



AUTOMOBILE INSURANCE POLICIES AND THE 2% RULE

As required by § Section 3425(1)(2) of the New York Insurance Law

March 15, 2014

Benjamin M. Lawskey
Superintendent



NEW YORK STATE
DEPARTMENT *of*
FINANCIAL SERVICES

Andrew M. Cuomo
Governor

Benjamin M. Lawsky
Superintendent

March 15, 2014

Dear Governor Cuomo, Temporary President and Majority Coalition Leader Skelos, Temporary President and Majority Coalition Leader Klein, Speaker Silver, Chairman DeFrancisco, Chairman Hannon, Chairman Farrell, and Chairman Gottfried:

On behalf of the Department of Financial Services, I hereby submit a copy of the report required by Section 3425(1)(2) of the New York Insurance Law regarding private passenger automobile insurance policies.

Section 3425 of the Insurance Law limits an insurer's privilege to non-renew or conditionally renew private passenger automobile insurance policies in New York to a maximum of 2% of the total number of such policies in force at the end of the previous year in each of an insurer's rating territories (2% Rule). In accordance with the reporting requirement in Section 3425(1)(2), this report tabulates and analyzes the number of new insureds, nonrenewed insureds, and business written in each rating territory in order to evaluate the effectiveness of the 2% Rule.

Respectfully submitted,

Benjamin M. Lawsky
Superintendent of Financial Services

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EXECUTIVE SUMMARY

Purpose Of The Report

- Section 3425 of the Insurance Law limits an insurer's privilege to nonrenew or conditionally renew private passenger automobile insurance policies in New York to a maximum of 2% of the total number of such policies in force at the end of the previous year in each of an insurer's rating territories (2% Rule). In accordance with the reporting requirement in Section 3425(1)(2), this report tabulates and analyzes the number of new insureds, nonrenewed insureds, and business written in each rating territory in order to evaluate the effectiveness of the 2% Rule.

Findings and Recommendations

- Section 3425 appears to establish an equitable balance among the often competing forces of policyholders' expectations, insurers' legitimate prerogatives in evaluating and assuming risk, and the realities of the private passenger automobile insurance marketplace. It provides the foundation for an automobile insurance market that promotes stability in the State and protects consumers against arbitrary cancellations or nonrenewals of coverage.
- A key element of Section 3425 is the 2% Rule, which provides sufficient flexibility to insurers to underwrite risks in a fair and prudent manner. It has encouraged insurers to venture into markets where they have previously had little experience, and to develop market strategies that should enhance the availability and affordability of voluntary personal automobile insurance in New York. The rule is also an essential component of ongoing efforts to depopulate the New York Automobile Insurance Plan (NYAIP), which provides coverage to persons who cannot otherwise secure automobile insurance. While the data in this report indicates an increase in the number and percentage of policies nonrenewed, the industry still remains well within the 2% rule limitation, and the NYAIP population has remained stable during the period in question.
- Pursuant to Section 3425, if the 2% Rule is not in effect, policies are subject to a three-year required policy period and may not be nonrenewed except for limited circumstances. This requirement can discourage insurers in the voluntary market from writing new business. This was evidenced during a 23-month period (August 2, 2001 - June 26, 2003) covered by prior reports, when the 2% Rule was not in effect for new policies. While the number of vehicles registered in the State remained stable, the number of voluntary policies in force decreased during the period in which the 2% Rule was not in effect. It appears, therefore, that the suspension of the 2% Rule had a negative impact on the voluntary market by fostering uncertainty in the marketplace and by reducing some flexibility insurers had in underwriting their books of business. In contrast, after the 2% Rule was reinstated, increases were observed in the number of

voluntary policies in force. This report covers the three-year period of 2010-2012, and provides continuing confirmation of the seeming benefits of the 2% Rule.

- Based upon the data analyzed for this report, industry-wide violations of the 2% Rule, both overall as well as by individual driver classes studied, have not been substantial. When violations are found, the Department of Financial Services actively pursues and applies disciplinary measures to enforce and ensure future compliance with the rule.
- The data analyzed do not support a need for further modifications in the law to improve the treatment of specific driver classes. Any modifications of that nature should be approached with caution, since the relative burden of nonrenewals would likely be shifted to other classes. In addition, such measures could have the opposite effect on the classes they are intended to assist, since they may result in reluctance by underwriters to assume new business from the members of those classes.
- The 2% Rule, set forth in Section 3425(f), is set to expire on June 30, 2014. We recommend that it be extended in order to promote stability in the private passenger automobile insurance market.

INTRODUCTION

Section 3425 of the New York Insurance Law regulates automobile insurers' privileges to nonrenew or conditionally renew private passenger automobile insurance policies upon expiration of their required one year policy period.

In particular, Section 3425(f)(1) permits an insurer to nonrenew or conditionally renew up to a maximum of 2% of the total number of covered policies in force at the end of the previous year in each of an insurer's rating territories. This limitation is commonly referred to as the "2% Rule". Excluded from the 2% Rule are cancellations made within the first 60 days of a newly issued policy, and midterm terminations due to a limited number of reasons prescribed by statute, such as non-payment of premium; fraud in obtaining the policy or in presentation of a claim; and suspension or revocation of a driver's license. Also excluded from the 2% Rule are terminations made at the policyholder's request. In addition, the law permits insurers to annually non-renew one policy in a given rating territory where the number of its total policies in such territory is less than 50.

Section 3425(f)(2) provides that an insurer may non-renew or conditionally renew one additional policy in each territory beyond the two percent limitation, for every two newly issued automobile insurance policies voluntarily written by that insurer in such territory. Section 3425(f)(2), which can be viewed as a companion rule of Section 3425(f)(1), is often referred to as the "2-for-1 Credit".

The 2% Rule, combined with the 2-for-1 Credit, has a beneficial effect on the voluntary private passenger automobile insurance marketplace. These provisions provide stability and stimulate growth of the voluntary market, thereby broadening availability of vital automobile insurance coverages. They allow insurers substantial freedom and flexibility to accept new risks and discontinue their most undesirable business as long as they maintain an active presence in the private passenger automobile market.

Section 3425(l)(2) requires the Superintendent of Financial Services to collect, analyze and compile reports submitted by insurers regarding the number of new insureds, nonrenewed insureds, and business written by each insurer in each of its rating territories, and to report the results of such analysis to the Legislature by March 15, 2014. In addition to the analysis, this report briefly discusses recent developments affecting New York's automobile insurance market, and concludes with recommendations for continuing this vital statute.

The Department of Financial Services (the Department) last reported on this subject on March 15, 2011 for the three-year period ended December 31, 2009. Chapter 102 of the laws of 2011 extended the pertinent sections of the law to June 30, 2014. The data analyzed for this report cover the three-year period ended December 31, 2012, during which time the 2% rule was continuously in effect.

LEGISLATIVE BACKGROUND OF SECTION 3425

Section 3425 has an extensive history. It was originally enacted in 1969 as Section 167-a to establish minimum policy standards which would limit insurers' privileges to terminate private passenger automobile coverage, while preserving the necessary freedom to underwrite responsibly. As time passed and circumstances changed, Section 3425 evolved both in response to current market conditions and in a manner consistent with the law's original goals. A detailed historical summary of the legislative history and background of Section 3425 and its predecessors is presented in Appendix I.

REPORT METHODOLOGY

Collection of Data

In order to obtain the information for this report, the Department, pursuant to Section 3425(1) of the Insurance Law, required all insurers with voluntary private passenger automobile insurance policies in force in New York from 2010 through 2012 to submit specific underwriting data for the respective calendar years.

The required report formats and instructions are posted on the Department's web site for access and downloading by all insurers. All reports were required to be completed in a standardized computer format.

Driver Classifications and Territorial Designations Utilized

Automobile insurance companies price the policies they sell to individuals by means of driver classification systems that rely on, among other items: an insured's age, sex, marital status, geographical garaging location of the car and primary use of the vehicle. These factors reflect significant differences in exposure that, when actuarially and statistically supported and properly applied, help predict future losses and prevent unfair discrimination.

Classification systems may differ among insurance companies. Some use simple systems that include a few separate classes, while many others employ more complex systems utilizing many classes and variables. However, the basic principal driver classifications common to virtually all insurers are: Adult; Senior Citizen; Youthful Male; and Youthful Female (all of which are further differentiated by "Business" or "Pleasure" use). For the purpose of evaluating the operation of Section 3425, the Department uses data reported by insurers for the first four classes, since they are most relevant to the objective of the statute, which is protection of personal automobile insurance policyholders.

