AFFORDABLE HOUSING AND INSURANCE

A REPORT ON INCREASES IN INSURANCE PREMIUMS AND UNAVAILABILITY OF INSURANCE COVERAGE FOR AFFORDABLE HOUSING DEVELOPMENTS IN NEW YORK, PURSUANT TO CHAPTER 790 OF THE LAWS OF 2021 AND CHAPTER 158 OF THE LAWS OF 2022

NOVEMBER 22, 2022

Introduction

The New York State Department of Financial Services ("DFS") respectfully submits this report, prepared in coordination with New York State Homes and Community Renewal ("HCR"), on the findings of its study performed pursuant to Chapter 790 of the Laws of 2021 and Chapter 158 of the Laws of 2022 (the "Act") to "examine any increases in liability, fire and casualty insurance premiums or any lack of availability of liability, fire and casualty insurance coverage for affordable housing developments in New York state." The Act requires DFS, in coordination with HCR, to:

(a) "analyze any factors that have increased liability, fire and casualty insurance costs for such housing developments and analyze any factors that have limited insurers from offering liability, fire and casualty coverage for affordable housing projects; and
(b) identify the potential impact, over the next ten years, of the cost of liability, fire and casualty insurance and the unavailability of liability, fire and casualty insurance coverage for affordable housing development and preservation on the projected total reduction in affordable housing units by region, the inability to develop affordable housing in certain areas, and any other topic or issue that is determined to be relevant to the completion of the study by [DFS] and [HCR]."

DFS and HCR were required to jointly prepare this report, for submission to the governor, the temporary president of the senate, the speaker of the assembly, the minority leader of the senate, and the minority leader of the assembly, containing findings and recommendations to address any increased costs or any unavailability of liability, fire and casualty insurance.

I. Department of Financial Services and Homes and Community Renewal

DFS is New York's banking, insurance, and financial services regulator, established in 2011 by the Legislature, which consolidated the New York Banking Department and the New York Insurance Department and authorized the resulting agency to oversee a broader array of financial products and services, with the goal of modernizing regulation. DFS now supervises and regulates the activities of nearly 3,000 financial institutions with total assets of more than $8.4 trillion, including more than 1,700 insurance companies and 1,200 banking and other financial institutions. DFS seeks to build an equitable, transparent, and resilient financial system that benefits individuals and supports business. DFS and its employees are responsible for empowering consumers and protecting them from financial harm; ensuring the health of regulated entities; driving economic growth in New York through responsible innovation; and preserving the stability of the global financial system.

The Financial Services Law tasks DFS with, among other things, "provid[ing] for the effective and efficient enforcement of the banking and insurance laws," "promot[ing] the reduction and elimination of fraud, criminal abuse and unethical conduct by, and with respect to, banking, insurance and other financial services institutions and their customers," and "educat[ing] and protect[ing] users of banking, insurance, and financial services products and services through the provision of timely and understandable information." DFS's Insurance Division, which is comprised of the Property, Life, Health, and Producers Bureaus, regulates and supervises all insurance companies and producers that do business in New York. DFS also has a Consumer Protection and Financial Enforcement Division ("CPFED"), which fights consumer fraud, ensures that regulated entities comply with related New York and federal law, and educates consumers about financial services.[1]

HCR is New York's affordable housing agency, with a mission to build, preserve, and protect affordable housing and increase homeownership throughout the state. This includes working with private, public, and nonprofit partners to create safe, healthy and affordable housing opportunities for all New Yorkers. HCR is charged with carrying out Governor Hochul's new $25 billion, five-year, comprehensive housing plan to increase housing supply by creating or preserving 100,000 affordable homes across New York including 10,000 with support services for vulnerable populations, plus the electrification of an additional 50,000 homes.

