an emergency basis since 11/1/01)*

Insurance Law Sections 1301(a)(14) and (c) give the Superintendent the authority to prescribe, by regulation, the conditions under which a ceding insurer may be allowed credit, as an asset or as a deduction from loss and unearned premium reserves, for reinsurance recoverable from an assuming insurer not authorized in this state.

The regulation provides alien reinsurers with the means whereby they may secure their United States obligations through the establishment of a multi-beneficiary trust. The current regulation requires that funds held in such a trust must be in the form of cash or readily marketable securities. Since this requirement was originally established, the Department has recognized the use of letters of credit as qualifying security in a number of similar trust vehicles. Recently the National Association of Insurance Commissioners' ("NAIC") amended its model regulation relating to "Credit for Reinsurance". Specifically it permits certain alien assuming reinsurers to include, subject to specified conditions, letters of credit in trust funds held for the protection of the United States insurers, and United States beneficiaries under reinsurance policies issued by such alien insurers. Modifying the requirements regarding alien reinsurers funding requirements to permit the use of letters of credit will permit alien reinsurers that use multi-beneficiary trusts to reduce their cost of capital in a manner similar to other methods used by unauthorized reinsurers that use single-beneficiary trusts.

To assure that the marketable securities in the trust funds provide security adequate for the protection of the United States insurers, and United States beneficiaries under reinsurance policies issued by such alien insurers, standards for the quality of the marketable securities held in the trust are being established. These qualitative standards are consistent with those required for the minimum capital and surplus investments and the reserve investments for licensed property and casualty insurers in New York State. Currently, as a condition of accreditation, the alien insurers must stipulate to hold marketable securities in the trust that meet these standards.

*The Repeal of Regulation 147 (11 NYCRR 98) and Adoption of the New Regulation 147 (11 NYCRR 98): Life Insurance Reserve Requirements (Effective on an emergency basis since 11/15/01)*

Section 1304 of the Insurance Law enables the Superintendent to require any additional reserves as necessary on account of policies, certificates and contracts of insurer's authorized to transact life insurance, annuities and Accident and health insurance. Section 1308 of the Insurance Law describes when reinsurance is permitted and the effect that reinsurance will have on reserves.

One major area of focus of the Insurance Law is solvency of insurers doing business in New York. One way the Insurance Law seeks to ensure solvency is through requiring all insurers licensed to do business in New York State to hold reserve funds necessary in relation to the obligations made to policyholders. This regulation is necessary to help ensure the solvency of life insurers doing business in New York. The Insurance Law specifies mortality and interest standards but does not specify an explicit method to be used to value life insurance policies that do not have level premiums and/or level benefits and relies on the superintendent to specify the method. Without this regulation, there would be no standard method for valuing such products. This could result in inadequate reserves for some insurers that would jeopardize the security of policyholder funds.

The new regulation requires that reserves for term products and secondary guarantees on universal life, universal life-type products, and variable life products meet the same standards as reserves for level premium products. The regulation permits the use of new select mortality factors and allows the appointed actuary for a life insurer to apply certain percentages, called X factors, to modify the mortality bases for deficiency reserves which will now give domestic insurance companies and foreign insurance companies licensed to do business in New York State the ability to compete in these markets with companies not so licensed.

*The First Amendment to Regulation 171 (11 NYCRR 362): The Healthy New York Program and Direct Payment Market Stop-Loss Relief Programs (Effective on an emergency basis since 11/19/01)*

The Legislature enacted Chapter 1 of the Laws of 1999 to provide for the Healthy New York Program, which was a new initiative designed to encourage small employers which do not currently provide health insurance coverage to their employees to offer such coverage and also designed to make coverage available to uninsured employees whose employers do not provide group health insurance coverage. In 2001 the Department adopted Regulation 171 to establish certain procedures and requirements necessary for effective implementation of the legislation.

This amendment is necessary to clarify eligibility for the Healthy New York Program and to simplify the application and administrative process for both enrollees and providers. Clarifying which persons are to be considered household members will eliminate the uncertainty involved in determining household income levels. The correct calculation of household income is crucial, as this is a major component in determining eligibility for Healthy New York. A simplified standardized application form will streamline the eligibility and administrative process thereby facilitating enrollment. These provisions should enhance the implementation and operation of the Healthy New York program while improving the efficiency that individuals and small employers will have to access comprehensive health insurance, as the standard application form will be made available from many sources.

*The First Amendment to Regulation 172 (11 NYCRR 420): Financial Statement Filings and Accounting Practices and Procedures (Effective on an emergency basis since 12/28/01)*

The purpose of this Part is to enhance the consistency of the accounting treatment of assets, liabilities, reserves, income and expenses by entities subject hereto, by clearly setting forth the accounting practices and procedures to be followed in completing annual and quarterly financial statements required by law. Pursuant to the Insurance Law, the Superintendent is authorized to implement the National Association of Insurance Commissioners *Accounting Practices and Procedures Manual* ("Accounting Manual"), subject to any provisions in New York Statutes which conflict with particular points in those rules. The Accounting Manual includes a body of accounting guidelines referred to as Statements of Statutory Accounting Principles (SSAPs). The Accounting Manual represents a codification of Statutory Accounting Principles.

This part was originally promulgated in 2001, prior to the National Association of Insurance Commissioners adoption of a new Accounting Manual as of March 2001. The NAIC's instructions to insurers and Public Health Law Article 44 HMOs for completing their 2001 annual statement forms include the following: "The annual statement is to be completed in accordance with the NAIC Annual Statement Instructions and Accounting Practices and Procedures Manual – *version as of March 2001* except to the extent that: (1) state law may differ, or (2) state rules or regulations require differences in reporting. If guidance is not available from those sources, the domiciliary state's insurance regulatory authority should be consulted."

The NAIC's adoption of the new Accounting Manual made amendment of the regulation necessary. Emergency action was required so that the revised accounting principles would be in place for use in the preparation of Quarterly Statements as of March 31, June 30 and September 30, 2001 and for the Annual Statement as of December 31, 2001.

*The 25th Amendment to Regulation 68 (11 NYCRR 65): Motor Vehicle Insurance Reparations Act (Effective on an emergency basis since 12/31/01)*

Insurance Law Sections 201 and 301 authorize the Superintendent to prescribe regulations interpreting the Insurance Law as well as effectuating any power granted to the Superintendent under the Insurance Law and to prescribe forms or otherwise make regulations. Section 2601 enumerates unfair claims settlement practices and the penalties attached thereto. Section 5221 defines the no-fault benefits to be paid to qualified persons by the Motor Vehicle Accident Indemnification Corporation. Article 51 implements the provisions of the Comprehensive Motor Vehicle Insurance Reparations Act.

Regulation 68 contains provisions implementing Article 51 of the Insurance Law, known as the Comprehensive Motor Vehicles Insurance Reparations Act, popularly referred to as the No-Fault Law. No-fault insurance was introduced to rectify many problems that were inherent in the existing tort system utilized to settle claims, and to provide for prompt payment of health care and loss of earnings benefits.

The American Arbitration Association (AAA), as the organization designated by the Superintendent to administer the no-fault arbitration system, is faced with the responsibility for the disposition of a large inventory of cases. Currently, there is an inventory of approximately 94,000 cases. Approximately 30,000 of those cases are pending at the AAA's Conciliation Center. The remainder have been transmitted to the AAA's Insurance Center for an arbitration hearings. In the year 2000, the AAA accepted over 73,000 arbitration requests. It is anticipated that it will accept approximately 80,000 cases in 2001. Increases in the number of arbitration requests have outpaced the ability of the AAA to promptly schedule cases for arbitration. Delays of over 2 years have been reported in the scheduling of some cases.

Over the past several years, the Department has witnessed a dramatic increase in the number of arbitrations requested to resolve disputes involving the payment of No-Fault benefits. Health care providers who have treated accident victims bring over ninety-seven percent of these disputes to arbitration. The result of this increase in arbitration filings has been a significant delay in resolving these disputes. In some instances, it may take over two years to resolve a dispute. Many of these cases are closed due to withdrawal or consent award. It is evident that many of these disputes can be resolved without the need to schedule an arbitration and many other cases contain so little merit that they should not be brought to arbitration at all. The Department has identified arbitration rules that can be improved in order to attain the goal of reducing the number of unnecessary arbitration proceedings and thereby reducing the delays in the scheduling of arbitration hearings.

Those amendments are contained in this rulemaking. It is necessary to establish these rules on an emergency basis in order to establish some controls that will deter applicants from filing unnecessary arbitration requests and to encourage dispute resolution prior to the filing of arbitration requests. Without these controls, arbitration filings will continue to increase and the arbitration program will continue to be unable to meet its goal to provide prompt resolution of disputes.

## V. CIRCULAR LETTERS ISSUED IN 2001\*

<b>NUMBER</b>	<b>DATE</b>	<b>ADDRESSED TO</b>	<b>SUBJECT</b>
1	1/22/01	The Insurance Community of New York State; Other Parties Affected by Insurance Department Circular Letters	Review and Withdrawal of Circular Letters
2	1/26/01	All Insurers and Fraternal Benefit Societies Licensed to Write Life Insurance and Accident and Health Insurance in New York State, Including Article 43 Corporations	Urine Testing for the Human Immunodeficiency Virus
3	1/23/01	All Insurers Authorized to Write Motor Vehicle Insurance	Insurance Information and Enforcement System (IIES) Of The New York State Department of Motor Vehicles
4	2/15/01	All Licensed Fraternal, Life and Accident and Health, Title, Property/Casualty, Reciprocal, Financial Guaranty and Mortgage Guaranty Insurers, Medical Malpractice Insurance Association, Cooperative Property/Casualty Insurers Operating on the Advance Premium Plan, Assessment Cooperative Companies, The State Insurance Fund, United States Branches, Accredited Reinsurers of the Aforementioned Types of Companies, Hospital, Medical, and Dental Service or Indemnity Article 43 Corporations, and Public Health Law Article 44 Health Maintenance Organizations	Electronic Filing via the Internet of National Form (NAIC) and New York Supplement Annual and Quarterly Statements
5	2/1/01	All Licensed life insurers, fraternal benefit societies, charitable and segregated gift annuity societies, employee welfare funds, retirement systems, viatical settlement licensees, governmental variable supplements funds, property/casualty insurers, co-operative property/casualty insurers, financial guaranty insurers, mortgage guaranty insurers, title insurers, reciprocal insurers, accident and health insurers, Article 43 corporations, municipal cooperative health benefit plans, and rate service organizations; State Insurance Fund; Medical Malpractice Insurance Association; New York Property Insurance Underwriting Association; Motor Vehicle Accident Indemnification	Advertisements, Referrals and Solicitations on the Internet