The geographical garaging location of the vehicle insured determines the rating territory used in calculating the policy premium. Some insurers in New York use the territorial definitions of Insurance Services Office, Inc. (ISO), an advisory rate service organization. Some insurers have their own territorial definitions. Since the 2% Rule functions on a territorial basis, for the purposes of this report, it is essential that compliance data be reported in a uniform format. Therefore, in completing their annual submissions of information required by Section 3425, insurers are instructed to conform their respective territorial reports to those of ISO (which are used in this report.)

SCOPE OF ANALYSIS

The compiled data are presented in two parts in the Overall Findings section of this report. Part I (Summary by Classes) summarizes the number of policies in force, the number of new policies written, and the number of nonrenewed policies, categorized by class of insureds, of the 30 largest auto insurers (by premium volume) in New York State for the years 2010 through 2012.

Based on the direct written premiums reported on the companies' filed annual statements, the top 30 insurers represented the following cumulative market share of all private passenger automobile insurance business written in New York State: 81.57% in 2010, 82.56% in 2011 and 82.25% in 2012. Because of the significant aggregate share of the overall insurance market represented by these companies, the summary data for this group represent a reliable measure of the effectiveness of the law.

Part II (General Findings) presents information on excess nonrenewals (i.e., the number of policies nonrenewed above the 2% limit), disciplinary actions, new business written, and consumer complaints for all insurers (including the top 30) writing private passenger automobile insurance in New York.

All of the data utilized in compiling this report were provided by insurers writing private passenger automobile insurance in New York. The excess nonrenewal data originally reported are subject to verification by the Property Bureau's Market Conduct Unit at the Department, and may result in disciplinary action for an insurer found in violation. For example, in addition to payment of a fine, an insurer that exceeds the 2% Rule may enter into a stipulation, agreeing to restore the marketplace by applying a threshold of 1% on nonrenewals in each territory, instead of 2%.

The information reflected in this report represents the most current data available at the time the report was prepared.

OVERALL FINDINGS

I. SUMMARY BY CLASSES

The following tables summarize the voluntary market data of the 30 largest New York private passenger automobile insurers by various driver classifications:

Table 1
All Classes Combined

	2010	2011	2012
Policies In Force	5,235,135	5,236,910	5,271,625
Policies Non-renewed	45,297	41,861	53,056
Percent Non-renewed	0.87%	0.80%	1.01%

Comments:

Overall, the industry has consistently stayed within the 2% limitation. The continuation of the 2% rule is reflected in the stable number of policies in force. Even though the number and percentage of policies nonrenewed increased in 2012, a large portion of the increase was due to one insurance company transferring 18.07 % of total nonrenewed policies to a preferred lower rate company within the group.

Table 2
Senior Citizens

	2010	2011	2012
Senior Citizens Policies In Force	825,337	833,070	858,939
Senior Citizens Class as a % of all Policies	15.77%	15.91%	16.29%
Senior Citizens Policies Non-renewed	3,062	3,084	3,572
% Senior Citizens Non-renewed to all Senior Citizens Policies In Force	0.37%	0.37%	0.42%
% Senior Citizens Non-renewed to all Policies Non-renewed	6.76%	7.37%	6.73%
% Senior Citizens Non-renewed to all Policies In Force	0.06%	0.06%	0.07%

Comments:

During this three-year reporting period, senior citizens represented approximately 15.99% of policyholders. In averaging the three years, this class represented approximately 6.95% of all policyholders nonrenewed.

While an average of 0.89% of all classes combined were nonrenewed during the three-year period covered by this report, an average of 0.39% of the senior citizens were nonrenewed.

With respect to nonrenewals of this class of policyholders, the data indicate that there is no unfairly discriminatory treatment of senior citizens vis-à-vis other classes of insureds. To the contrary, the relative nonrenewal rate of senior citizens continues to indicate that this class is considered more desirable by many insurers relative to the overall market; indeed, a senior citizen is less likely to be nonrenewed than the average policyholder.

Table 3
Youthful Males

	2010	2011	2012
Youthful Males Policies In Force	208,935	221,429	198,591
Youthful Males Class as a % of all Policies	3.99%	4.23%	3.77%
Youthful Males Policies Non-renewed	3,127	3,220	3,179
% Youthful Males Non-renewed to all Youthful Males Policies In Force	1.50%	1.45%	1.60%
% Youthful Males Non-renewed to all Policies Non-renewed	6.90%	7.69%	5.99%
% Youthful Males Non-renewed to all Policies In Force	0.06%	0.06%	0.06%

Comments:

Youthful males traditionally have more difficulty finding and maintaining coverage in the voluntary market relative to all other age classes. During this three-year period, there was a decrease in the number of youthful male policies in force in 2012, while the number of youthful male policies nonrenewed remained stable. As compared to all policies nonrenewed in 2012, there was a decrease in the percentage of youthful male policies nonrenewed.

Table 4
Youthful Females

	2010	2011	2012
Youthful Females Policies In Force	166,734	177,782	159,744
Youthful Females Class as a % of all Policies	3.18%	3.39%	3.03%
Youthful Females Policies Non-renewed	1,934	2,067	1,929
% Youthful Females Non-renewed to all Youthful Females Policies In Force	1.16%	1.16%	1.21%
% Youthful Females Non-renewed to all Policies Non-renewed	4.27%	4.94%	3.64%
% Youthful Females Non-renewed to all Policies In Force	0.04%	0.04%	0.04%

Comments:

As a percentage of all youthful female policies, nonrenewals for this class averaged approximately 1.18% in the three-year period covered by this report. Of all policies nonrenewed, the average of youthful females nonrenewed relative to all policies was 4.28% during this three-year period. During this three-year period, there was an increase in the number of youthful female policies in 2011 and a decrease in the number of youthful female policies in force in 2012.

General Comments on Youthful Operator Classes

Although nonrenewals in the major youthful operator classes are well within the permissible statutory limit relative to the overall nonrenewal rate, youthful operators have a greater chance of being nonrenewed than the average policyholder. Drivers in the youthful operator classes generally experience more difficulties in obtaining insurance as well.

Whenever insurers become more selective in their underwriting practices, the most significantly affected are those classes that historically have been least attractive from an underwriter's perspective -- namely, youthful operators.

The data indicates decreases in policies in force over the period for both the youthful male and youthful female classes. During this three year period, the number of policies in force for youthful male drivers decreased from 208,935 in 2010 to 198,591 in 2012 and youthful female drivers decreased from 166,734 in 2010 to 159,744 in 2012. Since data related to the NYAIP do not indicate increases in policies in force, other factors may have had an impact on the reduction in voluntary business for this population. The reduction is likely related to the overall economic decline that coincides with the period covered by this report, which may have put the costs of owning and insuring a motor vehicle out of reach for many young drivers. In addition, youthful operators that move back into or continue to reside in their parents' households are generally insured under their parents' policies, and do not need to purchase policies of their own.

II. GENERAL FINDINGS

The following information is based on reports filed by all insurers writing private passenger automobile insurance in New York.

A summary of excess nonrenewals by territory throughout the State may be found in Appendix II. Appendix III summarizes excess nonrenewals by companies and groups.

1. Market Conduct Examinations and Disciplinary Actions for Excess Nonrenewals

The Department monitors insurers' activities with respect to excess non-renewals. Insurers found to be in violation of the 2% Rule in any given territory are subject to disciplinary action for each policy nonrenewed in excess of the insurer's permissible number in that territory. The Market Conduct Unit of the Department's Property Bureau investigates all such violations and, in conjunction with the Department's Financial Frauds and Consumer Protection Division, imposes appropriate penalties.

The Market Conduct Unit maintains a record of all 2% Rule violations that have been settled. A stipulation acknowledging violations and agreeing to a fine may cover several years' activity and may not necessarily cover violations occurring in the year the stipulation was signed. Total fines collected for Section 3425 violations from stipulations for the three-year period of 2010-2012 were \$190,900.

2. Excess Nonrenewals

During the three-year period covered by this report, a total of 898 policies were nonrenewed in excess of the 2% limitation. Completed investigations of insurers with the highest number of excess nonrenewals are listed below.

Interboro Insurance Company, a member of the Interboro Group, accounted for 54.58% (or 143 policies) of excess nonrenewals in the State in 2012. A market conduct investigation was conducted and the company agreed with the findings and the penalties imposed.

Safeco Insurance Company of Indiana, a member of the Liberty Mutual Group, accounted for 14.61% (or 71 policies) of excess nonrenewals in the State in 2010 and 38.67% (or 57 policies) of excess nonrenewals in the State in 2011. A market conduct investigation was conducted and the company agreed with the findings and the penalties imposed for both years.

Sentinel Insurance Company, a member of the Hartford Fire and Casualty Group, accounted for 9.46% (or 46 policies) of excess nonrenewals in the State in 2010. A market conduct investigation was conducted and the company agreed with the findings and the penalties imposed.