II. Stakeholder Feedback

In conducting this study, DFS and HCR met with developers, advocates, and insurance producers active in the affordable housing market. The developers conveyed that they had experienced difficulty in identifying insurance providers who were willing to underwrite policies for affordable housing developments. The developers further advised that, in some instances, insurers expressed that they were unwilling to do business in certain regions of the state, particularly the five boroughs of New York City. In other instances, the developers noted that insurers stated that they had limited appetite to underwrite policies for senior housing, or for buildings that contained affordable units or Section 8 units that exceeded a certain threshold of total units. In the context of renewals, developers noted that they had had policies nonrenewed due to the insurer's affordable housing exposure. Affordable housing developers also stated that they had seen premiums rise, even in instances where there had been no previous claims made, to levels that they deemed prohibitively expensive.

These developers provided DFS and HCR with a sample of habitational supplemental application forms as well as email declinations and non-renewal notices representing seven instances in which developers had been declined or nonrenewed by insurers or insurance providers. The reasons that the insurers would not write the risks included an inability "to consider NYC Habitational and/or Affordable Housing risks at this time," to a lack of appetite for affordable housing developments in New York City, to only being willing to consider housing with "no more than 20%" section 8 housing. Based on the information provided, DFS is following up with the insurers in question to obtain more information as part of a larger inquiry.

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[1] The other DFS divisions include Banking; Cybersecurity; Research and Innovation; Capital Markets; and Climate. The Cybersecurity Division protects consumers of financial services and the financial services industry from cyber threats by improving cybersecurity in the financial services industry and conducting cybersecurity-related enforcement investigations in cooperation with CPFED. The Research and Innovation Division concentrates on financial services innovation. The Capital Markets Division houses DFS's expertise in complex financial products, enterprise risk management, financial analysis, internal controls and audit, research, fiduciary controls, and regulatory accounting. Lastly, the Climate Division was established in 2021 to ensure that climate risks are integrated into the governance frameworks, business strategies, and risk management processes of regulated institutions.

III. HCR Portfolio Analysis

Below is a summary of the analysis of insurance premium cost data for HCR's housing finance agency ("HFA") financed (Bond Financed Loans in the First Position) projects for years 2019, 2020, and 2021.

The projects in this sample set are projects that were financed through HFA (Bond Financed Loans in the First Position) and were insured by State of New York Mortgage Agency ("SONYMA"). SONYMA provides the mortgage insurance (credit enhancer) for the projects in the sample set. SONYMA does not provide property or liability insurance. The agency allows projects to choose their insurance carrier, provided it meets the agency's requirements. For HFA-financed projects that receive mortgage insurance through SONYMA's Mortgage Insurance Fund, HFA acts as the servicer on the loan.

This sample includes 182 properties comprising nearly 24,000 housing units, the vast majority of which are affordable. The total cost of insurance premiums for this subset of the HCR portfolio was $17.6 million in 2021. The median premium per unit was $659 and the average was $755. The highest per-unit premiums exceeded $1,000 and were concentrated geographically in New York City and its surrounding suburbs.

There are 152 properties comprising more than 20,000 housing units for which HCR has information on insurance premium costs for each year in the 2019 through 2021 time period. Of those 152 properties, all but one experienced increases in their insurance premiums over that time period. Increases ranged from very nominal increases of less than one percent to almost 300 percent, with a median increase of 28% and an average increase of 43%. HCR has insurance premium cost information for at least two years during the 2019 through 2021 time period for an additional 24 properties comprising more than 2,600 units. For those properties, 22 experienced a year-over-year increase during the period. The median increase was 20% and the average was 28%; increases ranged from less than one percent to 76 percent over a one-year period.

IV. Background on Insurance and Regulatory Framework

A. Insurance Policies that Provide Liability, Fire and Casualty Coverage

The "liability, fire and casualty" insurance for affordable housing developments referred to in the Act may be covered by several types of insurance policies.