		Corporation; Excess Line Association of New York; registered risk retention groups; service contract providers; Public Health Law Article 44 health maintenance organizations and integrated delivery systems; accredited reinsurers; and licensed insurance agents, brokers, adjusters and consultants	
6	3/12/01	All Licensed Insurance Companies	Fingerprinting of Officers and Directors
7	2/20/01	All Authorized Insurers, Fraternal Benefit Societies, and Health Maintenance Organizations (collectively "licensees")	Report Outlining Policies, Procedures and Controls to Comply with 11 NYCRR 420 (Regulation 169) Regarding Consumer Financial Information
Addendum to Circular Letter No.7 (2001)	4/12/01	All Authorized Insurers, Fraternal Benefit Societies, and Health Maintenance Organizations (collectively "licensees")	Modification in Reporting Requirement of Circular Letter No. 7 Regarding Policies, Procedures and Controls in Place Evidencing Compliance with 11 NYCRR 420 (Regulation 169)
10	4/13/01	All Insurers Authorized to Write Workers' Compensation Insurance in New York State	Proper Method for Collecting And Paying Premium Tax on Workers' Compensation and Employers' Liability Insurance Policies Containing Deductibles
11	5/10/01	All Property/Casualty Insurers Licensed to do Business in New York State	New York State Insurance Disaster Coalition
12	5/10/01	All Property/Casualty Insurance Companies; Co-Operative Property/Casualty Insurance Companies; Reciprocal Insurers; Financial Guaranty Insurance Corporations; and New York Medical Malpractice Plan	Property/Casualty Insurance Security Fund
13	5/10/01	All Insurers and Corporations Subject to Examination by the New York State Insurance Department	Examination Report Protocol
14	5/10/01	Authorized Insurers, Accredited Reinsurers, and Authorized Fraternal Benefit Societies	Adoption by Department of National Association of Insurance Commissioners Statement Blanks and Instructions
15	7/3/01	All Licensed Life Insurance Companies	Searches for Multiple Policies

		and Fraternal Benefit Societies ("Insurers")	Issued to a Single Insured
16	11/1/01	All Insurers Authorized to Write Accident and Health Insurance in New York State Including Article 43 Corporations and HMOs	Additional Information on Implementation of Chapter 728 of the Laws of 1993, Requiring Coverage for Preventive and Primary Care Services
17	8/13/01	All Authorized Insurers (including Alien Insurers Transacting Business in this State through United States Branches) that are Exempt from the Provisions of Article 15 of the New York Insurance Law (Holding Companies)	Holding Company System Annual Registration Statements Filed with other States and Reporting of Planned Transactions
18	8/13/01	All Domestic Insurers Subject to Article 16 of the New York Insurance law	Investments in Companies Where a Domestic Insurer Owns Ten Percent or More of the Voting Shares of Such Companies
20	8/13/01	The Insurance Community of New York State; Other Parties Affected by Insurance Department Circular Letters	Withdrawal of Circular Letter No. 18 (1980) and Circular Letter No. 4 (1983)
21	8/8/01	All Insurers Licensed to Write Automobile Insurance in New York State	Cancellation and Nonrenewable Provisions Pertaining to Personal Private Passenger Automobile Policies, Pursuant to the Expiration of Portions of Insurance Law Section 3425; Restoration of Prior Approval of Policy Rates
22	8/17/01	All Property/Casualty Insurance Companies and Reciprocal Insurers Authorized to Write Workers' Compensation Insurance	Workers' Compensation Security Fund
23	8/27/01	All Insurers Licensed to Write Accident and Health Insurance, Insurance Law Article 43 Corporations and Public Health Law Article 44 Health Maintenance Organizations ("Insurers")	Claims for Chiropractic Services
24	8/31/01	All Motor Vehicle Self-insurers and Insurers Licensed to Write Motor Vehicle Insurance in New York State	Insurance Department Regulation 68 Lawsuit

25	9/5/01	All Motor Vehicle Self-insurers and Insurers Licensed to Write Motor Vehicle Insurance in New York State	Insurance Department Regulation 68 Lawsuit
26	9/12/01	All Authorized Insurers	Claims Handling and Cancellation/Non-Renewal of Policies in the New York Metropolitan Area
Supplement 1 to CL No. 21 (2001)	9/20/01	All Insurers Licensed to Write Private Passenger Automobile Insurance In New York State	Section 2349 (Multi-tiering) and Sunset of Portions of Section 3425
28	9/24/01	All licensed life insurers, fraternal benefit societies, employee welfare funds, retirement systems, governmental supplemental annuity funds, and reinsurers (Insurers)	Use of Affidavit in Lieu of a Death Certificate with Respect to Life Insurance Claims Arising Out of the September 11 Disasters.
29	9/22/01	All Insurers Authorized to Write Accident and Health Insurance in New York State, Including Article 43 Corporations and Health Maintenance Organizations	NY Insur. Law Protections for Members of the Reserves Called to Active Duty
30	10/5/01	All Licensed Property/Casualty Insurance Companies, Reinsurance Companies, Financial Guaranty, Mortgage Guaranty and Title Insurers	Extension of Time for Execution of Certain Reinsurance Agreements due to September 11
31	10/16/01	All Licensees	Circular Letter No. 31 (2001) – Executive Order Blocking Property and Prohibiting Transactions with Persons Who Permit, Threaten to Commit, or Support Terrorism
32	10/19/01	All Licensed Property/Casualty Insurance Companies And Insurance Producer Organizations	2001 Insurance Availability Survey and Annual Free Trade Zone Survey
34	11/30/01	All Insurers Licensed to Write Accident and Health Insurance in New York State, Including Article 43 Corporations	Group Policy Forms for Long Term Care Insurance, Nursing and Home Care Insurance, Nursing Home Insurance Only & Home Care Insurance Only
36	12/31/01	All Motor Vehicle Self-insurers and Insurers Licensed to Write Motor Vehicle Liability Insurance in NYS	No-Fault Arbitration Reform & Submission of Action Plan for NF Conciliation and Arbitration

\*Circular Letters No. 8, 33 and 35 were not issued in 2001. Circular Letter No. 27 was later issued as Circular Letter No. 32 (2001) and Circular Letter No. 9 was issued in 2002 as Circular Letter No. 1 (2002).



## VI. MAJOR LITIGATION

### ***Medical Society of the State of New York, et al. v. Serio***

Supreme Court, New York County  
Appellate Division, First Department

This is a combined declaratory judgment and Article 78 proceeding challenging the most recent amendments to Department Regulation 68 (11 NYCRR Part 65) implementing the No-Fault law (Article 51 of the Insurance Law). The new amendments were promulgated following the nullification of prior amendments to Regulation 68 in *Medical Society of State of N.Y. v. Levin*, 185 Misc.2d 536 (Sup. Ct. N.Y. Co. 2000), *aff'd*, 280 A.D.2d 309 (1st Dept. 2001) for failure to comply with SAPA. In this proceeding the petitioners again contend that the new amendments -- which were to become effective on September 1, 2001, but were stayed by the court pending determination of the proceeding -- were issued in violation of SAPA and are inconsistent with Article 51 of the Insurance Law.

On February 19, 2002, the Supreme Court (Justice William A. Wetzel) issued a decision and judgment upholding the amended Regulation 68 in its entirety. The court noted that the Department "went back to the drawing board" after the prior version of the regulation had been invalidated, and properly addressed all SAPA deficiencies. The court also rejected all of the substantive challenges to the regulation, finding that the Superintendent did not exceed his statutory authority in promulgating the amendments. Noting that the No-Fault system "is diseased by fraud of a dimension which threatens the economic viability of the program" the court concluded "It is well within the authority of respondent Superintendent to promulgate new regulations to remedy this universally acknowledged problem."

On February 20, 2002, the petitioners filed a notice of appeal and a motion to enjoin enforcement of the amended Regulation 68 pending the appeal. An interim stay was granted by Justice David B. Saxe pending determination of the motion by the Appellate Division. The stay was subsequently lifted and at press time, the revised regulation had been in effect since April 5, 2002 in accordance with Justice Wetzel's February 19 decision.

### ***Healthcare Association of New York State, et al. v. Serio***

Supreme Court, Albany County

This is an Article 78 proceeding challenging various provisions of Department Regulation 166, 11 NYCRR Part 410, and the companion Health Department Regulation, 10 NYCRR Subpart 98-2, which implement the External Appeal Law, Title II of Article 49 of the Insurance Law and of the Public Health Law. Specifically, the petitioners challenged the regulatory definitions of "retrospective adverse determination" and "designee;" the regulatory requirement that the patient sign a consent to the release of medical records where an external appeal is filed by a health care provider; and the regulatory requirement that for external appeals involving clinical trials, the attending physician attest that the clinical trial is open to the insured and the insured has been or will likely be accepted into the trial. The petitioners also contended that the Regulations were issued in violation of SAPA, and challenged language on the external appeal application form which indicates that the attending physician who certified the need for an expedited appeal must be board-certified or board-eligible.

In a Decision and Order dated February 8, 2002, the court (Justice Joseph C. Teresi) granted the petition in part, declaring the definition of "designee" null and void. The court also directed that the external appeal request form be corrected to delete the reference to board-certified or board-eligible. The court otherwise found that the regulations were properly promulgated under SAPA, and denied all other relief requested by the petitioners.

**Allstate Insurance Co. v. Serio**  
**Government Employees Insurance Co., et al. v. Serio**  
United States Court of Appeals for the Second Circuit  
New York Court of Appeals

These actions, filed by property and casualty insurers, challenge the Department's interpretation and enforcement of Section 2610(b) of the Insurance Law, which prohibits insurers from recommending or suggesting that repairs to motor vehicles be made in particular repair shops unless the insured expressly requests such a recommendation.

On May 4, 2000, the District Court (Richard Conway Casey, U.S.D.J.) granted summary judgment to the plaintiffs, and ruled that Section 2610(b), as applied to Allstate and GEICO, impermissibly restricted commercial free speech in violation of the United States and New York State Constitutions.

In response to this decision, on May 10, 2000, the Department issued Circular Letter No. 16 (2000), which states that "it is clear from the decision that the First Amendment protection of commercial free speech would extend to . . . insurers that were not parties to the . . . actions" and that "attempts by the Department to enforce . . . section 2610(b) run afoul of First Amendment protections." The Circular Letter goes on to state that insurers are therefore "free to recommend or suggest that repairs to a damaged vehicle be made in particular places or repair shops regardless of whether the insured expressly requested such recommendations."

The Attorney General, acting pursuant to his statutory role in defending the constitutionality of state statutes, filed an appeal from the decision of the District Court to the U.S. Court of Appeals for the Second Circuit. In an opinion issued July 23, 2001, the court certified four questions to the New York Court of Appeals, requesting that court to interpret Section 2610(b) under state law and the New York State Constitution. On September 20, 2001, the New York Court of Appeals accepted the certification.