Additional information on excess nonrenewals by company/group is presented in Appendix III.

An analysis of excess nonrenewals by territory for the three-year period of 2010 to 2012 indicates that the eight territories with the largest number of excess nonrenewals (out of 70 territories total) account for 54.23% of the total number of excess nonrenewals. Eight of the top 10 territories with excess nonrenewals were located in metropolitan or suburban areas.

Additional information on excess nonrenewals by territory is presented in Appendix II.

3. New Business Writings

Private passenger automobile insurers reported new business writings of 1,338,246 policies in 2010, 1,375,820 policies in 2011, and 1,649,309 policies in 2012.

Private passenger car registrations, as reported by the Department of Motor Vehicles, totaled 10,749,952 in 2010, 10,727,796 in 2011, and 10,791,198 in 2012, which indicates a stable trend in overall registrations. Those holding driver licenses in New York slightly declined from 11,285,831 in 2010 to 11,210,784 in 2011, and increased again in 2012 to 11,248,614.

4. Review of Consumer Complaints

During the three-year reporting period, a total of 122,434 (52,318 for 2010, 43,367 for 2011 and 26,749 for 2012) private passenger automobile consumer complaints were processed by the Department's Consumer Assistance Unit. 1,575 of the 122,434 complaints, (667 in 2010, 506 in 2011 and 402 in 2012) involved cancellations and nonrenewals of private passenger automobile insurance policies. A total of 224 of those complaints (119 in 2010, 56 in 2011 and 49 in 2012) were upheld.

	Rec'd	Cancel / NR	Upheld
2010	52318	667	119
2011	43367	506	56
2012	26749	402	49
TOTALS	122,434	1,575	224

5. Use of Multi-Tier Rating Programs

Chapter 9 of the Laws of 1995 added Section 2349 to the Insurance Law, effective May 28, 1995, to permit multi-tier rating programs.

Under a multi-tier rating program, an insurer may segregate insureds into different rate levels ranging from "highly" preferred to non-standard, according to specific factors of risk exposure or driving history. The ability to more closely match risk exposure to an appropriate rate appears to have increased the likelihood that more drivers can locate insurers willing to accept them in the voluntary market, thereby helping to depopulate the NYAIP.

Ideally, multi-tier programs should have the effect of making certain insureds who might otherwise not qualify for coverage under insurers' standard underwriting guidelines more attractive when placed in a higher rating tier. It was anticipated that this measure would not only increase voluntary writings, but would also reduce nonrenewals as well. Based on the significant depopulation of the assigned risk plan in the past few years, it appears that the multi-tier statute has thus far accomplished the Legislature's original intent. As of the end of 2013, there are over 100 multi-tier programs in effect.

Pursuant to Section 2349, insurers may annually move 3% of insureds in each rating territory to higher-rated tiers. This 3% rule stands in addition to the 2% Rule provided by Section 3425. Neither rule applies to insureds moving to lower-rated tiers.

CONCLUSIONS AND RECOMMENDATIONS

Section 3425 seems to strike an equitable balance among the often competing forces of policyholders' expectations, insurers' legitimate prerogatives in evaluating and assuming risk and the realities of the private passenger automobile insurance marketplace in the State. It provides the foundation for a reliable and predictable automobile insurance market that promotes stability and protects consumers against arbitrary cancellations or nonrenewals of coverage.

A key element of Section 3425 is the 2% Rule, which provides sufficient flexibility to insurers to underwrite risks in a fair and prudent manner. It has encouraged insurers to venture into markets where they have previously had little experience, and to develop market strategies that should enhance the availability and affordability of voluntary personal automobile insurance in New York. The rule is also an essential component of ongoing efforts to depopulate the NYAIP. While the data in this report indicates that there has been a modest increase in the number and percentage of policies nonrenewed, the number of nonrenewals by virtually all insurers remains well below the 2% Rule limitation, and the NYAIP population has remained stable during this period.

Pursuant to Section 3425, if the 2% Rule is not in effect, policies are subject to a three-year required policy period and may not be nonrenewed except for limited circumstances. This requirement can discourage voluntary insurers from writing new business. This was evidenced during a 23-month period (August 2, 2001 - June 26, 2003) covered by prior reports, when the 2% Rule was not in effect for new policies. While the number of vehicles registered in the State remained stable, the number of voluntary policies in force decreased during the period in which the 2% Rule was not in effect. It appears, therefore, that the suspension of the 2% Rule had a negative impact on the voluntary market by fostering uncertainty in the marketplace and by reducing some flexibility insurers had in underwriting their books of business. In contrast, after the 2% Rule was reinstated, increases were observed in the number of voluntary policies in force. This report covers the three-year period of 2010-2012, and provides continuing confirmation of the seeming benefits of the 2% Rule.

Based upon the data analyzed for this report, industry-wide violations of Section 3425 standards have not been substantial. This conclusion applies both on an overall basis, as well as by the individual driver classes studied. Where violations are found, the Department actively pursues and applies disciplinary measures to enforce the law and ensure future compliance with the 2% Rule.

From the data analyzed for this report, there is no evidence of a need for further modifications in the law to improve the treatment of specific driver classes. Any such modifications of that nature should be approached with caution, since the relative burden of nonrenewals would likely be shifted to other driver classes. Moreover, measures designed

to further restrict cancellations or nonrenewals of a particular class of drivers could cause underwriters to decline to assume new business writings of the members of that class as a means of avoiding those restrictions. Thus, the effect of a measure to assist a specific class might be the opposite of that intended.

The 2% Rule, set forth in Section 3425(f), is set to expire on June 30, 2014. We recommend that it be extended in order to promote continued stability and competition in the private passenger automobile insurance marketplace.

Appendix I

History of Insurance Law Section 3425

APPENDIX I

HISTORY OF INSURANCE LAW SECTION 3425

Background

The contractual right of either party to cancel an insurance policy has a long history. Unfortunately, in the 1960's, the cancellation privilege was often exercised by insurers for no better reason than the reflexive caution of an underwriter acting on the basis of guesses, hunches, and inadequate information. As a result, there was great demand for protection of consumers against certain kinds of cancellation.

While the number of cancellations of personal lines policies prior to 1969 was not large when compared with the overall number of policies in force, cancellations imposed hardships on individual policyholders and caused anxiety among consumers as well as a lack of confidence in the private insurance mechanism. Under traditional unrestricted cancellation clauses, insurers could cancel policies at mid-term for a large number of reasons, over which the policyholder had varying degrees of control and responsibility. Some cancellations were completely unrelated either to the fault or conduct of the insured or to the degree of hazard to which it exposed the insurer.

Mid-term cancellation of an existing insurance policy involved more than the mere absence of insurance protection. It was disruptive to policyholders and undercut some of the most essential benefits of the entire insurance process, i.e., transference of risk from the policyholder to the insurer. Since cancellation of a policy by the insurer results in greater hardship to the policyholder than to the insurance company, and the relative bargaining power of the parties favors the insurer, it was appropriate for the Legislature to make value judgments among the various grounds for cancellation in enacting restrictions on insurers' cancellation privileges.

Protecting Automobile Policyholders

While there was no evidence of systematic or general abuses by the insurance industry in canceling or nonrenewing automobile insurance coverages, the Insurance Department noted instances in which companies had acted without objective evidence and with an apparent lack of justification. Therefore, Section 167-a was added to the Insurance Law, effective January 1, 1969, with respect to automobile insurance policies. While preserving reasonable and necessary underwriting freedom, it established minimum objective policy standards and guarantees designed to minimize arbitrary action by insurers by limiting cancellation of coverages to:

non-payment of premium;

suspension or revocation of the driver's license or motor vehicle registration of the named insured or of any other operator who either resides in the same household or customarily operates an automobile insured under the policy;

It also required insurers to furnish specific reasons for cancellation or nonrenewal, and granted immunity from libel to insurers, their agents and employees with respect to disclosure of reasons for cancellation or nonrenewal furnished to the insured in good faith.

Protecting Other Personal Lines Policyholders

Policyholders protection was extended by the addition of Section 167-b, effective September 1, 1969, which prohibited insurance companies from canceling specified personal property and liability coverages (other than automobile) not involved in the conduct of a commercial or industrial enterprise, including real property used predominantly for residential purposes.

The 1969 law provided that personal lines policies other than automobile could be canceled only for the following reasons:

non-payment of premium;

conviction of a crime arising out of acts increasing the hazard insured against;

discovery of fraud or material misrepresentation;

discovery of willful or reckless acts or omissions increasing the hazard insured against;

physical changes in the property insured which result in the property becoming uninsurable; or,

a determination by the Superintendent that the continuation of the policy would violate or would place the insurer in violation of the insurance law.

Insurers were also required to specify the ground for cancellation and furnish the facts upon which the cancellation was based.