Liability insurance (also referred to as casualty insurance) is primarily purchased through the following types of policies: (1) general liability; (2) excess or umbrella liability; and (3) directors and officers liability. General liability and excess or umbrella liability policies provide coverage to third parties for bodily injury, death, and property damage. Directors and officers liability policies provide coverage for affordable housing development board members for any errors and omissions made by those board members.

Fire insurance would generally be covered under a commercial property policy, which provides coverage for: (1) the building; and (2) business personal property. Business personal property is property at the insured location that is owned by the building owner for use at the building, such as furniture, machinery, and tools. Coverage for both the building and business personal property would be limited to loss caused by a peril, such as fire, that is insured against under the terms and conditions of the policy.

Affordable housing developments typically purchase commercial property and liability insurance policies, often in the form of commercial multiple peril ("CMP") policies that bundle several different types of property and casualty coverage together into a convenient package for the development. They may also purchase builder's risk insurance, which covers property, as well as construction materials, supplies, and equipment, during the course of any construction or significant renovation.

B. Underwriting, Rating and Premiums of Liability, Fire and Casualty Insurance Policies

Insurers use underwriting principles to determine whether to issue or renew an insurance policy or how to rate a particular risk. As a general rule, and subject to the prohibitions set forth in Section IV.C below, insurers are free to select the risks that they choose to underwrite and ask current or prospective policyholders about matters that they deem material to those risks. New York Insurance Law § 1113, which describes the kinds of insurance that may be written in New York, specifically states that it does not require insurers to insure every kind of risk that they are authorized to insure.

Underwriting factors are the characteristics that an insurer considers when underwriting a particular risk while rating factors are used to determine the price applicable to those risks that the insurer decides to underwrite. There is often a great deal of overlap between factors that are used for underwriting and those that are used for rating. For example, insurers often consider the following factors when underwriting and rating commercial properties:

- Construction (e.g., frame, joisted masonry, noncombustible, fire resistive)
- Material of building (e.g., concrete, brick, wood)
- Age and condition of building (e.g., maintenance and repair standards)
- Occupancy (e.g., retail, manufacturing, office, habitational)
- Number of units (e.g., single-family, multi-family)
- Protection class (e.g., fire alarm, water supply, communication system)[2]
- Territory or location (e.g., flood zone, building codes, high crime area)
- Adjacent exposure data (e.g., exposed walls, hazards, construction)

Underwriting and rating factors must comply with New York laws and regulations and must be based upon sound underwriting practices and actuarial principles that are related to actual or reasonably anticipated loss experience.

[2] Nearly all U.S. property and casualty insurers use the public protection classification ("PPC") program developed by the Insurance Services Office, Inc. ("ISO") to help establish appropriate fire insurance premiums for residential or commercial properties. The program collects and analyzes data on municipal fire protection efforts in communities throughout the U.S. and then assigns each community a PPC from 1 to 10, with class 1 representing superior property fire protection and class 10 indicating that the area's fire-suppression program does not meet ISO's minimum criteria. In assigning a PPC, ISO considers, among other factors, the quality of the fire department, the water supply system, and the fire alarm and communication systems. However, many insurers deviate in some way from the rules of the PPC program using independently filed rules.

Premiums, the price of insurance coverage, are intended to reflect the insurer's expectation of loss based on loss incurred in prior policy periods. In other words, it is an amount determined by actuarial science to cover the losses that the insurer is expected to pay pursuant to the terms set out in the policy. If actual losses increase, or if expected losses increase because of a change in risk conditions or a broadening of coverage, premiums should also increase to ensure that the rate is not inadequate. Although they may be less affordable for consumers, these increased premiums are often necessary to protect consumers from the consequences of an insurer's insolvency. If an insurer becomes insolvent because of inadequate rates, it cannot pay claims. If the insurer cannot pay claims, an insured who purchased coverage – and more importantly the tort victims who were injured due to the potential negligence or recklessness of the insured – would not be compensated for the harm that they suffered.