**First United American Life Ins. Co. v. Levin**  
Supreme Court, New York County

This is an Article 78 Proceeding in which the petitioner sought a judgment overturning a Department directive that petitioner contribute to market stabilization pools established pursuant to Section 3233 of the Insurance Law and Department Regulation 146, 11 NYCRR Part 361. The Department moved to dismiss the proceeding on the ground that the directive was issued in April 1996, and is therefore time-barred under the four-month statute of limitations for Article 78 Proceedings.

In a Decision and Order issued January 4, 2001, the court (Justice Louise Gruner Gans) granted the Department's motion and dismissed the petition. Subsequently, the petitioner filed a notice of appeal and a motion to reargue.

**Joseph M. Belth v. New York State Department of Insurance**  
Supreme Court, New York County

On December 4, 2000, Joseph Belth, publisher of a monthly newsletter, *The Insurance Forum*, brought an Article 78 petition challenging the Department's determination that certain names be redacted from Schedule G of the New York Supplement to the Annual Statement on the grounds that such disclosure would be an "unwarranted invasion of personal privacy" under the New York Freedom of Information Law (FOIL), N.Y. Pub. Off. Law, Art. 6.

Mr. Belth had requested, pursuant to FOIL, the Schedule G for each life insurance company doing business in the New York State for the year ended December 31, 1999. The Department determined that, pursuant to FOIL, the names of the employees listed on Schedule G must be redacted except for the names of the directors, the trustees and three senior officers, to prevent an "unwarranted invasion

of personal privacy” under FOIL. The Life Insurance Council of New York moved to intervene as a respondent on February 15, 2001, on the grounds that it is an interested party under CPLR §7802(d).

On September 28, 2001, the court (Justice Nicholas Figueroa) ruled that releasing the names and salaries of insurance company employees earning in excess of \$600,000 yearly does not constitute an unwarranted invasion of privacy in violation of Section 89(2)(6) of the Public Officers Law. The Department was therefore ordered to release the requested information.

***United Policyholders v. Serio***

Supreme Court, New York County

This is an Article 78 Proceeding challenging the Department’s refusal to release, under FOIL, an unredacted copy of a memorandum written by a Department attorney to another Department staff member. The Department refused to release the redacted portions of the memorandum on the basis of attorney-client privilege and intra-agency deliberative privilege.

In an Order and Judgment issued September 21, 2001, the court (Justice Paula J. Omansky) upheld the Department’s determination and dismissed the petition. The court held that the redacted material was exempt from disclosure under Sections 87(2)(a) and 87(2)(g) of the Public Officers Law. The petitioner has filed a notice of appeal.

## VII. 2001 Legislative Recommendations

*These are the legislative recommendations that were available at press time. Additional recommendations may be submitted throughout the year.*

### Governor's Program Bills for 2001

#### 1. Miscellaneous Regulatory Improvements: Program Bill No. 39

To make a number of amendments of the Insurance Law that address miscellaneous regulatory issues, including proposals to:

-- amend Article 66 to increase the authority of cooperative P/C insurers to invest in certificates of deposit;

-- amend Section 1320 to impose a \$500,000 minimum deposit requirement on licensed alien insurers that do two or more lines of insurance, which is the same minimum that presently applies to alien insurers authorized to do only one kind of insurance;

-- amend Section 1110 to expand the authority of charitable annuity societies to make or issue annuity contracts without having to have first obtained a special permit, by increasing the reserves threshold from \$80,000 to \$500,000;

-- amend Section 7907(a)(6) to eliminate the requirement that service contract providers include with their registration applications to the Insurance Department, copies of each form of service contract they propose to use in New York State;

-- amend Section 3211 regarding authorization for a senior citizen insured under a long-term care policy to designate a third party to receive premium notices;

-- amend Section 1112 to change the calculation of the amount of estimated tax payments by insurers subject to retaliatory taxes;

-- amend Section 2324 and Section 4224 to prohibit the inclusion of certain goods and services in the sale of certain insurance policies without the insured's informed consent, and to provide an enhanced penalty for violation of such provisions;

-- amend Section 3201(c) to permit the Insurance Department to approve long-term care policy forms for general use rather than on a case by case basis;

-- amend Section 1113(a)(28) to include indemnity insurance to benefit service contract providers;

-- amend Section 4230 to eliminate the prohibition on employment contracts between a domestic life insurance company and its officers/salaried employees which currently cannot exceed 36 months in duration; and

-- amend Section 4233 to revise information required to be reported regarding salaries for life insurers filing annual statement forms.

The need for the amendment to Section 6623 was occasioned by a 1992 amendment of Section 1409(a). When Section 1409(a) was amended by Chapter 324 of the Laws of 1992 (effective January 1, 1993), some small assessment corporations were forced to reduce their Certificates of Deposit in local banks to 10% of admitted assets. As these companies are located in rural areas, their investment/banking opportunities were thus significantly decreased by the 1992 amendment. The

amendment of Section 6623 proposed in Section 1 of the bill will make it easier for assessment corporations to comply with investment statutes; improve their investment yields as interest rates tend to be higher on larger investments; decrease their investment costs as larger investments result in fewer transactions; and increase their local investment/banking opportunities.

The current Section 1320(a)(2) requirement of a minimum deposit from a licensed alien insurer doing two or more kinds of insurance, of the lesser of the capital to be maintained by a domestic stock insurer licensed to do the same kinds of insurance or \$1 million, may result in a deposit amount below the \$500,000 minimum amount required by Section 1320(a)(1) for a alien insurer licensed to do only one kind of insurance in this State. The amendment in Section 2 of the bill will correct that anomaly.

The current \$80,000 threshold in Section 1110(d) for reserves of a charitable annuity society was adopted nearly fifty years ago, and in view of the inflation that has taken place over the last fifty years this amount appears unrealistic. The change proposed in Section 3 of the bill to \$500,000 would exempt the smaller charitable annuity societies from the expenses of examination and annual statement filing.

The Department is not required to review or approve service contract forms, although the requirement in Section 7907 that the forms be filed with the Department (eliminated by Section 4 of the bill) might be misconstrued as a Department sanction similar to the approval of policy forms filed by insurance companies. A significant number of Service Contractor Registration applications must be returned because of the applicant's failure to submit all of the forms listed on its application, delaying the issuance of Registrations and increasing the time and resources required to be devoted to these applications. Should a complaint arise regarding contract compliance by a Service Contract provider registered with the Department, a copy of the contract could be obtained from the registered provider and the customer.

The proposed provisions in Section 3111 (added by Section 5 of the bill) regarding long-term care policies are patterned after existing provisions which similarly protect senior citizens insured under other types of policies. The amendment of Section 1112(a) which is proposed by Section 6 of the bill would have the effect of reducing the large number of instances in which insurers are presently required to pay large estimated tax payments of retaliatory taxes, only to later receive refunds of overpayments. The new calculation would avoid many of these overpayments.

The amendments proposed in Sections 7 through 10 of the bill address the Department's most recent experience with the sale of products and services coupled with insurance products. The level of complaints indicates that this activity warrants enhanced penalties.

Section 11 of the bill repeals paragraph 11 of Section 3201(c) (and Section 12 makes conforming amendments), concerning the requirement of approval of a long term care policy for a specifically identified policyholder. Section 3201(c)(11) was added by Chapter 689 of the Laws of 1989 as part of the Life Care Community legislation. The concept of the 1989 legislation was that by requiring single case approvals, the Department could monitor proposed policyholders to prevent entities that might seek to emulate life care communities and avoid the requirements of the legislation through the purchase of long term care insurance. Legislative amendments to the Life Care Community legislation which have been enacted since 1989, such as recognition of Life Care Communities and Continuing Care Retirement Communities as eligible group policyholders, have reduced the need to review such policyholders on a case by case basis. Repeal of Section 3201(c)(11) would place long term care policies on the same footing as other types of group accident and health insurance which can be issued to any group recognized under Section 4235(c)(1) once the policy forms are approved. Repeal of Section 3201(c)(11) would also remove the burden imposed upon both licensees and the Department to review and extend one case approvals each and every time an insurer seeks to issue group long term care insurance to a new policyholder.

By expanding the scope of service contract reimbursement insurance under Section 1113(a)(28) to include the indemnification for service contract providers, such persons will be able to protect themselves against losses arising from service contracts which they insured.

With respect to the amendment of Section 4230 by Section 14 of the bill, the current legislation to restrict employment contracts originated as part of old Section 214, dating back to 1909. Old Section 214 imposed numerous restrictions on compensation to officers and employees of life insurance companies. Many of these restrictions have been repealed and there appears to be no reason at this time to maintain this remaining restriction.

The provisions of Section 4233(b) regarding reporting of salaries go back many years without any significant revision. The bill updates certain salary amounts to take cognizance of the effect of inflation.

*Senate Bill 3769 (Sen. Seward); Assembly Bill 7892 (Assem.. Grannis)*

## **2. Make NYPIUA Permanent; Program Bill No. 13**

This bill would repeal Sections 5411 and 5412(g) of the Insurance law, thereby making New York Property Insurance Underwriting Association (NYPIUA) permanent. The bill would also make permanent certain provisions which were included in Chapter 42 of the Laws of 1996 and which currently have an April 30, 1999 expiration date (Section 2351 and Section 3425(o) and (n)).

Sections 1 and 2 of the bill repeal Sections 5411 and 5412(g) of the Insurance law, thereby making NYPIUA permanent.

Section 3 makes permanent certain provisions of Chapter 42 of the Laws of 1996. The provisions are Section 2351 (pertaining to multi-tier programs for homeowners' insurance policies) and amendments to Section 3425 (subsections (o) and (n) pertaining to withdrawal from the homeowners' insurance market) which would otherwise expire on April 30, 1999. Section 3 also makes a conforming amendment to reflect the permanent status of NYPIUA (as proposed in Sections 1 and 2 of the bill).

Section 4 repeals Section 12 of chapter 42 of the Laws of 1996, which created the Temporary Panel on Homeowners' Insurance Coverage.

Sections 5411 and 5412(g) of the Insurance Law set forth an April 30, 1999 expiration date for Article 54 pertaining to NYPIUA and the standby powers of the Association.

Section 2351 and Section 3425(o) of the Insurance Law have an April 30, 1999 expiration date.

Section 12 of Chapter 42 of the Laws of 1996 created a Temporary Panel on Homeowners' Insurance Coverage.

NYPIUA, a joint underwriting association made up of insurers writing property insurance in New York, affords the following coverages to commercial and residential policyholders unable to obtain such coverage in the voluntary market: Fire and extended coverage (such as windstorm); vandalism and malicious mischief; sprinkler leakage; loss of rent; and business interruption insurance. Rates are generally 20%, 30% or 40% higher (according to class of business) than voluntary rates.