1971 Amendments

In order to provide additional protection against arbitrary cancellations and refusals to renew automobile and other personal lines insurance coverages, Sections 167-a and 167-b were amended, effective September 1, 1971, as follows:

to provide a "grace" period, which permits an insured to retain coverage if payment is made within 10 days after receipt of notice of cancellation of coverage for non-payment of premium;

to prohibit reduction of limits and coverage during the term of a personal automobile insurance policy;

to require that a notice of cancellation during the first 60 days of the policy term must state or be accompanied by a statement giving the specific reason or reasons for cancellations; and,

to require that the specific reason or reasons must be contained in or accompany any nonrenewal notice.

Three Year Protection Added - 1973 and 1974

Effective August 1, 1973, in conjunction with the then newly enacted no-fault law, Section 167-a was amended to require that automobile insurance policies with expiration dates between August 1, 1973, and July 31, 1974, must be renewed for three annual policy periods, except where the grounds previously specified for cancellation or nonrenewal existed. The law was further amended effective September 1, 1973, to prohibit insurers from refusing to issue or renew automobile insurance policies solely on the ground that the insured or proposed insured is 65 years of age or over.

Effective August 1, 1974, Sections 167-a and 167-b were repealed and a new Section 167-a was enacted applicable to personal automobile and all other personal lines policies. The new section substantially revised, strengthened, and reenacted the provisions contained in the sections that had been repealed, and provided that policies covering personal automobiles and other personal risks must be renewed for a three-year period, beginning with the voluntary issuance of the policy, or the first voluntary renewal of the policy, after August 1, 1974. The guaranteed right to renew that had been granted in 1973 for personal automobile insurance with expiration dates between August 1, 1973, and July 31, 1974, was preserved and continued.

The law also provided for an "escape clause" under certain extreme economic conditions, pursuant to a program approved as necessary by the Superintendent, following a determination that continuation of an insurer's then current premium volume would be hazardous to the interests of its policyholders, creditors or the public. This provision was in addition to the previously stated reasons for termination, which remained in effect.

1976 Amendments

Section 167-a was amended again, effective August 1, 1976. The principal changes were:

The protection previously given to owners of real property used for residential purposes was made applicable to any property with not more than four dwelling units.

An insurer was permitted to cancel automobile coverage at any time within the required policy period if the driver's license of the insured or a regular driver of the insured vehicle had been suspended or revoked during the required policy period. Cancellation based upon the suspension or revocation of a driver's motor vehicle registration was prohibited.

The relevant period forming the basis for cancellation of fire or homeowners coverages on the ground that the property is uninsurable because of physical changes was limited to changes occurring after issuance or last annual anniversary date of the policy.

Where grounds existed for a policy to be canceled, such grounds could also serve as the basis for conditional renewal.

For the three-year required policy period, the grounds upon which insurers could base cancellation or nonrenewal of personal automobile policies otherwise entitled to continuation during the required policy period were expanded. These grounds included (i) convictions for certain illegal behavior and/or anti-social conduct; (ii) excessive accident involvement; or (iii) material changes in the type of vehicle insured which rendered the vehicle uninsurable under specified conditions and standards.

A roll-on of an additional one year policy period for personal automobile insurance policies issued before August 1, 1973 was provided, except where the following grounds for nonrenewal (popularly referred to as "the laundry list") existed:

(a) Where a named insured and/or any other person who customarily operates an automobile insured under the policy is convicted of any of the following:

(i) operating a motor vehicle while intoxicated or impaired by the consumption of alcohol;
or

(ii) operating a motor vehicle while impaired by the use of a drug (within the meaning of section eleven hundred ninety-two of the Vehicle and Traffic Law); or

(iii) homicide or assault arising out of the use or operation of a motor vehicle, or criminal negligence in the use or operation of a motor vehicle resulting in the injury or death of

another person, or use or operation of a motor vehicle directly or indirectly in the commission of a felony; or

(iv) operating a motor vehicle in excess of the speed limit, or in a reckless manner, where injury or death results therefrom; or

(v) operating a motor vehicle in excess of the speed limit, or reckless driving, or any combination thereof, on three or more occasions; or

(vi) operating a motor vehicle insured under the policy without a valid license or registration in effect (except when the person convicted has possessed a valid license or registration which had expired and was subsequently renewed), or during a period of revocation or suspension thereof, or in violation of the limitations applicable to a license issued pursuant to the Vehicle and Traffic Law; or

(vii) operating a motor vehicle while seeking to avoid apprehension or arrest by a law enforcement officer; or

(viii) filing or attempting to file a false or fraudulent automobile insurance claim or knowingly aiding or abetting in the filing or attempted filing of any such claim; or

(ix) leaving the scene of an accident without reporting; or

(x) filing a false document with the Department of Motor Vehicles, or using a license or registration obtained by filing a false document with the Department of Motor Vehicles; or

(xi) operating a motor vehicle in a race or speed test; or

(xii) knowingly permitting or authorizing an unlicensed driver to operate a motor vehicle insured under the policy.

(b) Where a named insured or any other person who operates a motor vehicle insured under the policy is individually or are aggregately involved in three or more vehicle accidents while operating a motor vehicle insured under the policy, resulting in either (1) personal injury; or (2) property damage of two hundred dollars or more.

The 1976 amendments also provided that policies which were newly assigned to the NYAIP on or after August 1, 1976, would no longer be subject to the provisions of Section 167-a. Policies which were issued by the Plan through July 31, 1976, retained the protection of Section 167-a until their three-year assignment period expired.

Extensions of the Required Automobile Policy Period ("Roll-ons") in 1977 and 1978

Effective August 1, 1977, automobile policies which would have otherwise lost Section 167-a protection were afforded an additional year of protection. Policies issued or voluntarily renewed between August 1, 1973, and July 31, 1974, were continued for a fifth year and those issued between August 1, 1974, and July 31, 1975, were provided protection for a fourth year.

Effective June 19, 1978, Section 167-a was amended again to require a further one-year extension of coverage to policies which would not otherwise continue to be subject to Section 167-a protection. Policies issued or voluntarily renewed between August 1, 1973, and July 31, 1974, would be continued for a sixth year, and those issued between August 1, 1974, and July 31, 1976, were provided protection for a fifth or fourth year.

A 1978 amendment redefined the phrase "required policy period" to include any period of "statutory extension" following the end of the previously mandated three-year policy period.

An insurer had to honor a request by its insured for continued representation by a terminated producer during the redefined "required policy period". Prior to the 1978 amendment, insurers did not have to recognize a terminated producer when the risk was under a statutory extension.

The law was also amended to prohibit cancellation and nonrenewal of automobile insurance policies based on one or more administrative suspensions arising from the same incident which has or have been terminated prior to the effective date of cancellation.

The successive one-year extensions provided to personal automobile policies were not applicable to other personal lines policies. They continued to receive protection for three years only.

Section 167-a also contained detailed provisions relating to the rights of terminated producers. (See also (J) infra for 1981 amendments relating to terminated producers). Section 167-a(9) requires an insurer which terminates the account of a non-captive agent or broker to:

(a) continue to write existing policies through the terminated agent or broker during their required policy periods, including any statutory extensions. Such continuations were effected either through operation of law or at the specific request of the insureds; and

(b) accept from the terminated producer all new business meeting the insurer's then current underwriting standards for a 120-day period after the termination.

Enactment of Section 167-aa in 1979

In 1979, the Legislature, upon the recommendation of the Insurance Department, enacted Section 167-aa applicable to personal automobile insurance policies newly issued on and after August 1, 1979, or voluntarily renewed after having completed their required policy periods under Section 167-a. Section 167-aa contained the following features:

- (a) The required policy period is one year rather than three years.
- (b) New business continues to be subject to a provision permitting termination during the first 60 days after inception for any reason except grounds expressly prohibited by the Insurance Law (e.g., race, national origin, sex, and marital status). The cancellation notice must include specific reasons for the action.
- (c) Cancellation during the policy term continues to be permitted for non-payment of premium or a non-administrative suspension or revocation of a driver's license. In addition, the discovery of fraud or material misrepresentation in obtaining a policy or presenting a claim is an additional ground for cancellation.
- (d) Insurers must continue to give insureds 45 to 60 days notice of intention not to renew or to conditionally renew, and to furnish the reasons therefor. Renewal may be conditioned upon a change in limits. Insurers are granted the right to substitute, at renewal, approved policy contracts which contain at least a substantially equivalent value, in the aggregate, of benefits (as determined by the Superintendent). Insureds must be furnished with a full and clear comparison of the differences between the policy form as last issued and the substitute policy form. Where an insurer can cancel or refuse to renew it has the option, on 20 days notice, to offer the insured a conditional renewal with changes in limits or elimination of coverages not required by law.
- (e) Instead of the previous "laundry list" of permitted reasons for nonrenewal, insurers are permitted annually to nonrenew, in each rating territory, a maximum of 2-percent of their total number of covered policies. Where the number of insureds in each territory is so low that any nonrenewal would be in excess of the 2-percent restriction, the insurer is permitted annually to nonrenew one policy. Excluded from the 2-percent limitation are cancellations made within the first 60 days, and midterm cancellations for reasons such as non-payment of premium or danger of insurer insolvency.
- (f) As an incentive to increase voluntary writing, for every two newly insured automobiles written in a territory, insurers are authorized to nonrenew or conditionally renew one additional automobile in that territory in excess of the 2-percent limit. This "two-for-one" provision may be revoked by the Superintendent, after a hearing, on a determination that an insurer or group of insurers has utilized the provisions to the detriment of any class or group of classes within a rating territory.
- (g) Libel protection and proof of mailing provisions which parallel provisions in Section 167-a are continued in Section 167-aa, together with proscriptions against discrimination based solely on the ground of advanced age of the applicant or insured.