C. Regulatory Review and Prohibited Practices Pursuant to New York Insurance Law

DFS reviews policy forms filed by property and casualty insurers to determine whether they comply with the standards set forth in the Insurance Law. The forms are generally subject to prior approval by DFS[3] and must contain certain standard provisions depending on the type of coverage they provide.[4] DFS reviews policy rates filed by property and casualty insurers to ensure that they are not "excessive, inadequate, unfairly discriminatory, destructive of competition or detrimental to the solvency of insurers."[5] DFS's actuarial analysis involves assessing the adequacy of the rates in light of the nature and scope of the coverage set forth in the policy.

It is important to note that the Insurance Law prohibits rates that are "unfairly" discriminatory. All risk classification necessarily involves differentiation and, in accordance with the principle of cost-based pricing, insurers may classify, select, and price risks using appropriate underwriting standards without violating the prohibitions against unfair discrimination. However, New York, like many other states, has determined that it is against public policy for insurers to consider certain underwriting and/or rating factors even if they are predictive of loss. For example, Insurance Law Article 26 prohibits the use of certain factors in any manner in underwriting or rating, such as race, color, creed, national origin, disability, and status as a victim of domestic violence.[6]

New York Insurance Law also contains prohibitions against geographical redlining by property and casualty insurers. Specifically, Insurance Law § 3429 and Insurance Regulation 90 (11 NYCRR 218) prohibit insurers from refusing to issue, nonrenewing, or cancelling certain fire, fire and extended coverage, and private passenger automobile insurance policies based solely on the geographic location of the risk. This prohibition would apply to the fire and

[3] *See* Insurance Law § 2307(b) (stating that "no policy form shall be delivered or issued for delivery unless it has been filed with the superintendent and either he has approved it, or thirty days have elapsed and he has not disapproved it as misleading or violative of public policy").
[4] *See* Insurance Law Article 34 (setting forth the standards that must be met by property and casualty insurance contracts providing various types of coverage).
[5] *See* Insurance Law § 2303.
[6] *See* Insurance Law §§ 2606 and 2612.

extended coverage portion of CMP policies purchased by affordable housing developments.[7] Section 3429 expressly states, however, that "[s]uch prohibition shall not preclude an insurer from refusing to issue or renew or from cancelling such policies based on sound underwriting and actuarial principles reasonably related to actual or anticipated loss experience."

Nothing in the Insurance Law prevents an insurer from asking current or prospective policyholders questions about development characteristics, such as location, occupancy, maintenance, safety, and security of any housing, including affordable housing, if those questions are reasonably related to future losses. Consumers who believe their insurers are acting improperly by asking questions that are not reasonably related to future losses or do not comply with New York Insurance Law should file a complaint with DFS so that DFS can investigate the facts, identify any patterns or practices that reflect misconduct by a particular insurer or insurers, and take appropriate action. In addition to the Insurance Law, insurers must also comply with other relevant state and federal laws; however, laws besides the Insurance Law are beyond the scope of this report and generally outside of DFS's jurisdiction.

V. DFS Study and Insurance Findings

For this report, DFS (1) identified the types of insurance coverages that are typically purchased for affordable housing; (2) identified factors that may inform premium increases for these insurance policies; and (3) reviewed a ten-year historical trend of premium values for the relevant coverages.

A. Factors that Have Increased Liability, Fire and Casualty Insurance Costs

The U.S. insurance market has experienced a significant hardening in recent years, characterized by an increased demand for insurance, fewer coverage options, and steady and significant rate increases. This hard market, which is not limited to specific lines of business, has had a significant impact on the price of the commercial property and liability insurance policies purchased by affordable and market-rate housing developments. Factors that have contributed to the increase in insurance premiums for these policies include:

- An increase in the cost of building materials due to inflation and supply chain issues;
- An increase in the cost of labor for construction due to a lack of skilled workers;
- The low-interest rate environment, causing insurers to rely more on underwriting profit than investment income;
- An increase in property values due to high demand and limited housing inventory;
- More frequent and intense extreme weather events, causing property damage and business interruption;
- Escalating litigation costs and an increase in the size and frequency of massive jury awards;

[7] Fire insurance protects against loss of or damage to any property resulting from fire, including loss or damage incident to the extinguishment of a fire or to the salvaging of property in connection therewith. Extended coverage insurance generally includes coverage for perils such as windstorm, hail, explosion, riot, civil commotion, aircraft, vehicles, smoke, vandalism, and malicious mischief.