The continuation of NYPIUA is important to continue its original purpose of orderly community development in inner-city areas by providing the needed property insurance protection for dwellings and business concerns, and in continuing its stand-by authority to write in several commercial markets. The insurance provided by the Association, therefore, assists in attracting the investment of private capital in such areas and helps prevent economic deterioration.

Chapter 220 of the Laws of 1986 added a new Section 5412 to the Insurance Law and granted standby powers to the Association to write commercial risk insurance, public entity insurance, and professional liability insurance. The Association will write these coverages only if the Superintendent determines, after a public hearing, that it is necessary due to the unavailability of meaningful coverage in a particular voluntary market. If meaningful insurance coverage thereafter becomes readily available in the voluntary marketplace, the Superintendent is empowered to direct the Association to suspend writing such business. However, the Superintendent has never deemed it necessary to invoke these additional powers under Section 5412. Insurance market conditions in New York State have improved partly as a result of legislative and regulatory efforts and partly as a result of cyclical progressions in the insurance marketplace. Yet because of the specter of past market cycles, the Insurance Department must be able to effectively deal with restrictive market conditions as they arise. The existence of the Superintendent's authority to invoke NYPIUA aids substantially in accomplishing this result.

The continuation of NYPIUA is also critical as it is now also serving to provide coverage in New York's coastal areas. Over the past several years, NYPIUA increased the number of fire insurance policies it issues to coastal homeowners because these residents were unable to obtain needed homeowners' insurance. It should be noted that while NYPIUA has the power to assess members, the process is, by nature, slow, in that it is not geared toward the immediacy of response that may arise out of a catastrophic situation. NYPIUA should have the ability to draw on resources such as letters of credit, or a line of credit in such instances. However, its limited life span precludes the entity from establishing that credit base. This magnifies the need to make NYPIUA a permanent entity.

Chapter 42 of the Laws of 1996 also added Section 2351 to the Insurance Law, permitting insurers to have multi-tiered programs for homeowners' insurance. It amended Section 3425(o) of the Insurance Law to require a homeowners' insurer that intends to materially reduce the volume of such policies it issues in New York, as specified in the statute, to file a plan with the Department (for approval), at least 60 days in advance. It further requires that the plan must evidence that the withdrawal will be done in a manner which will minimize market disruption.

The legislation also amended Section 3425(n) to require that where an insurer materially reduces its volume of homeowners' policies issued in New York, commissions shall be payable for an additional year beyond the required policy. These mechanisms were created to enhance the availability of homeowners' insurance in New York, and to address the problems faced in attempting to properly insure structures in coastal areas. All of these provisions are due to expire on April 30, 1999. These measures have proven to be useful and should be made permanent.

The Temporary Panel on Homeowners' Insurance Coverage has been in existence since 1996 and produced a number of special reports for the Governor and the Legislature, the most recent of which was issued in May 2000.

*Bill was signed by Governor Pataki (Chapter 25 of the Laws of 2001)*

## VIII. Regulatory Activities

### A. OPERATING STATISTICS

#### 1. Licenses Issued During Year

**Table 59**  
**LICENSES ISSUED DURING YEAR**  
**2000 and 2001**

	<b>2001</b>	<b>2000</b>
<b>Total</b> .....	<b>124,350</b>	<b>76,193</b>
<b>Adjusters<sup>a</sup></b>		
Independent.....	3,981	1,259
Public.....	242	139
<b>Agents<sup>b</sup></b>		
Life/Accident and Health.....	107,466	16,346
Property and Casualty.....	7,375	28,003
Rental Vehicle.....	13	47
Mortgage Guaranty Insurance.....	2	0
Bail Bond.....	82	8
Limited Lines <sup>c</sup> .....	0	22
<b>Brokers<sup>d</sup></b>		
Life.....	95	0
Property and Casualty.....	4,536	29,384
Excess Line (Regular).....	177	376
Excess Line (Limited).....	16	16
Viatical Settlement.....	13	13
<b>Consultants<sup>e</sup></b>		
Life.....	172	17
General.....	44	319
<b>Reinsurance Intermediaries<sup>f</sup></b> .....	<b>23</b>	<b>216</b>
<b>Service Contract Registrants<sup>g</sup></b> .....	<b>113</b>	<b>28</b>

**Note:** Footnotes to table appear on next page



**Footnotes to Table 60**

<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 and Health Agent licenses issued pursuant to Section 2103(a) 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>Limited Lines licenses – Effective January 1, 1987, licenses were issued to agents of assessment co-operative property/casualty companies enabling them to sell only coverage written by such companies. These licenses are renewable biennially as of July 1 of even numbered years.

<sup>d</sup>Life Broker licenses issued pursuant to Section 2104(b)(1)(A) are renewable biennially as follows:

- Issued between 3/01 and 6/30, expiration on 2/28 of odd years; issued between 7/01 and 10/31, expiration on 6/30 of odd years; issued between 11/01 and 2/28(9), expiration on 10/31 of odd years. Property and Casualty Broker licenses issued pursuant to Section 2104 and Excess Line Broker licenses issued pursuant to Section 2105 are renewable biennially as of November 1 of even numbered years.
- Limited Excess Line Brokers are licensed to deal only with purchasing groups as defined in Regulation 134.
- Viatical Settlement Broker licenses issued pursuant to Section 7802 are renewable annually as of December 1.
- 

<sup>e</sup>Consultant licenses issued pursuant to Section 2107 are renewable on a biennial basis, Life Consultants as of April 1 of odd numbered years and General Consultants as of April 1 of even numbered years.

<sup>f</sup>Reinsurance Intermediary licenses issued pursuant to Section 2106 are renewable biennially as of September 1 of even numbered years.

<sup>g</sup>Service Contract Registrations issued pursuant to Section 9707 are renewable biennially as of March 1 of odd numbered years.

2. Results of Examinations for Licenses

**Table 60**  
**RESULTS OF EXAMINATIONS FOR LICENSES**  
**Adjusters, Agents, Brokers and Consultants**  
**2000 and 2001**

<u>Type of Examination</u>	<u>2001</u>		<u>2000</u>	
	<u>Number Taking Examination</u>	<u>Percent Passing</u>	<u>Number Taking Examination</u>	<u>Percent Passing</u>
<b>Total</b>	<b>41,203</b>	<b>52%</b>	<b>39,071</b>	<b>50%</b>
<b>Public Adjusters</b> .....	62	34	35	26
<b>Independent Adjusters - Total</b> ....	2,833	69	1,661	57
Accident and Health.....	140	51	86	63
Automobile.....	345	48	259	57
Aviation.....	0	0	1	100
Casualty.....	515	51	454	43
Fidelity and Surety.....	12	58	4	100
Fire.....	52	38	94	38
General (All Lines).....	382	54	349	45
Health Service Charges.....	49	57	35	31
Inland Marine.....	17	18	5	20
Limited Auto (Damage or Theft Appraisals only).....	1,321	91	374	92
<b>Agents - Total</b> .....	36,272	50	35,416	50
Accident and Health.....	16,706	46	16,134	46
Life.....	17,875	53	16,982	52
Mortgage Guaranty.....	4	50	9	44
Property and Casualty.....	1,655	57	2,269	60
Bail Bond.....	32	31	22	73
Credit.....	0	0	0	0
<b>Brokers</b> .....	2,036	58	1,959	58
<b>Consultants - Total</b> .....	0	0	0	0
Life.....	0	0	0	0
General.....	0	0	0	0

### 3. Changes in Authorized Insurers During 2001

#### a. Life Insurance Companies

##### Domestic Company Incorporated

American Equity Investment Life Insurance Company of New York,  
Nassau County, NY ..... Mar. 1

##### Domestic Companies Licensed

Zurich Kemper Life Insurance Company of New York,  
New York, NY ..... Jan. 8

American Equity Investment Life Insurance Company of New York,  
Lake Success, NY ..... June 5

##### Foreign Companies Licensed

Berkshire Life Insurance Company of America,  
Pittsfield, MA ..... June 27

CNA Group Life Assurance Company,  
Chicago, IL ..... Dec. 31

##### Restated Charter

Keyport Benefit Life Insurance Company,  
Purchase, NY ..... Dec. 26

##### Amendments to Charter

Bankers American Life Assurance Company,  
Syracuse, NY ..... Feb. 21

First Cova Life Insurance Company,  
New York, NY ..... Feb. 26

First MetLife Investors Insurance Company,  
New York, NY ..... Apr 30

American General Life Insurance Company of New York,  
Syracuse, NY ..... May 4

United States Life Insurance Company in the City of New York,  
New York, NY ..... May 4

First UNUM Life Insurance Company,  
Tarrytown, NY ..... Sept. 13

United States Life Insurance Company in the City of New York,  
New York, NY ..... Nov. 13

Metropolitan Life Insurance Company,  
New York, NY ..... Nov. 27

##### Restated Charters

Columbian Family Life Insurance Company,  
Binghamton, NY ..... Dec. 21

New York Life Insurance Company,  
New York, NY ..... Dec. 24

##### Changes of Name

“Phoenix American Life Insurance Company” to  
“GE Group Life Assurance Company,”  
Hartford, CT ..... Jan. 1

“First Cova Life Insurance Company” to “First Metlife  
Investors Insurance Company,”  
New York, NY ..... Feb. 26

“Life Reassurance Corporation of America” to  
“Swiss Re Life & Health America Inc.,”  
Stamford, CT ..... June 11

“Phoenix Home Life Mutual Insurance Company” to “Phoenix  
Life Insurance Company”, East Greenbush, NY ..... June 25

##### Merger Agreements Filed

Bankers American Life Assurance Company, of Syracuse, NY into  
First Fortis Life Insurance Company,  
Syracuse, NY ..... Nov. 2

Berkshire Life Insurance Company, of Pittsfield, MA into  
Guardian Life Insurance Company of America,  
New York, NY..... June 28

**Conversion**

Phoenix Home Life Mutual Insurance Company from  
mutual company to a stock company,  
East Greenbush, NY..... June 25

**b. Accident and Health Insurance Companies**

**Domestic Companies Licensed**

MVP Health Insurance Company,  
Schenectady, NY..... June 6

Healthplex Insurance Company,  
Uniondale, NY..... Oct. 1

**Merger**

Medical Liability Mutual Insurance Company  
into Healthcare Underwriters Mutual Insurance Company  
New York, NY..... July 13

**Changes of Name**

“Massachusetts Casualty Insurance Company” to “Centre  
Life Insurance Company,”  
Boston, MA..... Dec. 14

“Physicians Health Services Insurance of New York, Inc.” to  
“Health Net Insurance of New York, Inc.,”  
White Plains, NY..... Dec 17

**Conversion**

Massachusetts Casualty Insurance Company,  
Boston, MA  
from an accident and health company to a life company..... Dec 14

**c. Property and Casualty Insurance Companies**

**Domestic Companies Incorporated**

Sumitomo Marine & Fire Insurance Company of America,  
New York County, NY..... Mar. 29