(h) The substantive provisions of Section 167-a(9), which protect the rights of terminated agents and brokers and their insureds, are restated and made applicable to Section 167-aa risks.

(i) Section 167-aa is made ineffective, under limited "sunset" provisions to new automobile insurance policies voluntarily written on and after August 1, 1983. It is specifically provided, however, that legal rights granted insurers and policyholders in Section 167-aa will not be extinguished or impaired as a result of its inapplicability to new policies on and after August 1, 1983.

It should be noted that if Section 167-aa was not extended, the question would have arisen whether the provisions of Section 167-a, as they related to private passenger automobile insurance, would be revived on August 1, 1983, the sunset date for Section 167-aa.

This issue was discussed by the Project for Recodification of the Insurance Law, which noted in its final draft dated December 20, 1982, of new Article 34 at pp. 67-68 that: "At the same time it can be argued that Section 167-a, as it relates to private passenger auto insurance, is revived on the termination of Section 167-aa on Aug. 1, 1983. Sen. Bill 6409 (Assem. Bill 8295) which was enacted as Chap. 690 in 1979, was introduced on June 16, the day on which the 1979 regular session recessed, and passed both houses on the same day under a Message of Necessity from the Governor. A typewritten version of the bill which appears to have been before the Legislature on that day included a Note at the end of the bill; this Note stated, among other things, that Section 167-a would be suspended with respect to new auto insurance policies. The word 'suspended' might be interpreted to imply revival after the Aug. 1, 1983 terminal date of Section 167-aa. However, this Note does not appear in the printed text in the Dept. of State nor in McKinney's 1979 Session Law, nor in the official N.Y. Laws of 1979. Moreover, neither the Executive memorandum accompanying the Governor's approval nor the legis. memorandum of a sponsor makes any reference to the revival of Section 167-a as it relates to private passenger auto ins. (The former is published in McKinney's Session Laws 1979 and the latter in the 1979 Legislative Annual published by N.Y. Legislative Service.)" The Recodification Project also noted: "The ambiguity discussed above is presently academic since the Ins. Dept. is required to report to the Gov. and the Legislature by Mar. 1, 1983 on the operation of Sections 167-a and 167-aa and will make recommendations for the period after Section 167-aa expires," and that the present law "contemplates that the Legislature will, after receipt of the Supt.'s report, make its own determination on this matter."

1980 Amendments to Sections 167-a and 167-aa

In 1980, the provisions of Sections 167-a and 167-aa were amended to increase from 20 days to at least 45 days and not more than 60 days the period of notice which must

be given to an insured where an insurer intends to conditionally renew a policy which it could otherwise nonrenew in its entirety, with changed limits or reduced coverages.

1981 Amendments to Section 167-aa

Section 167-aa was amended in 1981 to extend, from one year to a maximum of three years, the period of time for which an agent or broker who has been terminated is entitled to receive commissions on personal automobile policies placed prior to such termination. The continuation of the policy through the terminated agent or broker would have to be "at the specific request of the insured."

Amendments to Section 167-a, 1980-1983

Conforming amendments were made to Section 167-a excluded from its applicability policies subject to the provisions of new Section 167-aa, specifically private passenger automobile policies which have completed the guarantee periods of protection under Section 167-a. Another clarification specifically excluded policies written through the New York Property Insurance Underwriting Association (NYPIUA) from the applicability of Section 167-a, a position long taken by the Department.

Section 167-a was amended to add discovery of fraud or material misrepresentation in presenting a claim under the policy as an additional permitted ground for cancellation.

Section 167-a was further amended to specify that insurers may condition renewal upon a "change" as contrasted with a "reduction" of limits. This amendment permits, for example, an insurer writing a fire policy to require, as a condition of renewal, that the policy limits be at least equal to 80 percent of the value of the insured premises.

Provisions were added to Section 167-a to allow an insurer that could cancel or refuse to renew, to condition continuance of coverage upon a change of limits or elimination of coverages not required by law, by giving specified notice to the insured. Insurers were also empowered to substitute at renewal new approved policy contracts which contained a substantially equivalent value of aggregate benefits, as determined by the Superintendent. Insurers were required to provide insureds with a full and clear comparison of the substantive differences between the old and new forms.

In 1983, an evaluation of the operation of former Sections 167-a and 167-aa was furnished to the Governor and the New York State Legislature. The report concluded that the intended purpose of the law, i.e., protecting personal lines policyholders from arbitrary cancellation and nonrenewal, was being accomplished. Importantly, it was observed that the vast majority of insurers were found to be within the statutory limits established for nonrenewals.

The Department's 1983 report reviewed the legislative history with respect to cancellation and nonrenewal of personal lines insurance policies, from inception of the pertinent statutory provisions in 1969, and discussed the evolving regulatory goals.

It should be pointed out that a "sunset" accompanies these provisions. In 1983, the Legislature extended the pertinent statutory provisions to July 31, 1985, resulting in a temporary suspension of the 2% Rule. As a result, the complex provisions of former Section 167-a, which were intended to serve only as stand-by provisions (and which had been recodified as Section 3425(m)), became applicable to private passenger policies newly written on and after August 1, 1985.

Recodification - Section 3425

On September 1, 1984, Sections 167-a and 167-aa were consolidated into a new Section 3425, many provisions of which were substantially identical. Hereafter, all references are to Section 3425.

Section 3425(m), which was in effect for the period August 1, 1985, through December 31, 1985, allowed insurers to nonrenew automobile insurance policies if the following took place during the thirty-six month period ending on the last day of the fourth month preceding the month of the effective date of such notice of nonrenewal:

A named insured or any other person who customarily operates an automobile insured under the policy is convicted for certain serious violations; or

Where a named insured or any other person who operates a motor vehicle insured under the policy is individually or collectively involved in three or more motor vehicle accidents while operating a motor vehicle insured under the policy, resulting in bodily injury or property damage in excess of \$200. Certain occurrences were excluded.

As a result of legislative action at the Extraordinary Session in December 1985, Chapter 917 of the Laws of 1985 was enacted, which amended Section 3425(m) of the Insurance Law. This amendment restored prospectively (from January 1, 1986 through July 31, 1987) the cancellation and nonrenewal provisions pertaining to private passenger automobile policies that were in effect through July 31, 1985, but which expired at that time. Section 3425 was further amended to require the Superintendent of Insurance to analyze reports submitted by insurers writing private passenger automobile policies and provide a report to the Legislature by March 15, 1987.

In the Superintendent's 1987 report to the Legislature concerning the operation of subsections (f) and (m) of Section 3425, the Superintendent reported overall substantial compliance with the requirements of Section 3425, and recommended a long-term, if not permanent, extension of the law's provisions to encourage price and market stability. By enacting Chapter 314 of the Laws of 1987, the Legislature extended the pertinent statutory provisions to July 31, 1991.

Chapter 235 of the Laws of 1989 amended Section 3425 by inserting a new paragraph (3) to subsection (a). This was done in order to specify that personal umbrella liability policies are considered "personal lines insurance" rather than automobile insurance. It was not clear whether these policies should be treated as automobile policies in certain instances. Thus, a three-year required policy period was established for personal umbrella policies. It should be pointed out that personal umbrella policies were never included in the data submitted by insurers and, therefore, were never analyzed for purposes of the current report nor for previous reports.

Section 3425(f)(2) was also amended by Chapter 235 in order to specify that the predicate for the 2-for-1 Credit is "policies" rather than "automobiles," to match the "policies" predicate of the 2% Rule. This revision had been recommended in both the 1983 and 1987 Section 3425 reports as a necessary condition to effectuate the original intent of the law, which was to encourage carriers to insure additional insureds as opposed to merely extending coverage to additional automobiles owned by individuals already insured by the company.