- A strict liability standard in New York that is imposed on property owners and contractors when employees become injured in gravity-related construction accidents.

Many of these factors extend far beyond the purview of state insurance regulators and require the collaboration of numerous stakeholders to address. Furthermore, these factors are in addition to those referenced in Section II.B above that could increase premiums but are unique to each insured – namely, the insured's actual loss experience, any amendments to policy language that serve to broaden the scope of coverage, and any increases in the hazards insured against.

Insureds can reach out to the insurance producers who procured their insurance to understand the scope of coverage and the bases for the premium charged for that coverage. Pursuant to Insurance Law § 2319, insureds are also entitled to require their insurers to furnish them with all information pertinent to the premium. If a premium cannot be justified, the insured is entitled to submit a complaint to DFS for review.

B. Factors that Have Limited Insurers from Offering Liability, Fire and Casualty Coverage

As noted in Section V.A above, insurance losses for affordable and market-rate housing developments in New York are either increasing or expected to increase for a variety of reasons, causing many insurers to increase the price of the commercial property and liability insurance policies purchased by these developments. However, there is no basis in the Insurance Law or regulations promulgated thereunder to mandate that insurance companies insure either affordable or market-rate housing developments.[8] While some insurers have taken steps to minimize their exposure by increasing deductibles, reducing limits of liability, or adding or expanding exclusions, others have exited the market entirely.

When property and casualty insurers that are licensed by DFS are either unable or unwilling to provide coverage, current or prospective insureds often turn to unlicensed insurers in the excess line market to purchase insurance. Risks placed in the excess line market tend to be unusual or unpredictable, have adverse loss experience, or cannot be placed in conventional markets due to a shortage of capacity (e.g., homeowners' insurance for properties on the coast with a high risk of wind damage). As a result, excess line policies are often more costly for insureds than policies issued by licensed insurers. Excess line insurers are also not directly regulated by DFS and their policyholders are not protected by the state guaranty fund (i.e., if an excess line insurer becomes insolvent, claims covered under its policies will not be paid by the state guaranty fund). It is therefore more difficult for DFS to take action to protect consumers in the excess line market.

C. Limitations on the Availability of Data Specific to Affordable Housing

There are no existing data sources that would allow for a complete assessment of the insurance market for affordable housing developments in New York. For example:

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[8] *See* Insurance Law § 1113(b) (stating that "[n]othing herein contained shall require any insurer to insure every kind of risk which it is authorized to insure").

- There is no formal distinction between an insurance policy for affordable housing and an insurance policy for market-rate housing. As a result, when licensed insurers submit form filings to DFS for review and approval, the filings are not specific to affordable housing, or even housing more broadly.[9] Rather, they are general commercial property and liability policies that can be issued to any type of commercial business (e.g., stores, restaurants, hotels) and premium is assessed in accordance with the risks presented.

- As a corollary, DFS (like all state insurance regulators) reviews and approves general policy forms but does not collect data on a policy-by-policy or claim-by-claim basis. Once a form is approved, the amount of premium and the nature of risks that an insurer underwrites by issuing that policy form is a function of business. Licensed insurers must report to DFS high-level data on premiums and losses but not data that is broken out by insured or claim. Insurers that violate New York Insurance Law or improperly deny claims are investigated as identified by DFS, such as through a market conduct exam, information received from other regulators, or consumer complaints.