Sompo Japan Fire & Marine Insurance Company of America,  
New York County, NY..... Dec. 21

**Domestic Companies Licensed**

American Horizon Insurance Company of New York,  
New York, NY..... Jan. 18

NIPPONKOA Insurance Company of America,  
New York, NY..... Mar. 31

A Central Insurance Company,  
Edmeston, NY..... Apr. 17

Sumitomo Marine & Fire Insurance Company of America,  
New York, NY..... Sept. 28

**Foreign Companies Licensed**

Progressive Preferred Insurance Company,  
Mayfield Village, OH..... Jan 30

Progressive Home Insurance Company  
Memphis, TN..... Feb. 9

Progressive Max Insurance Company,  
Mayfield Village, OH..... Feb. 9

Allstate Property and Casualty Insurance Company,  
Northbrook, IL ..... Feb. 28

Unitrin Direct Insurance Company,  
Bloomington, IL..... Mar. 16

The Service Insurance Company, Inc.,  
West Orange, NJ..... Mar. 22

Indiana Lumbermens Mutual Insurance Company, Indianapolis, IN.....	Apr. 12
Caterpillar Insurance Company. Jefferson City, MO .....	July 9
GMAC Insurance Company Online, Inc., Hazelwood, MO .....	July 12
Western Select Insurance Company Los Angeles, CA.....	July 20
Courtesy Insurance Company Deerfield Park, FL.....	Oct. 4
American Surety and Casualty Company, Jacksonville, FL.....	Oct. 26
EBI Indemnity Company, Farmington, CT .....	Nov. 7
EastGuard Insurance Company, Wilkes Barre, PA.....	Nov. 13
Monumental General Casualty Company Baltimore, MD.....	Dec. 4
Minnesota Lawyers Mutual Insurance Company, Minneapolis, MN.....	Dec 13
BancInsure, Inc., Oklahoma City, OK.....	Dec 24
R.V.I. America Insurance Company, Stamford, CT.....	Dec. 24
<b>Amendment to Charters</b>	
NAC Reinsurance Corporation, New York, NY.....	Jan. 9
XL Capital Assurance Inc., New York, NY.....	Feb. 20
Mastercare Insurance Company of New York, New York, NY .....	Mar. 15
Seneca Insurance Company, New York, NY .....	Mar. 21
Agway Insurance Company, DeWitt, NY.....	Mar 29
AXA Nordstern Art Insurance Corp., New York, NY.....	Apr. 2
New York Casualty Insurance Company, Watertown, NY.....	May 11
CGU Insurance Company of New York, Melville, NY.....	June 9
GA Insurance Company of New York, Melville, NY.....	June 9
Mastercare Insurance Company of New York, New York, NY.....	Aug. 7
Westchester Fire Insurance Company , New York, NY.....	Sept. 7
CGU Insurance Company of New York, Melville, NY.....	Sept. 14
GA Insurance Company of New York, Melville, NY.....	Sept. 14
Assurance Company of America, New York, NY.....	Oct. 1
American Home Assurance Company, New York, NY.....	Oct. 24
Axa Corporate Solutions Insurance Company, New York, NY.....	Dec. 27
National Continental Insurance Company, Hauppauge NY.....	Dec. 27

**Changes in Capital**

XL Capital Assurance Inc., New York, NY (from \$5,000,000 to \$15,000,000).....	Feb. 20
Mastercare Insurance Company of New York, New York, NY (from \$200,158 to \$700,000).....	Mar. 15
SUECA Insurance Company Nanuet, NY (from \$3,755,500 to \$4,843,000).....	Mar. 1
National Continental Insurance Company, Hauppauge, NY (from \$7,912,500 to \$6,928,900).....	Dec. 27

**Restated Charter**

Healthcare Underwriters Mutual Insurance Company, New York, NY.....	July 13
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**Changes of Name**

“NAC Reinsurance Corporation” to “XL Reinsurance America.” New York, NY.....	Jan. 9
“London Assurance Company of America” to “XL Capital Assurance Inc.” New York, NY.....	Feb. 2
“Baltica Skandinavia Reinsurance Company” to “ICM Insurance Company,” New York, NY.....	Feb. 7
“American Surety and Casualty Company” to “Encompass Indemnity Company,” Jacksonville, FL.....	Feb.12
“Halcyon Insurance Company” to “Progressive Halcyon Insurance Company,” Mayfield Village, OH.....	Feb. 21
“Allegiance Insurance Company” to “Horace Mann Property & Casualty Insurance Company,” Ontario, CA.....	Mar. 26
“The Nippon Fire & Marine Insurance Company, Limited” to “NIPPONKOA Insurance Company, Limited,” Japan (US Branch – New York, NY).....	Apr. 1
“AXA Nordstern Art Insurance Corp.” to “AXA Art Insurance Corporation,” New York, NY.....	Apr. 2
“Utilities Mutual Insurance Company” to “UMI Insurance Company,” North Syracuse, NY.....	May 3
“Waterford Insurance Company” to “Nationwide Affinity Insurance” Company of America,” Overland Park, KS.....	May 10
“New York Casualty Insurance Company” to “Harleysville Insurance Company of New York,” Watertown, NY.....	May 11
“Chrysler Insurance Company” to “DaimlerChrysler Insurance Company,” Southfield, MI.....	June 30
“Hallmark Insurance Company Inc.” to “United National Specialty Insurance Company,” Milwaukee, WI.....	July 1
“Healthcare Underwriters Mutual Insurance Company” to “Medical Liability Mutual Insurance Company,” New York, NY.....	July 13
“MasterCare Insurance Company of New York” to “Unitrin Direct Advantage Insurance Company,” New York, NY.....	Aug. 7
“Contemporary American Insurance Company” to “Great American Contemporary Insurance Company,” Schaumburg, IL.....	Sept. 6
“Associates Insurance Company” to “CitiCapital Insurance Company,” South Bend, IN.....	Sept. 27

“GA Insurance Company of New York” to “Homeland Insurance Company of New York,” Melville, NY.....	Sept. 14
“CGU Insurance Company of New York” to “ PG Insurance Company of New York,” Melville, NY.....	Sept. 14
“Eagle American Insurance Company” to “Great American Security Insurance Company,” Cincinnati, OH .....	Oct. 24
“American Spirit Insurance Company” to “Great American Spirit Insurance Company,” Indianapolis, IN.....	Oct. 24
“Nobel Insurance Company” to “Stonington Insurance Company,” Dallas, TX.....	Nov. 19
“CGU Insurance Company” to “OneBeacon Insurance Company,” Philadelphia, PA.....	Dec. 11
“CGU Insurance Company of New Jersey” to “The Camden Fire Insurance Association,” Mt. Laurel, NJ.....	Dec. 11
“Commercial Union Insurance Company” to “OneBeacon America Insurance Company,” Boston, MA.....	Dec. 11
“General Accident Insurance Company” to “Pennsylvania General Insurance Company,” Philadelphia, PA.....	Dec. 11
“Employers Insurance of Wausau A Mutual Company” to “Employers Insurance Company of Wausau,” Wausau, WI.....	Dec. 14
“Commercial Union Midwest Insurance Company” to “OneBeacon Midwest Insurance Company,” Brookfield, WI.....	Dec. 20
<b>Conversions</b>	
London Assurance Company of America, of New York, NY from a property casualty company to a financial guaranty company.....	Feb. 20
Utilities Mutual Insurance Company, of North Syracuse, NY from a mutual to a stock company.....	May 3
Employers Insurance of Wausau A Mutual Company, of Wausau, WI from a mutual to a stock company.....	Dec. 14
<b>Domestication</b>	
Koa Fire & Marine Insurance Company, Japan into NIPPONKOA Insurance Company of America, New York, NY.....	Mar. 31
<b>Redomestications Filed</b>	
Berkley Regional Insurance Company Missouri to Delaware.....	Feb. 28
Firemen’s Insurance Company of Washington, DC, Maryland to Delaware.....	Apr. 4
Specialty Surplus Insurance Company, New Jersey to Illinois.....	June 20
Chartwell Insurance Company Minnesota to Connecticut.....	Sept. 19
Midwest Employers Casualty Company, Ohio to Delaware.....	Nov. 8

**Merger Agreements Filed**

Reliance National Indemnity Company, Madison WI Into Reliance Insurance Company, Philadelphia, PA.....	Feb. 13
Reliance Direct Insurance Company, Philadelphia, PA into Reliance Insurance Company, Philadelphia, PA.....	Feb. 13
Reliance National Insurance Company, Wilmington, DE into Reliance Insurance Company, Philadelphia, PA.....	Mar. 6
Reliance Surety Company, Wilmington, DE into Reliance Insurance Company, Philadelphia, PA.....	Mar. 6
Centurion Insurance Company, Brooklyn, NY into Empire Insurance Company, Brooklyn, NY.....	Dec. 24
United Pacific Insurance Company of New York into Reliance Insurane Company, Philadelphia, PA.....	Feb. 15
XL Capital Assurance Inc. into The London Assurance Company of America, New York, NY.....	Feb. 20
Fremont Casualty Insurance Company, Chicago IL into Fremont Indemnity Company, Glendale, CA.....	June 4
Pioneer Insurance Company, of Greenwich, NY into Atlantic States Insurance Company, Marietta, GA.....	July 24

**Withdrawn**

Union & Phenix Espanol Insurance Company, Spain (US Branch – New York, NY).....	Sept. 6
New London County Mutual Insurance Company, Norwich, CT.....	Dec. 31

**In Receivership**

Credit General Insurance Company, Beachwood, OH.....	Nov. 8
Acceleration National Insurance Company, Dublin, OH.....	Oct. 15
Amwest Surety Insurance Company, Omaha, NE.....	Oct. 29

**In Rehabilitation**

Frontier Insurance Company, Rock Hill, NY.....	Oct. !5
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**In Liquidation**

American Agents Insurance Company, Melville, NY.....	Feb. 5
Mutual Fire, Marine and Inland Insurance Company, Philadelphia, PA.....	Nov. 8
Reliance Insurance Company, Philadelphia, PA.....	Dec. 14

**Assessment Co-operative Insurance Companies**

Eastern Mutual Insurance Company, South Westerlo, NY.....	Nov. 21
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**d. Title Insurance Companies**

**Amendments to Charter**

First American Title Insurance Company of New York, New York, NY.....	Sept. 4
National Title Insurance of New York Inc., New York, NY.....	Nov. 11