Chapter 207 of the Laws of 1991 further amended Section 3425 by extending the pertinent provisions of the law to August 1, 1992, and requiring the Superintendent to analyze the operation of the law and provide a report of the results of such analysis to the Legislature by March 15, 1992.

Chapter 647 of the Laws of 1992 amended subsection (l) of Section 3425 by requiring that the reports submitted by insurers to the Department pursuant to 3425(l)(1) include the age and sex of insureds affected.

Chapter 647 further revised Section 3425 by adding subsection (n). This subsection provides that certain statutory disincentives be enforced against insurers whom the Superintendent determines implemented the elimination of premium installment plans, reduction in commissions, or any other marketing action to effectuate a withdrawal or substantial withdrawal from writing automobile business. Such disincentives allow an agent to activate certain statutory rights accorded the agent under Section 3425(j). Another disincentive states that the violative insurer must maintain premium payment installment options in a similar manner to options offered by the NYAIP.

Another revision of Section 3425 enacted in Chapter 647 was the addition of subsection (o). Subsection (o) provides that if an insurer intends to materially reduce its volume of personal lines policies, it must submit to the Superintendent, within 30 days of implementation, a description and explanation of the contemplated actions the insurer intends to take in order to ensure an orderly reduction and minimize market disruption.

Chapter 647 further amended Section 3425 by extending the pertinent sections of the law to August 1, 1996, and requiring the Superintendent to report to the Legislature by

March 15, 1996, with respect to the analysis of reports submitted by insurers pursuant to Section 3425(l)(1).

Chapter 683 of the Laws of 1994 amended Section 3425 by inserting a new paragraph (p) authorizing the Superintendent to suspend or modify the termination provision and limitations for private passenger automobile and personal lines insurance in any area of the State that has been declared to be in a state of emergency due to a disaster or catastrophe.

Chapter 563 of the Laws of 1995 added Section 3425(q), which allows personal lines policies to be written for less than the required policy period if they are issued for specific reasons. Those reasons are: (1) issuance for a seasonal purpose; (2) coverage for a specific event or project that will be performed in less than one year; (3) issuing a policy so that the specific term coincides with the term of the insured's already existing policy; and (4) a new policy issued in a mass merchandising program where the term of the new policy is made to coincide with the terms of all other policies in the program. The statute also provides that an insurer would not be required to give notice of nonrenewal or conditional renewal if a personal lines policy is issued for a seasonal purpose or for a specific event or project. In addition, personal automobile policies issued for these purposes are not subject to Section 3425(f).

Chapter 42 of the Laws of 1996 amended Section 3425(o) to provide more extensive requirements for insurers submitting plans of orderly withdrawal from the homeowners marketplace.

Chapter 136 of the Laws of 1998 amended Section 3425 by extending the pertinent provisions of the law to August 1, 2001, and requiring the Superintendent to analyze the operation of the law and provide a report of the results of such analysis to the Legislature by March 15, 2001.

Expiration and Reinstatement of the 2% Rule

As a result of the expiration of certain provisions of Section 3425 on August 2, 2001, new voluntary insurance policies covering private passenger automobiles in New York State with an effective date on or after August 2, 2001 and prior to June 26, 2003 were subject to different cancellation and nonrenewal provisions than automobile insurance policies written voluntarily prior to August 2, 2001 and newly written or voluntarily renewed on or after June 26, 2003.

As a result, the complex provisions of Section 3425(m), which were intended to serve only as stand-by provisions became applicable to private passenger auto policies newly written on and after August 2, 2001 and prior to June 26, 2003. Such policies were subject to a three-year "required policy period" and nonrenewals were only permitted using the "laundry list" of reasons set forth in 3425(m).

Chapter 85 of the Laws of 2003 reinstated the 2% Rule as of June 26, 2003 and Chapter 268 of the Laws of 2007 extended pertinent sections of the law including the 2% Rule to June 30, 2008.

Chapter 136 of the Laws of 2008 extended the pertinent sections of the law to June 30, 2011.

Chapter 102 of the laws of 2011 extended the pertinent sections of the law to June 30, 2014.

Other amendments to Section 3425

2003 Amendment to Section 3425 Imposing Additional Notice Requirements

Chapter 675 of the Laws of 2003 amended Sections 3425(c)(1)(A), 3425(c)(2)(A), 3425(h)(2) and 3425(h)(3) to provide additional notice requirements with respect to non-business automobile insurance policies and personal lines insurance policies effective February 12, 2004, as follows:

A valid notice of cancellation for nonpayment of premium requires the inclusion of a statement that clearly informs the insured of the amount due.

A notice of cancellation, reduction of limits, substitution of policy form, elimination of coverages, conditional renewal or of intention not to renew, or notice of the reasons for any such notice, that fails to include all provisions required by Section 3425 shall not be an effective notice for the purposes of Section 3425.

A copy or a summary of every one of the aforementioned types of notices must be mailed, delivered or transmitted (which may be by electronic transmission) to the insured's authorized agent or broker within seven days of the time such notice is mailed to the named insured.

2008 Amendment Allowing for Plan for Orderly Nonrenewals by Small Insurers

Chapter 136 of the Laws of 2008 which became effective on June 30, 2008 added a new provision, Section 3425(r), to the Insurance Law that permits, subject to the prior approval of the Superintendent, an insurer that has no more than 750 automobile insurance policies in-force at last year-end to submit to the Superintendent a plan for the orderly nonrenewal of the policies. This enables an insurer to leave the market when it has only a small number of policies in-force, while also providing safeguards to ensure that market

disruption is minimized, and that exiting the market would not be detrimental to the consumers of New York.

2011 Amendment Allowing for insuring motor vehicles used for volunteer Firefighters.

Chapter 408 of the Laws of 2011 which became effective on September 16, 2011 added a new provision, Section 3425(s), to the Insurance Law, prohibiting insurance companies from refusing to issue or renew an automobile insurance policy when the motor vehicle to be insured is used for volunteer firefighting.

Appendix II

Summary of Excess Nonrenewals by Territory – 2010 -2012

APPENDIX II

**SUMMARY OF EXCESS NONRENEWALS BY TERRITORY
2010 – 2012
APPENDIX II**

Territory Description	Ter #	2010	2011	2012	Total	%	Rank
QUEENS SUB.	55	69	19	21	109	12.14%	1
KINGS CO.	75	11	12	56	79	8.80%	2
BRONX SUB.	19	62	5	2	69	7.68%	3
HEMPSTEAD	76	11	6	45	62	6.90%	4
ROCHESTER	17	29	6	17	52	5.79%	5
MIDDLETOWN	07	33	6	2	41	4.57%	6
SUFFOLK CO. WEST	20	14	18	8	40	4.45%	7
SUFFOLK CO. EAST	97	34	1	0	35	3.90%	8
SYRACUSE	05	5	6	18	29	3.23%	9
CLINTON CO., ETC.	18	15	2	11	28	3.12%	10
BRONX	22	13	12	2	27	3.01%	11
SARATOGA SPRINGS SUB.	01	7	0	16	23	2.56%	12
ALLEGHENY CO., ETC.	68	11	6	4	21	2.34%	13
STATEN ISLAND	65	14	3	1	18	2.00%	14
ROCKLAND CO.	21	5	9	3	17	1.89%	15
SCHENECTADY CO.	16	0	3	13	16	1.78%	16
QUEENS	03	10	1	3	14	1.56%	17
NORTH HEMPSTEAD	94	8	4	2	14	1.56%	17
CORTLAND CO., ETC.	12	11	1	1	13	1.45%	19
ALBANY CO. (BAL)	81	5	0	7	12	1.34%	20
ONEIDA	51	11	0	0	11	1.22%	21
JEFFERSON CO.	13	7	2	2	11	1.22%	21
ALBANY	08	5	1	5	11	1.22%	21
OSSINING	67	5	0	5	10	1.11%	24
DELAWARE CO., ETC.	33	8	0	2	10	1.11%	24
GLOVERSVILLE	46	6	2	0	8	0.89%	26
MANHATTAN	11	6	0	0	6	0.67%	27
NIAGARA FALLS SUB.	58	5	1	0	6	0.67%	27
HIGHLAND, KINGSTON	83	5	1	0	6	0.67%	27
SYRACUSE SUB.	41	6	0	0	6	0.67%	27
ORLEANS CO.	86	2	0	4	6	0.67%	27
MONROE CO. (BAL)	56	5	0	1	6	0.67%	27
MT. VERNON & YONKERS	64	4	0	1	5	0.56%	33
BUFFALO	62	2	3	0	5	0.56%	33
BUFFALO SEMI-SUB.	61	2	2	0	4	0.45%	35
GENESEE CO.	32	2	0	2	4	0.45%	35