- Experience rating recognizes the differences among individual insureds with respect to safety and loss prevention by comparing the experiences of individual policyholders with an average insured with comparable exposures. The differences are reflected by an experience rating modification, based on an individual insured's exposure and loss history, which may result in an increase, decrease, or no change in premium. However, these experience modifications are determined on a policy basis, or even a combination of policies if multiple insureds have common majority ownership in a building or buildings. It is not possible to get a true picture of the insurance cost of an individual building unless the building is the only one covered under a policy that is not combinable with any other policies for experience rating purposes.

- The only data that DFS has that is specific to insurance for affordable housing in New York relates to two insurers that exclusively underwrite coverage for public housing authorities. DFS does not have data on their share of the affordable housing insurance market in New York State, and they collectively comprise only a tiny portion of the overall CMP insurance market. DFS also does not have information on the number of policies issued by each of the two insurers, such that most of their increase in premium over time appears to reflect an increase in the volume of insurance policies written by each insurer rather than an increase in the price per policy.

- Pursuant to Insurance Law § 2130, the Excess Line Association of New York ("ELANY") is responsible for maintaining information on policies placed in the excess line market in New York, including policies that may be issued to affordable housing developments, and facilitating compliance with the laws applicable to excess line brokers. It is DFS's understanding that, although ELANY captures certain

[9] Note that most property and casualty applications are not considered policy forms and are therefore not required to be filed with DFS.

information on excess line insureds that is required under Insurance Law § 2118, it does not collect data that would allow for an assessment of the excess line insurance market for affordable housing developments in New York.

D. Increasing Cost of Insurance for Affordable Housing Developments

Given the many factors that have contributed to escalating property and casualty insurance costs in recent years for all commercial property and liability policies, including affordable housing developments, it is likely that those costs will continue to increase for the foreseeable future. However, due to the uncertainty involved in predicting future events, it is extremely difficult to forecast where insurance rates will be ten years from now. Rates for property/casualty insurance policies are typically only projected one year out, based on data from the three to five immediately preceding years, with the most recent years weighted more heavily.

Any such projection assumes that changes in the next ten years that will affect insurance premiums for affordable housing will be similar to the changes that occurred in the last ten years. Projections of future rate changes are also heavily dependent upon the prospective competitive, social, and legal environments affecting insurance costs, as well as the ever-evolving impact of climate change. The likelihood of the occurrence of unanticipated changes also increases with the lengthening of the projection period. As a result, actual premium changes would differ, perhaps materially, from any projections made based on ten years of historical data.

The chart below presents annual data on CMP coverage in New York between 2012 and 2021.[10] Over the past ten years in New York, the industry's total earned premium on CMP policies increased by 36.9%. This increase from 2012-2021 is an indicator of general trends but should not be relied upon as a prediction of future insurance costs. Among other things, premiums for CMP policies are a function of insured value and any increases in premium will be driven in part by increasing property values. It is notable, however, that the property and casualty insurance industry has sustained losses from underwriting CMP insurance in seven of the last ten years.

[10] As discussed above, DFS reviews and approves commercial property and liability policy forms submitted by licensed insurers that can be issued to any type of commercial business; it does not collect data that is specific to affordable housing, or even housing more broadly.

New York: Commercial Multiple Peril (CMP)

	Direct premium earned (in thousands)	Underwriting profit/loss
2012	3,241,913	(34.0)
2013	3,459,137	3.8
2014	3,662,344	(2.2)
2015	3,627,557	5.7
2016	3,722,800	(7.1)
2017	3,941,949	4.4
2018	4,029,834	(5.3)
2019	4,169,746	(5.8)
2020	4,253,933	(7.4)
2021	4,440,317	(1.9)

As discussed above, CMP is a broad category of property and liability insurance coverages purchased by commercial entities, including those that provide market-rate and affordable housing. In the chart, "direct premium earned" reflects the total amount of CMP insurance underwritten by licensed insurers in New York between 2012 and 2021. "Underwriting profit/loss" represents the New York insurance industry's net income, expressed as a percentage, from underwriting CMP insurance (i.e., it excludes investment income).