**e. Accredited Reinsurers**

**Recognized**

Crum & Forster Insurance Company, Morristown, NJ.....	Feb. 1
Crum & Forster Underwriters Co. of Ohio, Cincinnati, OH .....	Feb. 14
Trinity Universal Insurance Company Dallas, TX.....	Mar. 29
Monticello Insurance Company, Wilmington, DE.....	May 3
Country Mutual Insurance Company, Bloomington, IL.....	June 1
American Healthcare Indemnity Company, Wilmington, DE.....	June 20
Alea North America Reinsurance Company, Norwalk, CT.....	June 28
Monticello Insurance Company Wilmington, DE.....	May 3
AIG Hawaii Insurance Company, Inc., Honolulu, HI.....	Dec. 31
Medical Professional Mutual Insurance Company, Boston, MA.....	Dec. 31

**Withdrew**

Progressive Preferred Insurance Company, Beachwood, CA.....	Jan. 30
Inner Harbor Reinsurance Inc., Baltimore, MD.....	Mar. 19

**Withdrawn**

Franklin Life Insurance Company, Springfield, IL.....	Mar. 2
Indiana Lumbermens Mutual Insurance Company, Indianapolis, IN.....	Apr. 12

**f. Charitable Annuity Societies**

**Permits Issued**

Disabled American Veterans Charitable Service Trust Cold Spring, KY.....	July 17
The Roman Catholic Diocese of Albany, New York, Albany, NY.....	Aug. 28

**Permits No Longer Required**

American Baptist Board of Education and Publication, Valley Forge, PA.....	Feb. 22
College of Mount Saint Vincent, Bronx, NY.....	Feb. 22
Crouse Health Foundation, Inc., Syracuse, NY.....	Feb. 22
Fredonia College Foundation, Fredonia, NY.....	Feb. 22
Muscular Dystrophy Association, Inc., Tucson, AZ.....	Feb. 22

St. Anthony's Guild, Paterson, NJ.....	Feb. 22
Wells College, Aurora, NY.....	Feb. 22
Rockefeller University, New York, NY.....	Feb. 22
Clarkson University, Potsdam, NY.....	Mar. 1
Hofstra University, Hempstead, NY.....	Mar. 1
National Division of the General Board of Global Ministries of the United Methodist Church, New York, NY.....	Mar. 1
United Methodist Church Foundation, Inc., Cicero, NY.....	Mar. 1
Manhattan College, Riverdale, NY.....	Mar. 3
Lawrence Hospital, Bronxville, NY.....	Mar. 5
Methodist Hospital of Brooklyn, Brooklyn, NY.....	Mar. 6
Board of National Missions of the Presbyterian Church (U.S.A.), Scarsdale, NY.....	Mar. 25
New York State Association of Independent Schools Troy, NY.....	Mar. 28
Northern New York Community Foundation, Inc., Watertown, NY.....	Mar. 28
United Way of Greater Rochester, Inc., Rochester, NY.....	Mar. 28
Xavier Society for the Blind, New York, NY.....	Mar. 28
Sisters of Mercy of the Americas, Regional Community of Buffalo, Buffalo, NY.....	Apr. 6
Southampton Hospital Association, Southampton, NY.....	Apr. 6
Christian Appalachian Project, Inc., Lancaster, KY.....	May 1
Board of Christian Education of the United Presbyterian Church in the United States of America, Philadelphia, PA.....	May 16
Commission on Ecumenical Mission and Relations of the Presbyterian Church (U.S.A.), Scarsdale, NY.....	May 16

**g. Fraternal Benefit Societies**

**Merger**

Free Sons of Israel, of New York, NY merged into Workmens' Benefit Fund of United States of America, Hicksville, NY.....	July 1
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**h. Health Service Corporations**

**Changes of Name**

"Empire Blue Cross Blue Shield" to "Empire HealthChoice, Inc.," New York, NY.....	Jan. 8
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“Integrated Benefits Corporation” to “Independent Health Benefits Corporation,”  
Buffalo, NY ..... May 10

**Merger Agreements Filed**

Health Care Plan, Inc., Buffalo, NY into  
Excellus Health Plan, Inc.,  
Rochester, NY..... Aug. 29

Univera Healthcare-CNY, Baldwinsville, NY into  
Excellus Health Plan, Inc.,  
Rochester, NY..... Aug. 29

**i. Health Maintenance Organizations**

**Merger Agreements Filed**

Univera Healthcare-Southern Tier, Inc., Amherst, NY into  
Excellus Health Plan, Inc.,  
Rochester, NY..... Aug. 29

**Underwriting Organization  
Liquidation**

Medical Malpractice Insurance Association,  
New York, NY..... May 10

**j. Rating Organizations**

**License issued**

MSO, Inc.,  
Glen Rock, NJ..... May 3

**k. Municipal Cooperative Health Benefit Plan**

**Authorized**

Catskill Area Schools Employees Benefit Plan,  
Stamford, NY..... Apr. 1

Jefferson-Lewis et. al School Employees Healthcare Plan,  
Clayton, NY..... June 1

Steuben Area School Employees’ Benefit Plan,  
Painted Post, NY ..... June 1

Cayuga-Onondaga Area School Employees’ Healthcare Plan,  
Auburn, NY..... Aug. 1

Allegany-Cattaraugus Schools Medical Health Plan,  
Olean, NY..... Nov. 1

Chautauqua County School Districts’ Medical Health Plan,  
Jamestown, NY..... Dec. 1

#### 4. Examination Reports Filed During 2001

Name of Company	Made As of	Date Filed
<b>Domestic Life Insurance Companies</b>		
American Centurion Life Assurance Company	12/31/99	2/27/01
American Equity Investment Life Insurance Company of New York	a	4/6/01
American Family Life Assurance Company of New York	12/31/99	10/29/01
Cigna Life Insurance Company	12/31/99	7/9/01
Conseco Life Insurance Company of New York	12/31/99	5/24/01
Farm Family Life Insurance Company	12/31/99	7/9/01
Farmers and Traders Life Insurance Company	12/31/98	1/25/01
First Ameritas Life Insurance Corporation Of New York	12/31/99	9/17/01
First CitiCorp Life Insurance Company	12/31/99	9/26/01
First Fortis Life Insurance Company	12/31/99	4/12/01
First SunAmerica Life Insurance Company	12/31/99	9/26/01
First United American Life Insurance Company	12/31/99	10/31/01
Guardian Life Insurance Company of America	12/31/99	8/22/01
IDS Life Insurance Company of New York	12/31/99	4/12/01
Jackson National Life Insurance Company	12/31/99	5/10/01
Keyport Benefit Life Insurance Company	12/31/99	8/10/01
National Benefit Life Insurance Company	12/31/99	4/12/01
New York Life Insurance Company	12/31/99	12/13/01
Phoenix Home Life Mutual Insurance Company	10/25/01	11/7/01
Reliastar Life Insurance Company of New York	12/31/99	2/2/01
Thomas Jefferson Life Insurance Company	12/31/99	2/12/01
Union Labor Life Insurance Company	12/30/00	3/16/01
Unity Mutual Life Insurance Company	12/31/99	8/28/01
Zurich Kemper Life Insurance Company of New York	a	1/8/01
<b>Domestic Accident/Health Insurance Companies</b>		
Fiduciary Insurance Company of America	12/31/99	11/5/01
Healthplex Insurance Company	5/1/01	7/16/01
MVP Health Insurance Company	a	3/2/01
Physicians health Services Insurance of New York, Inc.	12/31/98	4/4/01
US Health Insurance Company	2/28/01	9/27/01
United Healthcare Insurance Company of New York	12/31/99	2/22/01
United Healthcare Insurance Company of New York	b	2/23/01
<b>Fraternal Benefit Societies</b>		
Independent Order of Foresters	12/31/99	4/12/01
Polish National Alliance of Brooklyn, USA	12/31/99	8/27/01
Workmen's Circle	12/31/99	1/2/01
<b>Domestic Property and Casualty Insurance Companies</b>		
A.Central Insurance Company	3/30/01	4/16/01
AIU Insurance Company	12/31/97	4/25/01
AXA Global Risks Insurance Company	12/31/98	5/1/01
American Home Assurance Company	12/31/96	4/25/01
American Horizon Insurance Company of New York	12/13/00	1/11/01

**Examination Reports Filed During 2001** *(continued)*

<b>Name of Company</b>	<b>Made As of</b>	<b>Date Filed</b>
American International Insurance Company	12/31/96	4/19/01
Arista Insurance Company	12/31/99	5/10/01
Baltica-Skandinavia Reinsurance Company of America, Inc.	12/31/96	1/24/01
Commerce and Industry Insurance Company	12/31/96	4/25/01
Constellation Reinsurance Company of New York	12/31/99	9/25/01
Country-Wide Insurance Company	12/31/98	1/5/01
Eveready Insurance Company	12/31/99	5/21/01
Gerling America Insurance Company	12/31/98	9/28/01
Gerling Global Reinsurance Corporation	12/31/96	7/9/01
Goldstreet Insurance Company	12/31/99	8/30/01
Graphic Arts Mutual Insurance Company	12/31/99	10/29/01
Greater New York Mutual Insurance Company	12/31/99	7/5/01
Insurance Company of Greater New York	12/31/99	7/5/01
Jefferson Insurance Company of New York	12/31/98	5/2/01
Lion Insurance Company	12/31/98	1/11/01
Long Island Insurance Company	6/30/00	5/11/01
Mitsui Marine and Fire Insurance Company of America	12/31/99	5/1/01
National Continental Insurance Company	12/31/98	8/14/01
Paramount Insurance Company	12/31/99	4/24/01
Progressive Northeastern Insurance Company	12/31/98	9/24/01
Public Service Mutual Insurance Company	12/31/99	4/24/01
Putnam Reinsurance Company	12/31/99	11/21/01
Seaboard Surety Company	12/31/98	9/21/01
State-Wide Insurance Company	12/31/99	9/5/01
Tower Insurance Company of New York	12/31/96	2/14/01
Transatlantic Reinsurance Company	12/31/99	11/7/01
Utica Mutual Insurance Company	12/31/99	10/29/01
Utica National Assurance Company	12/31/99	10/29/01
<b>Assessment Co-operative Property &amp; Casualty Insurance Companies</b>		
Cambridge Co-operative Fire Insurance Company	12/31/00	11/15/01
Erie & Niagara Insurance Association	12/31/99	1/12/01
Mid-Hudson Co-operative Insurance Company	12/31/99	3/20/01
Otsego County Patrons Fire Association	12/31/99	2/1/01
Walton Co-operative Fire Insurance Company	4/10/01	7/20/01
<b>Advance Premium Co-operative Property &amp; Cas. Ins. Companies</b>		
Cherry Valley Cooperative Insurance Company	12/31/99	1/12/01
Fulmont Mutual Insurance Company	12/31/00	11/23/01
Finger Lakes Fire & Casualty Company	12/31/99	4/9/01
United Frontier Mutual Insurance Company	12/31/99	7/11/01
<b>Reciprocal Insurers</b>		
Academic Health Professionals	12/31/96	9/7/01
New York Municipal Insurance Reciprocal	12/31/99	8/13/01
New York Schools Insurance Reciprocal	12/31/99	9/24/01
<b>Financial Guaranty Companies</b>		
Financial Guaranty Insurance Company	12/31/99	9/19/01
Financial Security Assurance Inc.	12/31/99	5/17/01