APPENDIX II

**SUMMARY OF EXCESS NONRENEWALS BY TERRITORY
2010 – 2012
APPENDIX II**

Territory Description	Ter #	2010	2011	2012	Total	%	Rank
ELMIRA	31	4	0	0	4	0.45%	35
SULLIVAN CO. (BAL)	95	4	0	0	4	0.45%	35
ROCHESTER SUB.	09	3	1	0	4	0.45%	35
BUFFALO SUB.	54	4	0	0	4	0.45%	35
COLUMBIA CO., ETC.	28	1	1	1	3	0.33%	41
NIAGARA FALLS	84	2	1	0	3	0.33%	41
OYSTER BAY	49	0	3	0	3	0.33%	41
FORT PLAIN, HERKIMER	59	3	0	0	3	0.33%	41
TROY	34	2	1	0	3	0.33%	41
POUGHKEEPSIE	29	0	3	0	3	0.33%	41
AUBURN	25	0	2	1	3	0.33%	41
DUTCHESS CO. (BAL)	39	0	2	0	2	0.22%	48
ERIE COUNTY (BAL)	72	2	0	0	2	0.22%	48
MONTICELLO-LIBERTY	44	0	2	0	2	0.22%	48
UTICA	42	1	0	1	2	0.22%	48
SARATOGA CO. (BAL)	37	1	0	1	2	0.22%	48
BINGHAMTON	52	1	0	1	2	0.22%	48
NEW YORK CITY SUB.	14	0	0	2	2	0.22%	48
AMSTERDAM	82	2	0	0	2	0.22%	48
SULLIVAN CO. CENTRAL	38	0	0	1	1	0.11%	56
CHAUTAUQUA CO.	15	1	0	0	1	0.11%	56
WHITE PLAINS	24	1	0	0	1	0.11%	56
OSWEGO	35	0	1	0	1	0.11%	56
ONTARIO CO., ETC.	73	1	0	0	1	0.11%	56
ROME	74	0	1	0	1	0.11%	56
PUTNAM CO.	27	1	0	0	1	0.11%	56
GLENS FALLS	43	1	0	0	1	0.11%	56
NIAGARA CO. (BAL)	71	1	0	0	1	0.11%	56
CORNING	30	1	0	0	1	0.11%	56
SARATOGA SPRINGS	48	1	0	0	1	0.11%	56
BROOME CO. (BAL)	47	0	0	0	0	0.00%	70
RENSSELAER CO. (BAL)	36	0	0	0	0	0.00%	70
SARATOGA CO. SOUTH	60	0	0	0	0	0.00%	70
NEWBURGH	40	0	0	0	0	0.00%	70
TOTAL		486	150	262	898	100.00%	

Appendix III

Summary of Excess Nonrenewals by Company/Group – 2010 – 2012

Appendix III
Summary of Excess Nonrenewals
By Company/Group – 2010 - 2012

Company/Group	2010	2011	2012	Total	%	Rank
Interboro Insurance company	0	2	143	145	0.94%	
AutoOne Select Insurance	9	0	0	9	0.06%	
AutoOne Insurance	2	0	0	2	0.01%	
Interboro Group - Total	11	2	143	156	17.37%	1
% of Total for the Year	2.26%	1.33%	54.58%			
Safeco Insurance Company of Indiana	73	57	5	135	0.87%	
Safeco Insurance Company of America	2	1	0	3	0.02%	
Peerless Insurance Company	0	0	1	1	0.01%	
Liberty Mutual Group - Total	75	58	6	139	15.48%	2
% of Total for the Year	15.43%	38.67%	2.29%			
Hudson Insurance Company	85	5	0	90	0.58%	
Fairfax Insurance Group - Total	85	5	0	90	10.02%	3
% of Total for the Year	17.49%	3.33%	0.00%			
Deerbrook Insurance Company	34	3	0	37	0.24%	
Encompass Indemnity Company	22	0	0	22	0.14%	
Encompass Insurance Company of America	10	0	0	10	0.06%	
Encompass Property and Casualty Company	2	0	3	5	0.03%	
Allstate Property and Casualty Insurance Company	0	0	9	9	0.06%	
Allstate Insurance Group - Total	68	3	12	83	9.24%	4
% of Total for the Year	13.99%	2.00%	4.58%			
Commerce and Industry Insurance Company	51	15	0	66	7.35%	
American International Group - Total	51	15	0	66	7.35%	5
% of Total for the Year	10.49%	10.00%	0.00%			

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Summary of Excess Nonrenewals
By Company/Group – 2010 - 2012

Company/Group	2010	2011	2012	Total	%	Rank
Motors Insurance Corporation	43	0	0	43	0.28%	
CIM Insurance Corporation	2	0	0	2	0.01%	
MIC Property & Casualty Insurance Corporation	1	0	0	1	0.01%	
GMAC Insurance Holding Group - Total	46	0	0	46	5.12%	6
% of Total for the Year	9.47%	0.00%	0.00%			
Sentinel Insurance Company	46	0	0	46	0.30%	
Hartford Fire & Casualty Group - Total	46	0	0	46	5.12%	6
% of Total for the Year	9.47%	0.00%	0.00%			
Horace Mann Insurance Company	36	0	0	36	0.23%	
Horace Mann Group - Total	36	0	0	36	4.01%	8
% of Total for the Year	7.41%	0.00%	0.00%			
State Farm Fire and Casualty Company	0	3	24	27	0.17%	
State Farm Group - Total	0	3	24	27	3.01%	9
% of Total for the Year	0.00%	2.00%	9.16%			
The Travelers Indemnity Company of Connecticut	6	1	0	7	0.05%	
Travelers Property Casualty Company of America	5	1	0	6	0.04%	
The Standard Fire Insurance Company	1	0	1	2	0.01%	
The Charter Oak Fire Insurance Company	0	1	1	2	0.01%	
Travelers Property Casualty Insurance Co.	0	1	0	1	0.01%	
The Travelers Indemnity Company of America	0	1	0	1	0.01%	
TravCo Insurance Company	1	0	0	1	0.01%	
Travelers Group - Total	13	5	2	20	2.23%	10
% of Total for the Year	2.67%	3.33%	0.76%			

Appendix III
Summary of Excess Nonrenewals
By Company/Group – 2010 - 2012

Company/Group	2010	2011	2012	Total	%	Rank
Tri-State Consumer Insurance Company	0	0	20	20	0.13%	
No Group Affiliation - Total	0	0	20	20	2.23%	10
% of Total for the Year	0.00%	0.00%	7.63%			
BALBOA INSURANCE COMPANY	0	0	19	19	0.12%	
BankAmerica Corp Group - Total	0	0	19	19	2.12%	12
% of Total for the Year	0.00%	0.00%	7.25%			
Clarendon National Insurance Company	0	17	0	17	1.89%	
Enstar Group - Total	0	17	0	17	1.89%	13
% of Total for the Year	0.00%	11.33%	0.00%			
American Commerce Insurance Company	0	17	0	17	1.89%	
Commerce Insurance Group - Total	0	17	0	17	1.89%	14
% of Total for the Year	0.00%	11.33%	0.00%			
Republic Franklin Insurance	2	2	4	8	0.05%	
Utica National Assurance	0	3	3	6	0.04%	
Graphic Arts Mutual Insurance	1	1	0	2	0.01%	
Utica National Group - Total	3	6	7	16	1.78%	15
% of Total for the Year	0.62%	4.00%	2.67%			
Citizens Insurance Company of America	9	0	1	10	0.06%	
Massachusetts Bay Insurance Company	0	1	5	6	0.04%	
The Hanover Insurance Group - Total	9	1	6	16	1.78%	15
% of Total for the Year	1.85%	0.67%	2.29%			

Appendix III
Summary of Excess Nonrenewals
By Company/Group – 2010 – 2012

Company/Group	2010	2011	2012	Total	%	Rank
Integon National Insurance Company	0	0	10	10	0.06%	
National General Insurance Company	1	0	0	1	0.01%	
Amtrust NGH Group - Total	1	0	10	11	1.22%	17
% of Total for the Year	0.21%	0.00%	3.82%			
Main Street America Assurance Company	2	2	1	5	0.03%	
NGM Insurance Company	1	2	0	3	0.02%	
Main Street America Group - Total	3	4	1	8	0.89%	18
% of Total for the Year	0.62%	2.67%	0.38%			
Fireman's Fund Insurance	2	0	1	3	0.02%	
National Surety Corporation	3	0	0	3	0.02%	
Associated Indemnity Corporation	1	1	0	2	0.01%	
Allianz Group - Total	6	1	1	8	0.89%	19
% of Total for the Year	1.23%	0.67%	0.38%			
UNITRIN DIRECT PROPERTY AND CASUALTY	1	1	0	2	0.01%	
WARNER INSURANCE COMPANY	2	0	0	2	0.01%	
RESPONSE WORLDWIDE INSURANCE COMPANY	0	1	0	1	0.01%	
Unitrin Direct Insurance Company	0	0	1	1	0.01%	
Unitrin Preferred Insurance Company	0	0	1	1	0.01%	
Unitrin Group - Total	3	2	2	7	0.78%	20
% of Total for the Year	0.62%	1.33%	0.76%			
Metropolitan Casualty Insurance Company	0	3	2	5	0.03%	
Metropolitan Group - Total	0	3	2	5	0.56%	21
% of Total for the Year	0.00%	2.00%	0.76%			