VI. Conclusion

DFS and HCR recognize that New York State is in the midst of an affordable housing crisis driven by numerous factors − including the availability of affordable insurance − and are committed to working together to ensure that New Yorkers have access to affordable housing.

As this report explains, the property and casualty insurance industry does not collect data that provides clear and specific insight on insurance practices for affordable housing properties. Insurers do not file with DFS or issue to insureds policies that are specifically tailored to affordable housing or market-rate housing. Rather, they file general commercial property and liability policies that can be issued to any type of commercial business, including affordable housing developments. Furthermore, the insurance industry does not have a widely accepted definition of affordable housing that could be used to capture and compare accurate and consistent information across the industry about coverage for these housing developments.

In the process of fact-finding for this report, affordable housing owners indicated that insurance companies and producers often ask whether buildings contain affordable, subsidized, or Section 8 units, and what proportion of the buildings is comprised of such units, in order to make decisions about which properties to insure and at what price. New York Insurance Law allows insurers to consider underwriting and rating factors that are reasonably related to actual or anticipated losses to ensure that rates are adequate and that policyholder claims will be paid. As stated in the report, the Insurance Law explicitly prohibits the use of certain factors in underwriting or rating, such as race, color, creed, national origin, disability, and status as a victim of domestic violence.[11] The Insurance Law does not explicitly prohibit consideration of whether a property is comprised of, in part, affordable, subsidized, or Section 8 units when making underwriting or rating determinations. However, these insurer inquiries about affordable housing raise legitimate concerns from stakeholders about the potential for unfairly discriminatory results.

In order to provide further clarity and analysis of these practices to policymakers, DFS will issue a request for information asking all property and casualty insurers that are licensed in New York whether they insure housing developments. Insurers that provide coverage to housing developments will be subject to further inquiries, including but not limited to: whether they ask applicants or insureds what proportion of their developments are comprised of affordable, subsidized, or Section 8 units; an explanation of how those questions are used and what effect, if any, those questions have on the rating of such policies; and whether they refuse to provide insurance to affordable housing developments. DFS will also request information on restrictions or limitations on the underwriting of affordable housing, the rates being offered to affordable housing developments compared to market-rate housing with the same risk characteristics (e.g., same location and age), and the potential impact on premium and availability of insurance coverage for affordable housing if such underwriting and rate considerations were prohibited.

In order to better understand the constraints facing affordable housing developments, HCR will obtain information from state-funded housing providers, including but not limited to the premiums that these developments pay to insurers, the declinations and non-renewals that they receive from insurers, and actions that affordable housing developments are taking to mitigate some of the losses giving rise to increasing insurance premiums. HCR will also convene periodic informational sessions for affordable housing developers and managers in which DFS will present on rights and obligations related to insurance for affordable housing, including the process for filing complaints with DFS where insurers are acting improperly by asking questions that are not reasonably related to future losses or do not comply with New York Insurance Law.

DFS has modified its complaint process to specifically track complaints that are related to affordable housing so that it can investigate the facts, identify any patterns or practices that reflect misconduct by insurers, and take appropriate action. Consumers with complaints can use DFS's online Consumer Complaint Portal, contact the DFS Hotline at (800) 342-3736, or send an email to consumers@dfs.ny.gov. Complaints that indicate potential violations of laws outside of New York Insurance Law are not within DFS's jurisdiction. However, DFS and HCR will refer such matters to the relevant state or federal law enforcement agencies for investigation.

With sufficient time and adequate resources, DFS and HCR will analyze the information collected from insurers and state-funding housing providers, and publish these findings for consideration by policymakers.

[11] *See* Insurance Law §§ 2606 and 2612.