**Examination Reports Filed During 2001** *(continued)*

<b>Name of Company</b>	<b>Made As of</b>	<b>Date Filed</b>
<b>Title Insurance Company</b>		
National Title Insurance Company of America	12/31/98	2/16/01
<b>Charitable Annuity Societies</b>		
American Civil Liberties Union Foundation, Inc.	12/31/99	5/2/01
American Committee for the Weizmann Institute of Science, Inc.	12/31/00	11/5/01
American Leprosy Missions Inc.	12/31/99	6/11/01
American Museum of National History	12/31/99	1/2/01
Archdiocese of New York	12/31/99	10/11/01
Catholic Charities of the Archdiocese of New York	12/31/99	10/11/01
Catholic Foreign Mission Society of America, Inc.	12/31/99	1/2/01
Chappauqua School District Joint Benefit Fund	6/30/99	11/5/01
Colgate Rochester Divinity School	12/31/99	1/2/01
Department of Education of the Archdioces of New York	12/31/99	10/11/01
Foundation at the State University of New York at Binghamton, Inc.	12/31/99	1/2/01
Memorial Sloan Kettering Cancer Center	12/31/99	7/26/01
New York Public Library, Astor, Lenox and Tilden Foundations	12/31/99	6/28/01
RCA Foundation	12/31/99	1/2/01
Society for the Propagation of the Faity	12/31/99	6/11/01
Vassar College	12/31/99	6/11/01
Women's Div./Gen. Global Ministries of the United Methodist Church	12/31/99	6/28/01
World Div./Gen. Board of Global Ministries of the Unit. Methodist Church	12/31/99	6/28/01
<b>Health Maintenance Organizations</b>		
Physicians Health Services of New York, Inc.	12/31/98	4/16/01
United Healthcare of New York, Inc.	12/31/99	2/22/01
United Healthcare of Upstate New York, Inc.	12/31/99	2/22/01
Univera Healthcare-Southern Tier, Inc.	11/17/00	8/27/01
U.S. Healthcare, Inc.	2/28/01	9/27/01
Wellcare of New York, Inc.	9/30/00	6/19/01
<b>Nonprofit Corporations</b>		
Eastern Vision Service Plan, Inc.	12/31/99	11/25/01
Group Health Incorporated	12/31/99	4/12/01
<b>Retirement Systems and Pension Funds</b>		
College Retirement Equities Fund	12/31/99	5/9/01
New York City Police Pension Fund, Article 2	6/30/99	10/29/01
Police Officers' Variable Supplements Fund	6/30/99	10/29/01
Police Superior Officers' Variable Supplements Fund	6/30/99	10/29/01
<b>Rating Organization</b>		
New York Compensation Rating Board	12/31/00	5/24/01

**Examination Reports Filed During 2001** *(continued)*

<b>Name of Company</b>	<b>Made As of</b>	<b>Date Filed</b>
<b>Municipal Cooperative Health Benefit Plans</b>		
Allegany-Cattaraugus Schools Medical Health Plan	3/31/01	10/29/01
Catskill Area School Employee Benefit Plan	6/30/00	3/20/01
Jefferson-Lewis <i>et al.</i> School Employees' Healthcare Plan	9/30/00	5/10/01
Steuben Area School Employees Benefit Plan	12/31/00	5/31/01
<b>Miscellaneous</b>		
United States Aircraft Insurance Group	11/30/99	3/9/01

a: On organization of the entity

b: Market conduct examination

**Note:** Most major examination reports are available on the Department's Web site.

## 5. Rehabilitation, Liquidation, Ancillary Receivership and Conservation Proceedings

The insurance entities under the Liquidation Bureau's jurisdiction during 2001 were as follows:

### Rehabilitations

**Commenced:** Frontier Insurance Company

**Continued:** Executive Life Insurance Company of New York

**Completed:** None

### Liquidations

**Commenced:** American Agents Insurance Company  
Medical Malpractice Insurance Association

**Continued:** American Consumer Insurance Company  
American Fidelity Fire Insurance Company  
Capital Mutual Insurance Company  
Consolidated Mutual Insurance Company  
Contractors Casualty and Surety Company  
Cosmopolitan Mutual Insurance Company  
Dominion Insurance Company of America  
First Central Insurance Company  
Galaxy Insurance Company  
Home Mutual Insurance Company of Binghamton, NY  
Horizon Insurance Company  
Ideal Mutual Insurance Company  
Long Island Insurance Company  
Midland Insurance Company  
Midland Property and Casualty Insurance Company  
Nassau Insurance Company  
Nem Re-Insurance Corporation  
New York Merchant Bakers Insurance Company  
New York Professional Liability Insurance Company  
New York Surety Company  
North Medical Community Health Plan, Inc.  
Northumberland General Insurance Company (U.S. Branch)  
Pan Atlantic Investors, Ltd.  
Transtate Insurance Company  
Union Indemnity Insurance Company of New York  
United Community Insurance Company  
U. S. Capital Insurance Company  
Whiting National Insurance Company

**Completed:** Aetna Health Plans of New York  
B'nai Zion  
Heartland Group, Inc.  
Interamerica Reinsurance Company



### **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:** Acceleration National Insurance Company  
Amwest Surety Insurance Company  
Credit General Insurance Company  
Reliance Insurance Company

**Continued:** American Druggists' Insurance Company  
American Eagle Insurance Company  
American Mutual Insurance Company of Boston  
American Mutual Liability Insurance Company  
Commercial Compensation Casualty Company  
Integrity Insurance Company  
LMI Insurance Company  
MCA Insurance Company  
Mission Insurance Company  
Mission National Insurance Company  
Transit Casualty Company  
Western Employers Insurance Company

**Completed:** Mutual Fire, Marine and Inland Insurance 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:** Alpine Insurance Company  
FAI General Insurance Company, Ltd.  
HIH Casualty and General Insurance, Ltd.

**Continued:** Alliance General Insurance Company  
Chancellor Insurance Company, Ltd.  
Municipal General Insurance, Ltd.  
National Colonial Insurance Company  
Northumberland General Insurance Company – 41 Trust  
Pacific and General Insurance Company

**Completed:** Belvedere Insurance Company, Ltd.

### **Insurance Companies**

During 2001, ten proceedings commenced while 47 insurance company proceedings continued. Six proceedings were completed and closed. The 57 active insurance company proceedings were classified as follows:

2	Rehabilitations
30	Liquidations
16	Ancillary Receiverships
9	Conservations

As of December 31, 2001, assets, liabilities and current insolvency of the 57 active insurance company proceedings, taken as a group, were as follows:

Total Assets	\$3,627,162,212
Total Liabilities	\$6,233,929,515
Current Insolvency	\$2,606,767,303

During 2001, cash payments received from the New York State security funds on allowed claims totaled \$87,409,735 for claims, \$1,705,541 for return premiums, and \$24,294,204 for expenses. Payments by other states' guaranty funds are excluded from these totals.

During 2001, cash distributions paid to the New York State security funds from domestic estates totaled \$55,861,494. Distributions to the New York State security funds from other states' guaranty funds totaled \$19,859,091 for a combined total \$75,720,585.

### **Fraternal Benefit Societies**

As of December 31, 2001, there were 202 pending liquidation proceedings. During 2001, 19 proceedings were terminated and 9 proceedings were commenced. The remaining assets of the 202 liquidation proceedings totaled \$1,105,179. During 2001, assets of \$391,467 were distributed to former members of fraternal benefit societies.

**6. Insurance Department Receipts and Expenditures**

**Table 61  
DEPARTMENT RECEIPTS  
Fiscal Year Ended March 31, 2001**

**Taxes Collected Under the New York State Insurance Law:**

Taxes collected by reason of retaliation under Section 1112	\$21,411,621.64
Excess Line - Section 2118	15,715,287.39
Organization Tax - Section 180, Tax Law	<u>31,868.75</u>
<b>Total taxes collected</b>	<b>\$37,158,777.78*</b>

**Fees Collected Under Section 1112 of the NYS Insurance Law:**

Filing Annual Statements and Certificates of Authority to Companies	\$183,981.46
Agents' Certificates of Authority	900,222.08
Admission Fees	<u>30,973.00</u>
<b>Total</b>	<b>\$1,115,176.54</b>

**Licensing and Accreditation Fees:**

Agents' Licenses - Section 2103	\$3,083,864.50
Adjusters' Licenses - Section 2108	553,156.00
Brokers' Licenses - Section 2104 and 2105	1,933,836.08
Bail Bond Agents' Licenses - Section 6802	3,875.00
Insurance Consultants' Licenses - Section 2107	29,115.00
Reinsurance Intermediary Licenses - Section 2106	163,300.00
Special Risk Licenses - Section 6302	182,000.00
Accredited Reinsurers - Section 107(a)2	128,090.00
Limited License	3,285.00
Duplicate License Fees	18,860.00
Viatical Licenses	36,000.00
Continuing Education Provider Fee	<u>153,600.00</u>
<b>Total</b>	<b>\$6,288,981.58</b>

**Assessments and Reimbursement of Department Expenses:**

Section 313 - Company Examinations	\$7,585,735.46
Section 332 - Assessment	85,124,128.81
Section 9104/9105 - Tax Distribution	132,393.28
Administrative Expense Security Funds	61,761.00
Reimbursement of Expenses - Other Bureaus	<u>13,397.16</u>
<b>Total</b>	<b>\$92,917,415.71</b>

*(table continues on next page)*

**Table 61**  
**DEPARTMENT RECEIPTS**  
**Fiscal Year Ended March 31, 2001**  
*(continued)*

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<b>Other Fees and Receipts:</b>	
Regulation 68 - Health Services Arbitration Expenses	\$66,300.00
Section 9107 - Certification & Filing Fees	130,175.00
Section 9108 - Fire Insurance Fee	8,320,248.31
Section 205 – Publications	201.50
Section 1212 - Summons and Complaints	654,689.00
Fines and Penalties	6,895,933.03
Arbitration Fees	480.00
FOIL Requests	57,206.30
Miscellaneous	24,601.67
Regulation 134	4,500.00
Motor Vehicle Law Enforcement Fee	11,347,156.69
Continuing Education Filing Fees	493,915.00
CAPCO Application Fees	7,000.00
Section 7902 – Service Contract Registration Fee	<u>50,750.00</u>
<b>Total</b>	<b>\$28,053,156.50</b>
 <b>Total Departmental Receipts</b>	 <b>\$165,533,508.11</b>

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\*This amount is in addition to the \$584 million collected by the Department of Taxation and Finance under Article 33 of the Tax Law.