Appendix III
Summary of Excess Nonrenewals
By Company/Group – 2010 – 2012

Company/Group	2010	2011	2012	Total	%	Rank
Lincoln General Insurance Company	5	0	0	5	0.56%	
Tawa Group - Total	5	0	0	5	0.56%	21
% of Total for the Year	1.03%	0.00%	0.00%			
Pennsylvania General Insurance Company	5	0	0	5	0.03%	
Berkshire Hathaway Group - Total	5	0	0	5	0.56%	21
% of Total for the Year	1.03%	0.00%	0.00%			
Chubb Indemnity Insurance Company	5	0	0	5	0.03%	
CHUBB & SON Group - Total	5	0	0	5	0.56%	21
% of Total for the Year	1.03%	0.00%	0.00%			
21st Century Centennial Insurance Company	3	0	0	3	0.02%	
Farmers Group - Total	3	0	0	3	0.33%	25
% of Total for the Year	0.62%	0.00%	0.00%			
OneBeacon Insurance Company	2	0	0	2	0.01%	
The Employers' Fire Insurance Company	1	0	0	1	0.01%	
White Mountains Group - Total	3	0	0	3	0.33%	25
% of Total for the Year	0.62%	0.00%	0.00%			
Nationwide General Insurance Company	0	0	2	2	0.01%	
Harleysville Insurance Company of New York	0	1	0	1	0.01%	
Nationwide Group - Total	0	1	2	3	0.33%	25
% of Total for the Year	0.00%	0.67%	0.76%			

Appendix III
Summary of Excess Nonrenewals
By Company/Group – 2010 – 2012

Company/Group	2010	2011	2012	Total	%	Rank
Selective Insurance Company of NY	0	0	3	3	0.02%	
Selective Insurance Group - Total	0	0	3	3	0.33%	25
% of Total for the Year	0.00%	0.00%	1.15%			
Central Mutual Insurance Company	3	0	0	3	0.02%	
Central Mutual Insurance Co. Group - Total	3	0	0	3	0.33%	25
% of Total for the Year	0.62%	0.00%	0.00%			
EVEREADY INSURANCE COMPANY	0	3	0	3	0.02%	
No Group Affiliation - Total	0	3	0	3	0.33%	25
% of Total for the Year	0.00%	2.00%	0.00%			
Atlantic States Insurance Company	2	0	0	2	0.01%	
Donegal Group - Total	2	0	0	2	0.22%	31
% of Total for the Year	0.41%	0.00%	0.00%			
COUNTRYWAY INSURANCE COMPANY	1	0	1	2	0.01%	
Virginia Farm Bureau Group - Total	1	0	1	2	0.22%	31
% of Total for the Year	0.21%	0.00%	0.38%			
Blue Ridge Indemnity Company	0	1	0	1	0.01%	
Blue Ridge Insurance Company	1	0	0	1	0.01%	
QBE Insurance Group - Total	1	1	0	2	0.22%	32
% of Total for the Year	0.21%	0.67%	0.00%			

Appendix III
Summary of Excess Nonrenewals
By Company/Group – 2010 – 2012

Company/Group	2010	2011	2012	Total	%	Rank
Kingstone Insurance Company	0	2	0	2	0.01%	
No Group Affiliation - Total	0	2	0	2	0.22%	32
% of Total for the Year	0.00%	1.33%	0.00%			
Erie Insurance Company of New York	0	1	0	1	0.01%	
Erie Insurance Group - Total	0	1	0	1	0.11%	35
% of Total for the Year	0.00%	0.67%	0.00%			
Adirondack Insurance Exchange	1	0	0	1	0.01%	
Tower Group - Total	1	0	0	1	0.11%	35
% of Total for the Year	0.21%	0.00%	0.00%			
BANKERS STANDARD INSURANCE COMPANY	0	0	1	1	0.01%	
ACE Ltd. Group - Total	0	0	1	1	0.11%	35
% of Total for the Year	0.00%	0.00%	0.38%			
Sterling Insurance Company	1	0	0	1	0.01%	
No Group Affiliation - Total	1	0	0	1	0.11%	35
% of Total for the Year	0.21%	0.00%	0.00%			

Appendix IV

Private Passenger Automobile Insurance Top 30 Market Share – 2010 - 2012

APPENDIX IV

PRIVATE PASSENGER AUTOMOBILE INSURANCE TOP 30 INSURERS BY MARKET SHARE 2010 - 2012

2010	2011
1 Geico Gen Ins Co	Geico Gen Ins Co
2 Allstate Ins Co	State Farm Mut Auto Ins Co
3 State Farm Mut Auto Ins Co	Allstate Ins Co
4 Allstate Prop & Cas Ins Co	Allstate Prop & Cas Ins Co
5 Geico Ind Co	Geico Ind Co
6 Government Employees Ins Co	Government Employees Ins Co
7 Liberty Mut Fire Ins Co	Liberty Mut Fire Ins Co
8 New York Central Mut Fire Ins Co	Travelers Home & Marine Ins Co
9 Travelers Home & Marine Ins Co	New York Central Mut Fire Ins Co
10 State Farm Fire & Cas Co	State Farm Fire & Cas Co
11 Travelers Prop Cas Co Of Amer	Metropolitan Cas Ins Co
12 Progressive Northern Ins Co	Countrywide Ins Co
13 Metropolitan Cas Ins Co	Progressive Cas Ins Co
14 Nationwide Mut Ins Co	Travelers Prop Cas Co Of Amer
15 New South Ins Co	New South Ins Co
16 Countrywide Ins Co	Progressive Northern Ins Co
17 Nationwide Ins Co Of Amer	Nationwide Mut Ins Co
18 United Serv Automobile Assn	Progressive Specialty Ins Co
19 Amica Mut Ins Co	Nationwide Ins Co Of Amer
20 USAA Cas Ins Co	Amica Mut Ins Co
21 Adirondack Ins Exch	United Serv Automobile Assn
22 Progressive Specialty Ins Co	Progressive Advanced Ins Co
23 Peerless Ins Co	Metropolitan Grp Prop & Cas Ins Co
24 Metropolitan Grp Prop & Cas Ins Co	Peerless Ins Co
25 Progressive Cas Ins Co	USAA Cas Ins Co
26 Progressive Direct Ins Co	Adirondack Ins Exch
27 Hartford Ins Co Of IL	Erie Ins Co
28 Progressive Advanced Ins Co	Hartford Ins Co Of IL
29 Erie Ins Co	Progressive Direct Ins Co
30 Progressive Preferred Ins Co	National Liab & Fire Ins Co

APPENDIX IV

PRIVATE PASSENGER AUTOMOBILE INSURANCE TOP 30 INSURERS BY MARKET SHARE 2010 - 2012

2012

- 1 Geico Gen Ins Co
- 2 State Farm Mut Auto Ins Co
- 3 Allstate Ins Co
- 4 Geico Ind Co
- 5 Allstate Prop & Cas Ins Co
- 6 Government Employees Ins Co
- 7 Liberty Mut Fire Ins Co
- 8 Travelers Home & Marine Ins Co
- 9 New York Central Mut Fire Ins Co
- 10 Progressive Cas Ins Co
- 11 State Farm Fire & Cas Co
- 12 Progressive Specialty Ins Co
- 13 Countrywide Ins Co
- 14 New South Ins Co
- 15 Metropolitan Cas Ins Co
- 16 Allstate Fire & Cas Ins Co
- 17 Nationwide Mut Ins Co
- 18 Nationwide Ins Co Of Amer
- 19 Travelers Prop Cas Co Of Amer
- 20 Amica Mut Ins Co
- 21 United Serv Automobile Assn
- 22 Progressive Advanced Ins Co
- 23 Progressive Northern Ins Co
- 24 Metropolitan Grp Prop & Cas Ins Co
- 25 USAA Cas Ins Co
- 26 Adirondack Ins Exch
- 27 Erie Ins Co
- 28 Peerless Ins Co
- 29 Kemper Independence Ins Co
- 30 Nationwide Affinity Co of Amer