Source: New York State Insurance Department

**Table 62**  
**INSURANCE TAX RECEIPTS\***  
**(in millions)**

<b>Fiscal Year</b>	<b>Net</b>
1996-97	653.0
1997-98	641.0
1998-99	673.0
1999-00	589.0
2000-01	584.0

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\*Collected by the Department of Taxation and Finance under Article 33 of the Tax Law.

Source: State of New York, Annual Budget Message, 2002-03

**Table 63**  
**DEPARTMENT EXPENDITURES**  
**Fiscal Year Ended March 31, 2001**  
**Paid in the First Instance from Appropriations**

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<b>Personal Service</b>	
Employee salaries	<b>\$52,049,391.92</b>
<b>Maintenance and Operation</b>	
General office supplies	\$800,047.78
Travel expense	1,900,305.39
Rental equipment	67,154.39
Repair and maintenance of equipment	257,265.75
Real estate rental	4,830,430.57
Postage and shipping	624,050.31
Printing	180,061.71
Telephone	1,381,533.58
Miscellaneous contractual services	4,795,443.71
OGS Interagency courier	16,729.15
Equipment	3,207,836.50
Employee fringe benefits/indirect cost	<u>17,881,824.71</u>
<b>Total maintenance</b>	<b>\$35,942,683.55</b>
Total expenditures from Special Revenue Appropriations for fiscal year ended 3/31/01	  <b>\$87,992,075.47</b>
<b>Total Department receipts for fiscal year ended 3/31/01</b>	  <b>\$165,533,508.11</b>
Excess of Department receipts over Department expenditures	  <b>\$77,541,432.64</b>

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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, 2001**

	<b>To and Including 3/31/00</b>	<b>4/1/00 to 3/31/01</b>	<b>As of 4/1/01</b>
Paid into the Fund	\$ 585,622,540.11	\$ 78,089,992.53	\$ 663,712,532.64
Interest income - net	433,378,797.93	4,758,461.07	438,137,259.00
Recoveries from companies in liquidation	429,297,962.99	43,080,608.77	472,378,571.76
General Fund Reimbursement	117,901,939.00	4,970,745.00	122,872,684.00
<b>Total</b>	<b>\$1,566,201,240.03</b>	<b>\$ 130,899,807.37</b>	<b>\$1,697,101,047.40</b>
Less disbursements:			
Administrative expenses	\$ 1,141,710.88	\$ 101,639.00	\$ 1,243,349.88
Awards and expenses of companies in liquidation	1,323,404,223.10	98,560,849.32	1,421,965,072.42
Refunds and credits to companies	44,440,739.54	2,246.00	44,442,985.54
Transfers to other funds <sup>b</sup>	144,562,280.96	0	144,562,280.96
<b>Total</b>	<b>\$1,513,548,954.48</b>	<b>\$ 98,664,734.32</b>	<b>\$1,612,213,688.80</b>
<b>Total of Fund</b>	<b>\$ 52,652,285.55</b>	<b>\$ 32,235,073.05</b>	<b>\$ 84,887,358.60</b>
Cash in bank and U.S. securities (at par)	<b>\$ 52,652,285.55</b>		<b>\$ 84,887,358.60</b>
<b>Total of Fund</b>	<b>\$ 52,652,285.55</b>		<b>\$ 84,887,358.60</b>

<sup>a</sup> Monies collected under Sections 7602 and 7603 of the Insurance Law

<sup>b</sup> State Purpose Fund - \$47,562,280.96 + \$87,000,000 per Chapter 55 of the Laws of 1982 and \$10,000,000 transferred to the Public Motor Vehicle Liability Security Fund.

**Table 65**  
**PUBLIC MOTOR VEHICLE LIABILITY SECURITY FUND\***  
**Income and Disbursements**  
**April 1, 2001**

	<b>To and Including 3/31/00</b>	<b>4/1/00 to 3/31/01</b>	<b>As of 4/1/01</b>
Paid into the Fund	\$ 84,345,114.86	\$ 6,403,068.62	\$ 90,748,183.48
Interest income - net	27,274,658.47	366,734.09	27,641,392.56
Recoveries from companies in liquidation	30,240,806.08	18,925,161.40	49,165,967.48
Transfers	10,000,000.00	0	10,000,000.00
<b>Total</b>	<b>\$ 151,860,579.41</b>	<b>\$ 25,694,964.11</b>	<b>\$177,555,543.52</b>
Less disbursements:			
Administrative expenses	\$ 454,079.04	\$ 15,741.93	\$ 469,820.97
Awards and expenses of companies in liquidation	137,775,305.12	24,143,826.39	161,919,131.51
Refunds to companies	13,583,306.98	0	13,583,306.98
<b>Total</b>	<b>\$ 151,812,691.14</b>	<b>\$ 24,159,568.32</b>	<b>\$ 175,972,259.46</b>
<b>Total of Fund</b>	<b>\$ 47,888.27</b>	<b>\$ 1,535,395.79</b>	<b>\$ 1,583,284.06</b>
Cash in bank and U.S. securities (at par)	\$ 47,888.27		\$ 1,583,284.06
<b>Total of Fund</b>	<b>\$ 47,888.27</b>		<b>\$ 1,583,284.06</b>

\* Monies collected under Section 7601 of the Insurance Law from companies writing bonds and policies carrying coverages set forth in Section 370 of the Vehicle and Traffic Law.

**Table 66**  
**WORKERS' COMPENSATION SECURITY FUND\***  
**Income and Disbursements**  
**April 1, 2001**

	<b>To and Including 3/31/00</b>	<b>4/1/00 to 3/31/01</b>	<b>As of 4/1/01</b>
Paid into the Fund	\$ 127,603,843.79	0	\$127,603,843.79
Interest income - net	117,948,889.91	\$ 170,861.58	118,119,751.49
Recoveries from companies in liquidation	88,598,964.72	5,543,206.71	94,142,171.43
<b>Total</b>	<b>\$ 334,151,698.42</b>	<b>\$ 5,714,068.29</b>	<b>\$339,865,766.71</b>
Less disbursements:			
Administrative expenses	\$ 811,274.83	\$ 16,560.33	\$ 827,835.16
Awards and expenses of companies in liquidation	229,023,024.83	13,703,273.94	242,726,298.77
Refunds to companies	27,381,071.74	0	27,381,071.74
Transfers	67,000,000.00	0	67,000,000.00
<b>Total</b>	<b>\$ 324,215,371.40</b>	<b>\$ 13,719,834.27</b>	<b>\$337,935,205.67</b>
<b>Total of Fund</b>	<b>\$ 9,936,327.02</b>	<b>\$ (8,005,765.98)</b>	<b>\$ 1,930,561.04</b>
Cash in bank and U.S. securities (at par)	<b>\$ 9,936,327.02</b>		<b>\$ 1,930,561.04</b>
<b>Total of Fund</b>	<b>\$ 9,936,327.02</b>		<b>\$ 1,930,561.04</b>

\* On March 1, 1990, the Stock Workers' Compensation and Mutual Workers' Compensation Security Funds were consolidated into a single fund known as the Workers' Compensation Security.



**B. DEPARTMENT STAFFING**  
**Table 67**  
**NEW YORK STATE INSURANCE DEPARTMENT**  
**Number of Filled Positions by Bureau (as of March 2002)**

Bureau							Total
<b>New York City Office:</b>							
Executive	1			8		4	13
Life	89		11	4		8	112
Health	46		4			4	54
Administration*	1			8		11	20
Consumer Services	27			1		16	44
Frauds	4			1	26	6	37
OGC		25		5		8	38
Public Affairs/Research				2		2	4
Property	176		20			26	222
Systems	5			17		4	26
Capital Markets	1			6		2	9
Examiner Pool	44						44
<b>NYC Total</b>	<b>394</b>	<b>25</b>	<b>35</b>	<b>52</b>	<b>26</b>	<b>91</b>	<b>623</b>
<b>Albany Office:</b>							
Executive				6		3	9
Life		12	20			6	38
Health	4	21	6			11	42
Administration*				12		21	33
Consumer Services	33			1		15	49
Frauds					4		4
OGC		6				1	7
Property	10					1	11
Systems	2			22		14	38
Licensing	2			8		41	51
<b>Albany Total</b>	<b>51</b>	<b>39</b>	<b>26</b>	<b>49</b>	<b>4</b>	<b>113</b>	<b>282</b>
<b>Buffalo Office:</b>							
Health	1						1
Consumer Services	3					1	4
Frauds					2		2
<b>Mineola Office:</b>							
Consumer Services	3					1	4
Frauds					9		9
<b>Oneonta Office:</b>					2		2
<b>Rochester Office:</b>					2		2
<b>Syracuse Office:</b>							
Life	2						2
Health	1						1
Frauds					2		2
<b>All Other Total</b>	<b>10</b>				<b>17</b>	<b>2</b>	<b>29</b>
<b>Department Total</b>	<b>455</b>	<b>64</b>	<b>61</b>	<b>101</b>	<b>47</b>	<b>206</b>	<b>934</b>

\*includes Human Resources Management & Offices Services

‡Ten student assistants assigned to various bureaus not included in above table

## **C. NEW YORK STATE INSURANCE DEPARTMENT**

### **Publications as of 5/1/2002**

#### **Consumer Guides, Annual Reports, Directories, etc.**

##### **Automobile/Livery Guides**

- Annual Ranking of Automobile Insurance Complaints
- Consumers Shopping Guide to Automobile Insurance  
(upstate and downstate editions as well as abbreviated version in pamphlet form)
- Handbook for Livery Drivers (English & Spanish)

##### **Frauds**

- Annual Frauds Bureau Report
- Welcome to the NYS Insurance Department Frauds Bureau – A Consumer Brochure

##### **Health Guides**

- External Review: Your Rights as a Health Care Consumer
- Healthy NY Guide (English & Spanish)
- Insurance Policies Covering Long Term Care Services in NYS
- New York Consumer Guide to Health Insurers  
(ranks complaints from HMOS, commercial health insurers, and nonprofit indemnity health insurers; also includes grievances and utilization review appeals & performance evaluations)
- New York Consumer Guide to HMOs (interactive guide also available online)

##### **Homeowners/Tenants Guides**

- Coastal Homes and Insurance: A Guide for New York Homeowners
- Consumers Shopping Guide for Homeowners' and Tenants Insurance  
(upstate and downstate editions)

##### **Life Guides**

- Consumers Shopping Guide for Life Insurance (abbreviated life Web guide also available)
- Policyholder Protection Provided by the Life Insurance Company Guaranty Corporation of New York

##### **Miscellaneous Guides & Publications**

- A Consumer's Guide to the New York State Insurance Department
- Annual Report to the Legislature
- Directory of Regulated Insurance Companies
- 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

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**Note:** Copies of listed publications are available free of charge to New York State residents (limit: one per resident).